Number 37 *of* 2001

LOCAL GOVERNMENT ACT 2001

REVISED

Updated to 9 August 2012

This revised Act is an administrative consolidation of the *Local Government Act 2001*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Public Service Pensions (Single Scheme and Other Provisions) Act 2012* (37/2012), enacted 28 July 2012, and all statutory instruments up to and including *Sea-Fisheries (Community Control System) Regulations 2012* (S.I. No. 320 of 2012), made 9 August 2012, were considered in the preparation of this revision.

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Number 37 *of* 2001

LOCAL GOVERNMENT ACT 2001

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Introduction

This revision presents the text of the Act as it has been amended since enactment, and preserves the format in which it was first passed.

Related legislation

Ethics in Public Office Acts 1995 and 2001: Part 15 of the *Local Government Act 2001* (37/2001), Ethical Framework for the Local Government Service, deals with the same subject matter as the *Ethics in Public Office Acts 1995 and 2001*.

Local Elections Acts 1974 to 2012: This Act (Parts 3, 4, Chapter 3 of Part 5 and s. 243) is one of a group of Acts included in this collective citation, to be construed together as one (*Electoral (Amendment) (No. 2) Act 2009*, s. 10(3)). The Acts in the group are:

- *Local Elections (Petitions and Disqualifications) Act 1974* (8/1974)
- *Local Government (Reorganisation) Act 1985* (7/1985), so much of the Act as relates to local elections
- *Local Government Act 1991* (11/1991), Part III and so much of Part IV as relates to local elections
- *Electoral Act 1992* (23/1992), Part II insofar as it relates to local government electors and Part XXIII insofar as it relates to local elections
- *Electoral Act 1997* (25/1997), Parts VII and VIII insofar as they relate to local elections
- *Local Government Act 1998* (16/1998), ss. 9 and 10
- *Local Elections (Disclosure of Donations and Expenditure) Act 1999* (7/1999) (other than s. 1(4) and so much of s. 25 as relates to the European Parliament elections)
- *Local Government Act 2001* (37/2001), Parts 3, 4, Chapter 3 of Part 5 and s. 243
- *Electoral (Amendment) Act 2001* (38/2001), in so far as it relates to local elections
- *Electoral (Amendment) Act 2002* (4/2002), in so far as it relates to local elections
- *Local Government (No. 2) Act 2003* (17/2003)
- *Electoral (Amendment) Act 2004* (15/2004), in so far as it relates to local elections
- *Electoral (Amendment) Act 2006* (33/2006), in so far as it relates to local elections
- *Electoral (Amendment) Act 2009* (4/2009), in so far as it relates to local elections
- *Electoral (Amendment) (No. 2) Act 2009* (9/2009) (other than s. 9)
- *Electoral (Amendment) (Political Funding) Act 2012* (36/2012), in so far as it relates to local elections, not commenced as of 9.08.2012

Acts previously included in the group but now repealed are:

- *Local Government Act 1994* (8/1994), Parts II and III
- *Electoral (Amendment) (No. 2) Act 1986* (35/1986), in so far as it relates to local elections

Local Government Acts 1925 to 2012: This Act (other than ss. 163, 164 and 211 and Parts 23 and 24) is one of a group of Acts included in this collective citation (*Local Government (Miscellaneous Provisions) Act 2012*, s. 1(3)). The Acts in the group are:

- *Local Government Act 1925* (5/1925)
- *Local Government Act 1927* (3/1927)
- *Local Government Act 1941* (23/1941)
- *Local Government Act 1946* (24/1946)
- *Local Government Act 1955* (9/1955)
- *Local Government (No. 2) Act 1960* (40/1960)
- *Local Government (Buncrana) Act 1968* (2/1968)
- *Local Government (Rateability of Rents) (Abolition) Act 1971* (15/1971) in so far as it amends *Local Government Acts 1925 to 1967*
- *Local Government (Financial Provisions) Act 1978* (35/1978)
- *Local Government (Financial Provisions) Act 1983* (10/1983)
- *Local Government (Financial Provisions) (No. 2) Act 1983* (21/1983)
- *Local Government (Reorganisation) Act 1985* (7/1985)
- *Local Government Act 1991* (11/1991)
- *Local Government Act 1994* (8/1994)
- *Local Government (Financial Provisions) Act 1997* (29/1997)
- *Local Government Act 1998* (16/1998)
- *Local Government (Financial Provisions) Act 2000* (6/2000)
- *Local Government Act 2000* (25/2000)
- *Local Government Act 2001* (37/2001) (other than ss. 163, 164 and 211 and Parts 23 and 24)
- *Local Government Act 2003* (8/2003)
- *Electoral (Amendment) Act 2004* (15/2004), s. 34
- *Local Government (Business Improvement Districts) Act 2006* (42/2006), ss. 2 to 7
- *Water Services Act 2007* (30/2007), ss. 1(7), 13 and 115
- *Copyright and Related Rights (Amendment) Act 2007* (39/2007), Part 3
- *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), Part 4

Acts previously included in the group but now repealed are:

- *Local Government (Amendment) Act 1930* (26/1930)
- *Local Government Act 1933* (5/1933)
- *Local Government (Amendment) Act 1934* (5/1934)
- *Local Government (Amendment) (No. 2) Act 1934* (44/1934)
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- *Local Government Act 1960* (23/1960)
- *Local Government (Roads and Motorways) Act 1974* (6/1974)
- *Local Government (Toll Roads) Act 1979* (34/1979)

Local Government (Sanitary Services) Acts 1878 to 2001: This Act (Chapter 5 of Part 9) is one of a group of Acts included in this collective citation, to be construed together as one (*Local Government Act 2001*, s. 1(4)).

- *Public Health (Ireland) Act 1878* (41 & 42 Vict. c. 52)
- *Public Health (Ireland) Amendment Act 1879* (42 & 43 Vict. c. 57)
- *Public Health Acts Amendment Act 1890* (53 & 54 Vict. c. 59)
- *Public Health (Ireland) Act 1896* (59 & 60 Vict. c. 19 & c. 54)
- *Public Health Acts Amendment Act 1907* (7 Edw. 7. c. 53)
- *Local Government Act 1925* (5/1925), Part II
- *Local Government (Sanitary Services) Act 1948* (3/1948)
- *Local Government (Sanitary Services) (Joint Burial Boards) Act 1952* (22/1952)
- *Local Government (Sanitary Services) Act 1962* (26/1962)

- *Local Government (Delimitation of Water Supply Disconnection Powers) Act 1995* (18/1995)
- *Local Government Act 2001* (37/2001), Chapter 5 of Part 9

Acts previously included in the group but now repealed are:

- *Public Health (Ireland) Amendment Act 1884* (47 & 48 Vict. c. 77)
- *Public Health (Ireland) Act 1900* (63 & 64 Vict. c. 10)
- *Public Health (Prevention and Treatment of Disease) (Ireland) Act 1917* (7 & 8 Geo. 5. c. 40)
- *Public Health (Borrowing Powers) (Ireland) Act 1918* (8 & 9 Geo. 5. c. 35)
- *Public Health (Medical Treatment of Children) (Ireland) Act 1919* (9 & 10 Geo. 5. c. 16)
- *Local Government Act 1927* (3/1927), so much as relates to public health
- *Public Health (Special Expenses) Act 1931* (3/1931)

Planning and Development Acts 2000 to 2011: This Act (ss 2, 5(3), and sch. 4 (in so far as they relate to the Act of 2000) and section 247) is one of a group of Acts included in this collective citation, to be construed together as one (*Environment (Miscellaneous Provisions) Act 2011*, s. 1(4)). The Acts in the group are:

- *Planning and Development Act 2000* (30/2000)
- *Local Government Act 2001* (37/2001), ss. 2, 5(3) and sch. 4 (in so far as they relate to the Act of 2000) and s. 247
- *Planning and Development (Amendment) Act 2002* (32/2002), Parts 2 and 3
- *Housing (Miscellaneous Provisions) Act 2004* (43/2004), s. 2
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006)
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- *Compulsory Purchase Orders (Extension of Time Limits) Act 2010* (17/2010)
- *Planning and Development (Amendment) Act 2010* (30/2010) (other than Part 3)
- *Environment (Miscellaneous Provisions) Act 2011* (20/2011), Part 5

Roads Acts 1993 to 2007: This Act (ss. 81 and 245) is one of a group of Acts included in this collective citation, to be construed together as one (*Roads Act 2007*, s. 14(2)). The Acts in the group are:

- *Roads Act 1993* (14/1993)
- *Roads (Amendment) Act 1998* (23/1998), (other than s. 7)
- *Local Government Act 2001* (37/2001), ss. 81 and 245
- *Planning and Development Act 2000* (30/2000), s. 215 and Part XX
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 51
- *Roads Act 2007* (34/2007) (other than ss. 12 and 13)

Temple Bar Area Renewal and Development Acts 1991 and 2001: This Act (Part 23) is one of a group of Acts included in this collective citation, to be construed together as one (*Local Government Act 2001*, s. 1(6)). The Acts in the group are:

- *Temple Bar Area Renewal and Development Act 1991* (19/1991)
- *Local Government Act 2001* (37/2001), Part 23

Annotations

This revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions. A version without annotations, showing only textual amendments, is also available.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 2000, may be found in the Legislation Directory at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Local Government Acts 1925 to 2012*
- *Local Government (Miscellaneous Provisions) Act 2012* (17/2012)
- *Planning and Development Acts 2000 to 2011*
- *Environment (Miscellaneous Provisions) Act 2011* (20/2011)
- *Ministers and Secretaries (Amendment) Act 2011* (10/2011)
- *Planning and Development (Amendment) Act 2010* (30/2010)
- *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010)
- *Local Elections Acts 1974 to 2009*
- *Statute Law Revision Act 2009* (46/2009)
- *Housing (Miscellaneous Provisions) Act 2009* (22/2009)
- *Roads Acts 1993 to 2007*
- *Copyright and Related Rights (Amendment) Act 2007* (39/2007)
- *Finance (No. 2) Act 2007* (31/2007)
- *Water Services Act 2007* (30/2007)
- *Statute Law Revision Act 2007* (28/2007)
- *Local Government (Business Improvement Districts) Act 2006* (42/2006)
- *Health Act 2004* (42/2004)
- *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004)
- *Health (Amendment) Act 2004* (19/2004)
- *Electoral (Amendment) Act 2004* (15/2004)
- *Official Languages Act 2003* (32/2003)
- *Local Government (No. 2) Act 2003* (17/2003)
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- *Local Government (Sanitary Services) Acts 1878 to 2001*
- *Temple Bar Area Renewal and Development Acts 1991 and 2001*
- *Standards in Public Office Act 2001* (31/2001)
- *Planning and Development Act 2000* (30/2000)
- *Ethics in Public Office Act 1995* (22/1995)

All Acts up to and including *Public Service Pensions (Single Scheme and Other Provisions) Act 2012* (37/2012), enacted 28 July 2012, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Local Government Act 2001 (Specified Council) (Limerick) Order 2012* (S.I. No. 271 of 2012)
- *Local Government (Tenure of Office of Managers) (Amendment) Regulations 2012* (S.I. No. 157 of 2012)
- *Local Government (Tenure of Office of Managers) Regulations 2012* (S.I. No. 50 of 2012)
- *Local Government (Tenure of Office of Managers) Regulations 2011* (S.I. No. 573 of 2011)
- *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011)
- *Local Government Act 2001 (Commencement) Order 2011* (S.I. No. 447 of 2011)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)
- *Housing (Transfer of Functions) Order 2011* (S.I. No. 85 of 2011)
- *Local Government Act 2001 (Section 142) Regulations 2010* (S.I. No. 37 of 2010)
- *Copyright and Related Rights (Public Lending Remuneration Scheme) Regulations 2008* (S.I. No. 597 of 2008)
- *Local Government (Financial Procedures and Audit) Regulations 2002 (Amendment) Order 2008* (S.I. No. 467 of 2008)

- *Local Government (An Chomhairle Leabharlanna) (Amendment) Regulations 2008* (S.I. No. 55 of 2008)
- *Roads and Road Vehicles (Transfer of Departmental Administration and Ministerial Functions) Order 2007* (S.I. No. 815 of 2007)
- *Local Government (An Chomhairle Leabharlanna) (Amendment) Regulations 2007* (S.I. No. 708 of 2007)
- *Local Government (Business Improvement Districts Ratepayer Plebiscite) Regulations 2007* (S.I. No. 166 of 2007)
- *Local Authority Members (Gratuity) (Amendment) Regulations 2006* (S.I. 674 of 2006)
- *Local Government (Expenses of Local Authority Members) Regulations 2006* (S.I. No. 668 of 2006)
- *Local Government Act 2001 (Bye-Laws) Regulations 2006* (S.I. No. 362 of 2006)
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- *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004)
- *Local Government Act 2001 (Commencement) Order 2004* (S.I. No. 217 of 2004)
- *Local Government Act 2001 (Section 161) Order 2004* (S.I. No. 216 of 2004)
- *Athlone Town Boundary Alteration (Supplementary) Order 2003* (S.I. No. 705 of 2003)
- *Local Government (Audit Fees) Regulations 2003* (S.I. No. 622 of 2003)
- *Local Authority Members (Gratuity) (Amendment) Regulations 2003* (S.I. No. 302 of 2003)
- *Local Government Act 2001 (Section 237A) Regulations 2003* (S.I. No. 274 of 2003)
- *Local Government Act 2001 (Part 15) Regulations 2003* (S.I. No. 73 of 2003)
- *Local Government (Tenure of Office of Managers) Regulations 2003* (S.I. No. 47 of 2003)
- *Local Government (An Chomhairle Leabharlanna) (Amendment) Regulations 2003* (S.I. No. 28 of 2003)
- *Local Government Act 2001 (Part 15) Regulations 2002* (S.I. No. 582 of 2002)
- *Local Government Act 2001 (Section 231) Order 2002* (S.I. No. 531 of 2002)
- *Local Government (Financial Procedures and Audit) Regulations 2002* (S.I. No. 508 of 2002)
- *Local Government Act 2001 (Commencement) (No. 5) Order 2002* (S.I. No. 507 of 2002)
- *Local Authority Members (Gratuity) (Amendment) Regulations 2002* (S.I. No. 378 of 2002)
- *Local Authority Members (Gratuity) Regulations 2002* (S.I. 281 of 2002)
- *Local Government Act 2001 (Commencement) (No. 4) Order 2002* (S.I. No. 250 of 2002)
- *Local Government Act 2001 (Commencement) (No. 3) Order 2002* (S.I. No. 218 of 2002)
- *Local Government Act 2001 (County Tipperary Joint Libraries Committee) Regulations 2002* (S.I. No. 214 of 2002)
- *Local Government Act 2001 (Commencement) (No. 2) Order 2002* (S.I. No. 213 of 2002)
- *Local Government Act 2001 (Meetings) Regulations 2002* (S.I. No. 66 of 2002)
- *Local Government Act 2001 (Commencement) Order 2002* (S.I. No. 65 of 2002)
- *Local Government Act 2001 (Establishment Day) Order 2001* (S.I. No. 591 of 2001)
- *Local Government Act 2001 (Supplementary Provisions) Regulations 2001* (S.I. No. 590 of 2001)
- *Local Government Act 2001 (County and City Development Boards) Order 2001* (S.I. No. 589 of 2001)
- *Local Government Act 2001 (Commencement) (No. 3) Order 2001* (S.I. No. 588 of 2001)
- *Local Government (Representational Payment For Members) Regulations 2001* (S.I. No. 552 of 2001)
- *Local Government Act 2001 (Commencement) (No. 2) Order 2001* (S.I. No. 551 of 2001)
- *Local Government Act 2001 (Commencement) Order 2001* (S.I. No. 458 of 2001)
- *Local Government (An Chomhairle Leabharlanna) Regulations 1997* (S.I. No. 499 of 1997)

All statutory instruments up to and including *Sea-Fisheries (Community Control System) Regulations 2012* (S.I. No. 230 of 2012), made 9 August 2012, were considered in the preparation of this revision.

Number 37 *of* 2001

LOCAL GOVERNMENT ACT 2001

REVISED

Updated to 9 August 2012

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Counties and Boroughs (Ireland) Act, 1840	3 & 4 Vict. c. 109
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Local Government (Buncrana) Act, 1968	1968, No. 2
Local Government (Collection of Rates) Act, 1924	1924, No. 11
Local Government (Dublin) Act, 1930	1930, No. 27
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Minister for Arts, Heritage, Gaeltacht and the Islands (Powers and Functions) Act, 1998	1998, No. 7
Municipal Corporations Act, 1882	45 & 46 Vict. c. 50
Municipal Corporations (Ireland) Act, 1840	3 & 4 Vict. c. 108
Municipal Corporations (Ireland) Act, 1843	6 & 7 Vict. c. 93
Municipal Corporations Mortgages etc. Act, 1860	23 & 24 Vict. c. 16
Municipal Elections (Corrupt and Illegal Practices) Act, 1884	47 & 48 Vict. c. 70
National Archives Act, 1986	1986, No. 11
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Organisation of Working Time Act, 1997	1997, No. 20
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Planning and Development Act, 2000	2000, No. 30

Pounds (Provision and Maintenance) Act, 1935	1935, No. 17
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Public Health (Ireland) Act, 1878	41 & 42 Vict. c. 52
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Road Fund (Grants) (Temporary Provisions) Act, 1962	1962, No. 3
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Safety, Health and Welfare at Work Act, 1989	1989, No. 7
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Social Welfare (Consolidation) Act, 1981	1981, No. 1
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Temple Bar Area Renewal and Development Act, 1991	1991, No. 19
Town Renewal Act, 2000	2000, No. 18
Towns Improvement Clauses Act, 1847	10 & 11 Vict. c. 34
Towns Improvement (Ireland) Act, 1854	17 & 18 Vict. c. 103
Údarás na Gaeltachta Acts, 1979 to 1999	
Unemployment (Relief Works) Act, 1940	1940, No. 34
Unfair Dismissals Act, 1977	1977, No. 10
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Urban Renewal Act, 1986	1986, No. 19
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Number 37 *of* 2001

LOCAL GOVERNMENT ACT 2001

REVISED

Updated to 9 August 2012

AN ACT TO MAKE FURTHER AND BETTER PROVISION IN RELATION TO LOCAL GOVERNMENT AND, IN PARTICULAR, TO CONSOLIDATE WITH AMENDMENTS CERTAIN ENACTMENTS RELATING GENERALLY TO LOCAL AUTHORITIES. [21*st July*, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Act (other than sections 163, 164 and 211 and Parts 23 and 24) included in collective citation (6.07.2012) by *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), s. 1(3), S.I. No. 241 of 2012.

Short title, collective citation and commencement.

1.— ...

(3) The Local Government Acts 1925 to 2007 and *Part 4* may be cited together as the Local Government Acts 1925 to 2012.

...

Acts included or previously included in the collective citation:

- *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), Part 4 (6.07.2012) by s. 1(3), S.I. No. 241 of 2012.
- *Water Services Act 2007* (30/2007), ss. 1(7), 13 and 115 (31.12.2007) by s. 1(7), S.I. No. 846 of 2007.
- *Copyright and Related Rights (Amendment) Act 2007* (39/2007), Part 3 (4.12.2007) by s. 1(3), commenced on enactment.
- *Local Government (Business Improvement Districts) Act 2006* (42/2006), ss. 2 to 7 (24.12.2006) by s. 9(2), commenced on enactment.
- *Electoral (Amendment) Act 2004* (15/2004), s. 34 (19.05.2004) by s. 1(7), S.I. No. 215 of 2004.
- *Local Government (No. 2) Act 2003* (17/2003) (2.06.2003) by s. 8(2), commenced on enactment.
- *Local Government Act 2003* (8/2003) (10.04.2003) by s. 3(2), commenced on enactment.

- *Local Government Act 2001* (37/2001) (other than ss. 163, 164 and 211 and Parts 23 and 24) (1.01.2002) by s. 1(2), S.I. No. 588 of 2001.
- *Local Government Act 2000* (25/2000) (8.07.2000) by s. 2(2), commenced on enactment.
- *Local Government (Financial Provisions) Act 2000* (6/2000) (20.04.2000) by s. 5(2), commenced on enactment.
- *Local Government Act 1998* (16/1998) (30.05.1998) by s. 15(2), S.I. No. 178 of 1998.
- *Local Government (Financial Provisions) Act 1997* (29/1997) (1.07.1997) by s. 20(2), S.I. No. 263 of 1997.
- *Local Government Act 1994* (8/1994) (3.05.1994) by s. 1(2), S.I. No. 113 of 1994.
- *Local Government Act 1991* (11/1991) (21.05.1991) by s. 1(2), S.I. No. 122 of 1991.
- *Local Government (Reorganisation) Act 1985* (7/1985) (4.04.1985) by s. 1(2), S.I. No. 98 of 1985.
- *Local Government (Financial Provisions) (No. 2) Act 1983* (21/1983) (12.07.1983) by s. 10(2), commenced on enactment.
- *Local Government (Financial Provisions) Act 1983* (10/1983) (11.05.1983) by s. 2(2), commenced on enactment.
- *Local Government (Toll Roads) Act 1979* (34/1979) (12.12.1979) by s. 12(2), commenced on enactment; repealed subject to transitional provisions (1.07.1994) by *Roads Act 1993* (14/1993), ss. 4, 66 and sch. 1, S.I. No. 118 of 1994.
- *Local Government (Financial Provisions) Act 1978* (35/1978) (1.01.1977) by s. 19(2), commenced as per s. 19(3).
- *Local Government (Roads and Motorways) Act 1974* (6/1974) (1.06.1974) by s. 17(2), S.I. No. 147 of 1974; repealed subject to transitional provisions (1.07.1994) by *Roads Act 1993* (14/1993), ss. 4, 5 and sch. 1, S.I. No. 118 of 1994.
- *Local Government (Rateability of Rents) (Abolition) Act 1971* (15/1971) in so far as it amends *Local Government Acts 1925 to 1968* (1.04.1970) by s. 5(2), commenced as per s. 5(7).
- *Local Government (Buncrana) Act 1968* (2/1968) (13.03.1968) by s. 3(2), commenced on enactment.
- *Local Government (No. 2) Act 1960* (40/1960) (21.12.1960) by s. 1(2), commenced on enactment.
- *Local Government Act 1960* (23/1960) (26.07.1960) by s. 4(2), commenced on enactment; repealed (1.11.1994) by *Local Government Act 1994* (8/1994), s. 4(1) and sch. 1 part 1, S.I. No. 315 of 1994.
- *Local Government Act 1959* (10/1959) (16.06.1959) by s. 3(2), commenced on enactment; repealed subject to transitional provisions (1.01.2002) by *Local Government Act 2001* (37/2001), ss. 5(1), 6 and sch. 3 part 1, S.I. No. 588 of 2001.
- *Local Government Act 1958* (9/1958) (22.04.1958) by s. 4(2), commenced on enactment; repealed subject to transitional provisions (1.01.2002) by *Local Government Act 2001* (37/2001), ss. 5(1), 6 and sch. 3 part 1, S.I. No. 588 of 2001.
- *Local Government Act 1955* (9/1955) (28.05.1955) by s. 1(2), S.I. No. 100 of 1955.
- *Local Government Act 1953* (12/1953) (1.04.1953) by s. 3(2), commenced on enactment; repealed (1.08.1993) by *Roads Act 1993* (14/1993), s. 4 and sch. 1, S.I. No. 197 of 1993.
- *Local Government Act 1946* (24/1946) (31.08.1946) by s. 1(2), S.R. & O. No. 315 of 1946.
- *Local Government Act 1941* (23/1941) (1.11.1941) by s. 1(2), S.R. & O. No. 474 of 1941.
- *Local Government (Amendment) Act 1939* (9/1939) (29.03.1939) by s. 2(2), commenced on enactment; repealed (22.11.1950) by *Local Government (Repeal of Enactments) Act 1950* (26/1950), s. 1 and sch., commenced on enactment.
- *Local Government Act 1936* (46/1936) (23.11.1936) by s. 8(2), commenced on enactment; subsequently repealed (1.07.1994) by *Local Government Act 1994* (8/1994), s. 4(1) and sch. 1 part 1, S.I. No. 171 of 1994.

- *Local Government (Amendment) (No. 2) Act 1934* (44/1934) (21.12.1934) by s. 1(2), commenced on enactment; repealed subject to transitional provisions (1.01.2004) by *Local Government Act 2001* (37/2001), ss. 5(1), 6, 83(2)(a) and (b) and sch. 3 part 1, S.I. No. 250 of 2002.
- *Local Government (Amendment) Act 1934* (5/1934) (8.03.1934) by s. 4(2), commenced on enactment; repealed (22.11.1950) by *Local Government (Repeal of Enactments) Act 1950* (26/1950), s. 1 and sch., commenced on enactment.
- *Local Government Act 1933* (5/1933) (13.04.1933) by s. 9(2), commenced on enactment; repealed (1.07.1994) by *Local Government Act 1994* (8/1994), s. 4(1) and sch. 1 part 1, S.I. No. 171 of 1994.
- *Local Government (Amendment) Act 1930* (26/1930) (8.07.1930) by s. 2(2), commenced on enactment; repealed (8.03.1934) by *Local Government (Amendment) Act 1934* (5/1934), s. 2, commenced on enactment.
- *Local Government Act 1927* (3/1927) (3.03.1927) by s. 16(2), commenced on enactment.
- *Local Government Act 1925* (5/1925) (3.03.1927) by *Local Government Act 1927* (3/1927), s. 16(2), commenced on enactment.

C2 Application of collectively cited *Local Government (Sanitary Services) Acts 1878 to 2001* and *Local Government Acts 1925 to 2003* and *Roads Acts 1993 to 2007* affected (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), regs. 42(22), 46(3), 63(2) and sch. 2, in effect as per reg. 1(3).

Screening for Appropriate Assessment and Appropriate Assessment of implications for European Sites

42. ...

(22) Notwithstanding any provision of any statute listed in the *Second Schedule* that provides for the consent for a plan or project to which this Regulation applies to be obtained by default on the failure of the public authority to provide a response within a specified timescale or otherwise, that provision shall not have effect in respect of any plan or project to which this Regulation applies.

...

Review of existing plans

46. ...

(3) For the purposes of this Regulation, a decision, including a decision to adopt or undertake, or give approval for a plan, may include those adopted, undertaken or approved pursuant to any of the enactments set out in the Second Schedule to these Regulations.

...

General provisions regarding licences etc

63. ...

(2) A licence, consent, permission, permit, derogation or other authorisation given under these Regulations or under any of the enactments referred to in the *Second Schedule* may include conditions requiring compliance with any guideline or code of practice issued under *Regulation 71* or such provisions thereof as may be specified in the conditions.

...

SECOND SCHEDULE

Number	Year	Short Title/Citation

...	...	...
		Local Government (Sanitary Services) Acts 1878 to 2001
...	...	...
		Local Government Acts 1925 to 2003
...	...	...
		Roads Acts 1993 to 2007
...	...	...

C3 Act (ss. 2, 5(3) and sch. 4) included in collective citation and construction (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 1(4), S.I. No. 433 of 2011.

Short title, collective citations, construction and commencement.

1.— ...

(4) The Planning and Development Acts 2000 to 2010 and *Part 5* may be cited together as the Planning and Development Acts 2000 to 2011 and shall be read together as one.

...

Acts included or previously included in the collective citation:

- *Environment (Miscellaneous Provisions) Act 2011* (20/2011) (23.08.2011) by s. 1(4), S.I. No. 433 of 2011.
- *Planning and Development (Amendment) Act 2010* (30/2010) (other than Part 3) (19.08.2010) by s. 1(2), S.I. No. 405 of 2010.
- *Compulsory Purchase Orders (Extension of Time Limits) Act 2010* (17/2010) (7.07.2010) by s. 2(2), commenced on enactment.
- *Harbours (Amendment) Act 2009* (26/2009), ss. 7(1), (2) and 21(3), (21.07.2009) by s. 21(3), commenced on enactment.
- *Water Services Act 2007* (30/2007), ss. 1(6) and 114, (31.12.2007) by s. 1(6), S.I. No. 846 of 2007.
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006) (17.10.2006) by s. 1(2), S.I. 525 of 2006.
- *Housing (Miscellaneous Provisions) Act 2004* (43/2004), s. 2, (21.12.2004) by s. 3(3), commenced on enactment.
- *Planning and Development (Amendment) Act 2002* (32/2002), Parts 2 and 3 (24.12.2002) by s. 1(2), commenced on enactment.
- *Local Government Act 2001* (37/2001), ss. 2, 5(3) and sch. 4 (in so far as they relate to the Act of 2000) and s. 247 (9.10.2001) by s. 1(7), S.I. No. 458 of 2001.
- *Planning and Development Act 2000* (30/2000) (9.10.2001) by *Local Government Act 2001* (37/2001), s. 1(7), S.I. No. 458 of 2001.

C4 Act (Parts 3, 4 and [...] section 243) included in collective citation and construction (25.03.2009) by *Electoral (Amendment) (No. 2) Act 2009* (9/2009), s. 10(3), commenced on enactment.

Short title, construction and collective citations.

10.— ...

(3) The Local Elections Acts 1974 to 2009 and this Act (other than *section 9*) shall be read together as one and this Act shall be included in the collective citation "Local Elections Acts 1974 to 2009".

...

Acts included or previously included in the collective citation:

- *Electoral (Amendment) (Political Funding) Act 2012* (36/2012), in so far as it relates to local elections, by s. 1(3), not commenced as of 9.08.2012.
- *Electoral (Amendment) (No. 2) Act 2009* (9/2009) (other than s. 9) (25.03.2009) by s. 10(3), commenced on enactment.
- *Electoral (Amendment) Act 2009* (4/2009), in so far as it relates to local elections, (24.02.2009) by s. 1(4), commenced on enactment.
- *Electoral (Amendment) Act 2006* (33/2006), in so far as it relates to local elections, (11.12.2006) by s. 20(5), commenced on enactment.
- *Electoral (Amendment) Act 2004* (15/2004), in so far as it relates to local elections, (19.05.2004) by s. 1(6), S.I. No. 215 of 2004.
- *Local Government (No. 2) Act 2003* (17/2003) (19.05.2004) by *Electoral (Amendment) Act 2004* (15/2004), s. 1(6), S.I. No. 215 of 2004.
- *Electoral (Amendment) Act 2002* (4/2002), in so far as it relates to local elections, (25.03.2002) by s. 6(4), commenced on enactment.
- *Local Government Act 2001* (37/2001), Parts 3, 4 and Chapter 3 of Part 5, s. 243, (1.01.2002) by s. 1(5), S.I. No. 588 of 2001; Chapter 3 of Part 5 of Act subsequently deleted from collective citation (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.
- *Electoral (Amendment) Act 2001* (38/2001), in so far as it relates to local elections, (1.11.2001) by s. 1(5), S.I. No. 497 of 2001.
- *Local Elections (Disclosure of Donations and Expenditure) Act 1999* (7/1999) (other than s. 1(4) and so much of s. 25 as relates to the European Parliament elections) (18.05.1999) by s. 1(3), commenced on enactment.
- *Local Government Act 1998* (16/1998), ss. 9 and 10, (30.05.1998) by s. 15(3), S.I. No. 178 of 1998.
- *Electoral Act 1997* (25/1997), Parts VII and VIII insofar as they relate to local elections, (15.05.1997) by s. 1(5), commenced as per s. 1(6)(a).
- *Local Government Act 1994* (8/1994), Parts II and III, by s. 1(8), not commenced as of 9.08.2012.
- *Electoral Act 1992* (23/1992), Part II insofar as it relates to local government electors and Part XXIII insofar as it relates to local elections, (11.12.1992) by s. 1(5), S.I. No. 386 of 1992.
- *Local Government Act 1991* (11/1991), Part III and so much of Part IV as relates to local elections, (21.05.1991) by s. 1(8), S.I. No. 122 of 1991.
- *Electoral (Amendment) (No. 2) Act 1986* (35/1986), in so far as it relates to local elections, (22.12.1986) by s. 28(6), commenced on enactment; repealed (21.04.1997) by *European Parliament Elections Act 1997* (2/1997), s. 5 and sch. 1 part 1, S.I. No. 163 of 1997.
- *Local Government (Reorganisation) Act 1985* (7/1985), so much of the Act as relates to local elections, (21.05.1991) by *Local Government Act 1991* (11/1991), s. 1(8), S.I. No. 122 of 1991.
- *Local Elections (Petitions and Disqualifications) Act 1974* (8/1974) (as part of collective citation)(21.05.1991) by *Local Government Act 1991* (11/1991), s. 1(8), S.I. No. 122 of 1991.

C5 Act (ss. 81 and 245) included in collective citation and construction (11.07.2007) by *Roads Act 2007* (34/2007), s. 14(2), commenced on enactment.

Short title, collective citation and construction.

14.— ...

(2) The Roads Acts 1993 to 2001, section 215 and Part XX of the Planning and Development Act 2000, section 51 of the Planning and Development (Strategic Infrastructure) Act 2006 and this Act (other than *sections 12* and *13*) may be cited together as the Roads Acts 1993 to 2007 and are to be read as one.

Acts included or previously included in the collective citation:

- *Roads Act 2007* (34/2007) (other than ss. 12 and 13) (11.07.2007) by s. 14(2), commenced on enactment.
- *Planning and Development (Strategic Infrastructure) Act 2006* (27/2006), s. 51, (11.07.2007) by *Roads Act 2007* (34/2007), s. 14(2), commenced on enactment.
- *Planning and Development Act 2000* (30/2000), s. 215 and Part XX, (11.07.2007) by *Roads Act 2007* (34/2007), s. 14(2), commenced on enactment.
- *Local Government Act 2001* (37/2001), ss. 81 and 245, (1.01.2002) by s. 1(3), S.I. No. 588 of 2001.
- *Roads (Amendment) Act 1998* (23/1998) (other than s. 7) (1.07.1998) by s. 9(2), commenced on enactment.
- *Roads Act 1993* (14/1993) (1.07.1998) by *Roads (Amendment) Act 1998* (23/1998), s. 9(2), commenced on enactment.

C6 Functions transferred from "specified bodies" to the "Executive" (1.01.2005) by *Health Act 2004* (42/2004), s. 59 and sch. 3, S.I. No. 887 of 2004.

Transfer of functions of specified bodies to Executive.

59.—(1) The functions that, immediately before the establishment day, were the functions of a specified body under or in connection with the enactments referred to in Schedule 3 are, by this Act, transferred to the Executive on that day.

(2) If a provision of an enactment referred to in Schedule 3 , or a provision of an instrument made under such enactment, does not come into effect until on or after the establishment day, a function that on the passing of that enactment or the making of that instrument was assigned under or in connection with that provision to a specified body is, by this Act, transferred to the Executive on the commencement of that provision.

(3) The functions transferred by this Act to the Executive include the functions specified in any enactment referred to in Schedule 3 as a function of the following:

(a) the chief executive officer of a health board;

(b) the Regional Chief Executive of the Eastern Regional Health Authority;

(c) the area chief executive of an Area Health Board.

(4) This section does not apply in relation to the functions of the Hospital Bodies Administrative Bureau.

...

SCHEDULE 3

Transfer of Functions and References to Functional Areas

Section 59 and 67 .

...

61. Local Government Act 2001 59

...

C7 Act (part 9, ch. 5) included in collective citation and construction (1.01.2004) by *Local Government Act 2001* (37/2001), s. 1(4), S.I. No. 507 of 2002.

Short title and collective citations.

1.— ...

(4) *Chapter 5* of *Part 9* and the Local Government (Sanitary Services) Acts, 1878 to 1995, may be cited together as the Local Government (Sanitary Services) Acts, 1878 to 2001, and shall be read together as one.

...

Acts included or previously included in the collective citation:

- *Local Government Act 2001* (37/2001), part 9 ch. 5, (1.01.2004) by s. 1(4), S.I. No. 507 of 2002.
- *Local Government (Delimitation of Water Supply Disconnection Powers) Act 1995* (18/1995) (18.07.1995) by s. 7(2), commenced on enactment.
- *Local Government (Sanitary Services) Act 1962* (26/1962) (1.11.1962) by s. 15(3), S.I. No. 180 of 1962.
- *Local Government (Sanitary Services) (Joint Burial Boards) Act 1952* (22/1952) (10.12.1952) by s. 3(3), commenced on enactment.
- *Local Government (Sanitary Services) Act 1948* (3/1948) (1.04.1948) by s. 1(3), S.I. No. 72 of 1948.
- *Public Health (Special Expenses) Act 1931* (3/1931) (24.03.1931) by s. 5(2), commenced on enactment; repealed (1.04.1948) by *Local Government (Sanitary Services) Act 1948* (3/1948), s. 4 and sch. 1, S.I. No. 72 of 1948.
- *Local Government Act 1927* (3/1927), so much as relates to public health, (24.03.1931) by *Public Health (Special Expenses) Act 1931* (3/1931), s. 5(2), commenced on enactment.
- *Local Government Act 1925* (5/1925), Part II (24.03.1931) by *Public Health (Special Expenses) Act 1931* (3/1931), s. 5(2), commenced on enactment.
- *Public Health (Medical Treatment of Children) (Ireland) Act 1919* (9 & 10 Geo. 5. c. 16) (29.05.1919) by s. 2(2), commenced on enactment; repealed (1.04.1948) by *Health Act 1947* (28/1947), s. 4 and sch. 1, S.I. No. 98 of 1948.
- *Public Health (Borrowing Powers) (Ireland) Act 1918* (8 & 9 Geo. 5. c. 35) (8.08.1918) by s. 2, commenced on enactment; repealed (2.12.1964) by *Local Government (Repeal of Enactments) Act 1964* (33/1964), s. 1 and sch., commenced on enactment.
- *Public Health (Prevention and Treatment of Disease) (Ireland) Act 1917* (7 & 8 Geo. 5. c. 40) (21.08.1917) by s. 2, commenced on enactment; repealed (1.04.1948) by *Health Act 1947* (28/1947), s. 4 and sch. 1, S.I. No. 98 of 1948.
- *Public Health Acts Amendment Act 1907* (7 Edw. 7. c. 53) (1.01.1908) by s. 2(3), commenced as per s. 2(5); retained (8.05.2007) by *Statute Law Revision Act 2007* (28/2007), s. 2 and sch. 1 part 4, commenced on enactment.
- *Public Health (Ireland) Act 1900* (63 & 64 Vict. c. 10) (25.06.1900) by s. 2, commenced on enactment; repealed (1.04.1948) by *Local Government (Sanitary Services) Act 1948* (3/1948), s. 4 and sch. 1, S.I. No. 72 of 1948.
- *Public Health (Ireland) Act 1896* (59 & 60 Vict. c. 19 & c. 54) (14.08.1896) by s. 35, commenced on enactment; retained (8.05.2007) by *Statute Law Revision Act 2007* (28/2007), s. 2 and sch. 1 part 4, commenced on enactment.
- *Public Health Acts Amendment Act 1890* (53 & 54 Vict. c. 59) (18.08.1890) by s. 12(3), commenced on enactment; retained (8.05.2007) by *Statute Law Revision Act 2007* (28/2007), s. 2 and sch. 1 part 4, commenced on enactment.
- *Public Health (Ireland) Amendment Act 1884* (47 & 48 Vict. c. 77) (14.08.1896) by *Public Health (Ireland) Act 1896* (59 & 60 Vict. c. 19 & c. 54), s. 35, commenced on enactment; repealed (2.12.1964) by *Local Government (Repeal of Enactments) Act 1964* (33/1964), s. 1 and sch., commenced on enactment.
- *Public Health (Ireland) Amendment Act 1879* (42 & 43 Vict. c. 57) (14.08.1896) by *Public Health (Ireland) Act 1896* (59 & 60 Vict. c. 19 & c. 54), s. 35, commenced on enactment.
- *Public Health (Ireland) Act 1878* (41 & 42 Vict. c. 52) (18.08.1890) by *Public Health Acts Amendment Act 1890* (53 & 54 Vict. c. 59), s. 12(3), commenced on enactment.

C8 Act (Part 23) included in collective citation and construction (9.10.2001) by *Local Government Act 2001* (37/2001), s. 1(6), S.I. No. 458 of 2001.

Short title and collective citations.

1.— ...

(6) *Part 23* and the Temple Bar Area Renewal and Development Act, 1991, may be cited together as the Temple Bar Area Renewal and Development Acts, 1991 and 2001, and shall be read together as one.

...

Acts included or previously included in the collective citation:

- *Local Government Act 2001* (37/2001), Part 23, (9.10.2001) by s. 1(6), S.I. No. 458 of 2001.
- *Temple Bar Area Renewal and Development Act 1991* (19/1991) (9.10.2001) by *Local Government Act 2001* (37/2001), s. 1(6), S.I. No. 458 of 2001.

C9 Application of collectively cited *Roads Acts 1993 to 2007* restricted by *Planning and Development Act 2000* (30/2000), s. 177V(3), as inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 57, S.I. No. 475 of 2011.

Appropriate assessment.

177V.— ...

(3) Notwithstanding any other provision of this Act, or, as appropriate, the Act of 2001, or the Roads Acts 1993 to 2007, a competent authority shall make a Land use plan or give consent for proposed development only after having determined that the Land use plan or proposed development shall not adversely affect the integrity of a European site.

...

PART 1

PRELIMINARY AND GENERAL

Short title and collective citations.

1.—(1) This Act may be cited as the Local Government Act, 2001.

(2) This Act (other than *sections 163, 164* and *211* and *Parts 23* and *24*) and the Acts referred to in *Schedule 1* may be cited together as the Local Government Acts, 1925 to 2001, and shall be read together as one.

(3) *Sections 81* and *245* and the Roads Acts, 1993 and 1998, may be cited together as the Roads Acts, 1993 to 2001, and shall be read together as one.

(4) *Chapter 5* of *Part 9* and the Local Government (Sanitary Services) Acts, 1878 to 1995, may be cited together as the Local Government (Sanitary Services) Acts, 1878 to 2001, and shall be read together as one.

(5) *Parts 3, 4* and F1**[**...**]** *section 243* and the Local Elections Acts, 1974 to 1999, may be cited together as the Local Elections Acts, 1974 to 2001, and shall be read together as one.

(6) *Part 23* and the Temple Bar Area Renewal and Development Act, 1991, may be cited together as the Temple Bar Area Renewal and Development Acts, 1991 and 2001, and shall be read together as one.

(7) *Sections 2, 5(3)* and *Schedule 4* (in so far as they relate to the Act of 2000), *section 247* and the Act of 2000 may be cited together as the Planning and Development Acts, 2000 and 2001.

Annotations

Amendments:

F1 Deleted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Interpretation generally.

2.—(1) In this Act, except where the context otherwise requires—

"Act of 2000" means the Planning and Development Act, 2000;

"administrative area" means an area which continues to stand established under *section 10* for the purposes of local government and which is—

(*a*) a county in the case of a county council,

(*b*) a city in the case of a city council,

(*c*) a town in the case of a town council;

"annual meeting" means an annual meeting of a local authority as provided for in *paragraph 3* of *Schedule 10*;

"annual report", in the context of a local authority, means a report under *section 221*;

"casual vacancy" shall be read in accordance with *section 19(1)*;

"Cathaoirleach" has the meaning given to it by *section 31*;

"city council" means a local authority to which *section 11(3)(b)* relates;

"city development board" has the meaning given by *section 129*;

"committee" means a committee of a local authority established under *Part 7*;

"corporate plan" has the meaning given to it by *section 134*;

"corporate policy group" means a committee established under *section 133(1)*;

"county council" means a local authority to which *section 11(3)(a)* relates;

"county development board" has the meaning given by *section 129*;

F2**[**...**]**

"direction" means a direction in writing given by—

(*a*) the Minister under this Act, or

(*b*) an appropriate Minister under *Chapter 4* of *Part 14*;

"Director of Audit" means a person appointed under *section 116*;

"elected council" means the members of the local authority concerned and shall be read in accordance with *section 11(5)*;

"election year" means a year in which a local election is held;

"enactment" includes a statutory instrument within the meaning given by section 3 of the Interpretation Act, 1937;

"establishment day" means the day appointed by the Minister by order under *section 9* to be the establishment day for the purposes of this Act;

"excluded day" means a day which is a Saturday, Sunday or public holiday (within the meaning given by the Organisation of Working Time Act, 1997) or any other day on which the principal offices of the local authority concerned are closed;

"executive function" shall be read in accordance with *section 149*;

"functions" includes powers and duties and a reference to the performance of functions includes, with respect to powers and duties, a reference to the exercise of the powers and the carrying out of the duties;

"joint body" means—

(*a*) a joint library committee,

(*b*) a joint drainage board,

(*c*) a joint drainage committee,

(*d*) a joint burial board,

(*e*) a joint burial committee,

(*f*) a joint committee to which *section 52(5)* applies, or

(*g*) such other body as may be prescribed by regulations made by the Minister under *section 144(7)*;

"joint committee" means a joint committee established under *Part 7*;

"land" has the meaning given to it by the Act of 2000;

"Leas-Chathaoirleach" has the meaning given to it by *section 31*;

"local authority" means—

(*a*) a county council,

(*b*) a city council,

(*c*) a town council;

"local authority budget" means a budget adopted under *section 103(7)* and "budget", in relation to a local authority, shall be read accordingly;

"local authority budget meeting" has the meaning given to it by *section 103*;

"local community" means persons ordinarily resident in the administrative area of the local authority concerned and, where relevant as regards a function of the authority, includes persons from outside that area who regularly use facilities of a social, economic, recreational, cultural or other nature provided by the authority;

"local consultative committee" has the meaning given to it by section 21 of the Housing (Traveller Accommodation) Act, 1998;

"local election" means an election under *Part 4*;

"local electoral area" means an area referred to in *section 23* by reference to which a local election is held;

F3**[**'local fund' has the meaning given to it by section 97;**]**

"Local Government Commission" has the meaning given to it by *Part 11*;

"local government elector" means a person entitled to vote at a local election;

"manager" means a manager for the purposes of *section 144*;

"meetings administrator" shall be read in accordance with *section 46*;

"member", in relation to a local authority, includes a Cathaoirleach and Leas-Chathaoirleach;

"Minister" means the Minister for the Environment and Local Government;

"ordinary day of retirement" has the meaning given to it by *section 17*;

"public authority" means—

(*a*) a Minister of the Government,

(*b*) the Commissioners of Public Works in Ireland,

(*c*) a harbour authority within the meaning of the Harbours Act, 1946,

F4**[**(*d*) the Health Service Executive established under *section 6* of the *Health Act 2004*]

(*e*) a board or other body (but not including a company under the Companies Acts, 1963 to 1999) established by or under statute,

(*f*) a company under the Companies Acts, 1963 to 1999, in which all the shares are held—

(i) by or on behalf of a Minister of the Government,

(ii) by directors appointed by a Minister of the Government, or

(iii) by a board, company or other body referred to in *paragraph (e)* or *subparagraph (i)* or *(ii)*,

(*g*) such other body as may be prescribed by regulations made by the Minister for the purposes of any provision of this Act;

"public local inquiry" means an inquiry held under *Part 20* and "inquiry" shall be read accordingly;

"public notice", in the context of a local authority, means a notice published in at least one newspaper circulating in the local authority's administrative area;

"rating authority" means—

(*a*) a county council,

(*b*) a city council, or

(*c*) a town council referred to in *Part 1* of *Schedule 6*;

"register of electors" has the meaning given to it by *section 24(1)*;

"reserved function" shall be read in accordance with *section 131*;

"standing orders", in the context of a local authority, has the meaning given by *paragraph 16(1)* of *Schedule 10*;

"strategic policy committee" has the meaning given by *section 48*;

"structure" means any building, erection, structure (including a movable structure), excavation, or other thing constructed, erected, made or placed on, in or under any land, or any part of a structure so defined and, where the context so admits, includes the land on, in or under which the structure is situated;

"town council" shall be construed in accordance with *section 11(4)(b)*.

(2) In this Act a reference to the total number of members of a local authority shall be read as the number of members of the local authority concerned as determined by *section 21*.

(3) In this Act a reference to local government areas or to the administrative area of a local authority does not include an area added for local electoral purposes only under section 17 of the Local Government Act, 1994.

(4) In this Act a reference to a person being disqualified from election or co-option to a local authority shall be read as including a disqualification from nomination for election or co-option to a local authority.

(5) In this Act, except where the context otherwise requires, a reference to social inclusion or its promotion shall be read as including a reference to any policy, objective, measure or activity designed to counteract poverty or other social deprivation or to facilitate greater participation by marginalised groups in the social, economic and cultural life of the local community.

(6) In this Act, except where the context otherwise requires—

(*a*) a reference to a section, Chapter, Part or Schedule is a reference to a section, Chapter or Part of, or Schedule to, this Act, as the case may be, unless it is indicated that reference to some other enactment is intended,

(*b*) a reference to a subsection, paragraph, subparagraph, clause or subclause is to the subsection, paragraph, subparagraph, clause or subclause of the provision (including a Schedule) in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(7) In this Act, a reference to any enactment shall be read as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment, including this Act.

Annotations

Amendments:

F2 Deleted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

F3 Inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 2, S.I. No. 165 of 2007.

F4 Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 21 item 1, S.I. No. 887 of 2004, art. 2(i).

Construction of enactments.

3.—(1) Every enactment (including any provision contained in a local, personal or private Act) and every order, regulation, rule, bye-law or other instrument or agreement in force immediately before the commencement of a provision of this Act shall, on and after the day of such commencement but subject to any regulations made under this section, be read and have effect with such modifications as may be necessary to give effect to this Act or an order or regulations under it and to have effect in conformity with it.

(2) A reference in any enactment other than this Act to an expression mentioned in the first column of *Schedule 2* or to a similar or analogous expression shall, except where the context otherwise requires and subject to any regulations made under this section, be read as a reference to the appropriate expression of this Act as indicated in the second column of that Schedule opposite the expression in the first column.

(3) (*a*) The Minister, or any other Minister of the Government after consultation with the Minister, may, in respect of any enactment, instrument or agreement which relates to matters for which the relevant Minister has general responsibility, make regulations for the purposes of enabling *subsection (1)* to have full effect.

(*b*) Without prejudice to the generality of *paragraph (a)*, regulations under this subsection may, in respect of a provision of any other enactment, instrument or agreement which is related to or otherwise affected by any provision of this Act, provide for its adaptation, modification or cesser of operation in so far as this appears necessary or expedient to the Minister concerned for the purposes of securing that any such other provision shall have effect in conformity with this Act or with an order or regulations made under it.

(4) Regulations may not be made under this section after the expiration of 3 years from the establishment day.

Annotations

Editorial Notes:

E1 Power pursuant to section exercised (1.01.2004) by *Athlone Town Boundary Alteration (Supplementary) Order 2003* (S.I. No. 705 of 2003).

E2 Power pursuant to section exercised (14.11.2002) by *Local Government (Financial Procedures and Audit) Regulations 2002* (S.I. No. 508 of 2002) as amended (14.11.2008) by *Local Government (Financial Procedures and Audit) Regulations 2002 (Amendment) Order 2008* (S.I. No. 467 of 2008).

Regulations, orders and directions.

4.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed or for the purposes of enabling any provision to have full effect.

(2) Without prejudice to any other provision of this Act, a regulation or order under this Act may provide for such incidental, consequential, supplementary or transitional provisions (including provisions for the purpose of securing the continuity of any provision of this Act with any provision of any other Act or instrument repealed, revoked, amended or otherwise affected by this Act or by any regulations or order made under it) as may appear to the Minister making the regulation or order to be appropriate for the purposes of this Act or any regulations or order made under it.

(3) A regulation or an order under this Act may—

(*a*) apply to local authorities generally, to any class or classes of local authorities specified in the regulations or the order or to a particular local authority so specified,

(*b*) contain different provisions in relation to different local authorities or to different parts of the administrative area of a local authority,

(*c*) provide for the giving of directions by the Minister (including directions amending or revoking any such directions).

(4) (*a*) Except where *paragraph (c)* applies, every order and regulation made by the Minister or any other Minister of the Government under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made.

(*b*) If after an order or regulation is laid under *paragraph (a)* a resolution annulling the order or regulation is passed by either House of the Oireachtas within the next 21 days on which the House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done under it.

(*c*) *Paragraph (a)* does not apply to an order or regulation which is required by this Act to be approved in draft by resolution of both Houses of the Oireachtas or to an order under *section 199(8)*.

(5) Other than an order under *section 7*, the Minister may by order, amend or revoke any order under this Act including an order made under this subsection.

(6) (*a*) The Minister may by direction amend or revoke a direction given by him or her under this Act (including a direction under this subsection).

(*b*) A person to whom a direction is given under this Act shall comply with that direction.

(7) This section does not apply to a provisional order under *section 72(1)*.

Annotations

Editorial Notes:

E3 Power pursuant to section exercised (15.05.2012) by *Local Government (Tenure of Office of Managers) (Amendment) Regulations 2012* (S.I. No. 157 of 2012).

E4 Power pursuant to section exercised (13.02.2012) by *Local Government (Tenure of Office of Managers) Regulations 2012* (S.I. No. 50 of 2012).

E5 Power pursuant to section exercised (11.11.2011) by *Local Government (Tenure of Office of Managers) Regulations 2011* (S.I. No. 573 of 2011).

E6 Power pursuant to section exercised (5.02.2010) by *Local Government Act 2001 (Section 142) Regulations 2010* (S.I. No. 37 of 2010).

E7 Power pursuant to section exercised (1.01.2007) by *Local Government (Expenses of Local Authority Members) Regulations 2006* (S.I. No. 668 of 2006).

E8 Power pursuant to section exercised (24.04.2007) by *Local Government (Business Improvement Districts Ratepayer Plebiscite) Regulations 2007* (S.I. No. 166 of 2007).

E9 Power pursuant to section exercised (10.07.2006) by *Local Government Act, 2001 (Bye-Laws) Regulations 2006* (S.I. No. 362 of 2006).

E10 Power pursuant to section exercised (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004).

E11 Power pursuant to section exercised (1.08.2003) by *Local Government Act, 2001 (Section 237A) Regulations 2003* (S.I. No. 274 of 2003).

E12 Power pursuant to section exercised (12.02.2003) by *Local Government (Tenure of Office of Managers) Regulations 2003* (S.I. No. 47 of 2003).

E13 Power pursuant to section exercised (14.11.2002) by *Local Government (Financial Procedures and Audit) Regulations 2002* (S.I. No. 508 of 2002) as amended (14.11.2008) by *Local Government (Financial Procedures and Audit) Regulations 2002 (Amendment) Order 2008* (S.I. No. 467 of 2008).

E14 Power pursuant to section exercised (6.06.2002) by *Local Authority Members (Gratuity) Regulations 2002* (S.I. 281 of 2002), as amended (23.07.2002) by *Local Authority Members (Gratuity) (Amendment) Regulations 2002* (S.I. No. 378 of 2002) and as amended (11.07.2003) by *Local Authority Members (Gratuity) (Amendment) Regulations 2003* (S.I. No. 302 of 2003) and as amended (19.12.2006) by *Local Authority Members (Gratuity) (Amendment) Regulations 2006* (S.I. 674 of 2006).

E15 Power pursuant to section exercised (1.09.2002) by *Local Government Act, 2001 (County Tipperary Joint Libraries Committee) Regulations 2002* (S.I. No. 214 of 2002).

E16 Power pursuant to section exercised (17.07.2002) by *Local Government Act, 2001 (Meetings) Regulations 2002* (S.I. No. 66 of 2002).

E17 Power pursuant to section exercised (1.01.2002) by *Local Government Act, 2001 (Supplementary Provisions) Regulations 2001* (S.I. No. 590 of 2001).

E18 Power pursuant to section exercised (1.01.2002) by *Local Government (Representational Payment For Members) Regulations 2001* (S.I. No. 552 of 2001).

E19 Previous affecting provision: power pursuant to section exercised (28.02.2003) by *Local Government Act 2001 (Part 15) Regulations 2003* (S.I. No. 73 of 2003); revoked (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004), reg. 3.

E20 Previous affecting provision: power pursuant to section exercised (1.01.2003) by *Local Government Act 2001 (Part 15) Regulations 2002* (S.I. No. 582 of 2002); revoked (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004), reg. 3.

Repeals, revocation and amendment of enactments.

5.—(1) Each Act specified in the first and second columns of *Part 1* of *Schedule 3* is repealed to the extent specified in the third column of that Part opposite the references in the first and second columns.

(2) Each order specified in the first and second columns of *Part 2* of *Schedule 3* is revoked to the extent specified in the third column of that Part opposite the references in the first and second columns.

(3) Each Act specified in the first and second columns of *Schedule 4* is amended in the manner stated in the third column of that Schedule opposite the references in the first and second columns.

Savers.

6.—The repeal or revocation by this Act of a provision of any enactment which is applied by a provision of any other enactment not so repealed or revoked, shall not affect such application and accordingly the first-mentioned provision continues to apply and have effect for the purposes of such application.

Annotations

Editorial Notes:

E21 Notwithstanding the repeal of Part IV of the Local Government Act 1946 by this Act, Part IV continues to apply and shall be deemed always to have applied in relation to an application for a bridge order that was made to the Minister before 31 December 2001 and the bridge order made after that date by the Minister pursuant to such an application (10.04.2003) by *Local Government Act 2003* (8/2003), s. 2(1) and (2), commenced on enactment.

Commencement.

7.—This Act (except *Part 2, section 9* of which provides for an establishment day order in respect of that Part, F5**[**and except section 161, the coming into operation of which is provided for in that section**]**) shall come into operation on such day or days as, by order or orders made by the Minister, may be fixed therefor either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions and for the repeal, revocation and amendment effected by *section 5* of different enactments or of different provisions of those enactments.

Annotations

Amendments:

F5 Substituted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Editorial Notes:

E22 Power pursuant to section exercised (7.09.2011) by *Local Government Act 2001 (Commencement) Order 2011* (S.I. No. 447 of 2011).

2. The 7th day of September 2011 is appointed as the day upon which sections 188, 191 and 194 (3) (inserted by section 48 of the Environment (Miscellaneous Provisions) Act 2011 (No. 20 of 2011)) of the Local Government Act 2001 (No. 37 of 2001) shall come into operation.

E23 Power pursuant to section exercised (10.07.2006) by *Local Government Act, 2001 (Commencement) Order 2006* (S.I. No. 361 of 2006).

2. Part 19 of the Local Government Act, 2001 , shall come into operation on 10 July 2006.

3. Section 5(1) of and Part 1 of Schedule 3 to the Local Government Act 2001 shall come into operation on 10 July 2006 to the extent specified in the Schedule to this Order.

Article 3

Schedule

REPEALS

Number and Year	Short Title	Extent of Repeal
17 & 18 Vict. c. 103	Towns Improvement (Ireland) Act 1854	Sections 78 to 88
No. 8 of 1994	Local Government Act 1994	Part VII

E24 Power pursuant to section exercised (19.05.2004, 21.05.2004 and 1.01.2005) by *Local Government Act 2001 (Commencement) Order 2004* (S.I. No. 217 of 2004).

3. On 19th May 2004 section 5(1) of and Part I of Schedule 3 to the Act of 2001 shall come into operation for the purposes of the repeal of section 21 of the Local Government Act 1955 (No. 9 of 1955) and for the purposes of the repeal of section 25 (other than subsection (6) of that section) of the Local Elections (Petitions and Disqualifications) Act 1974 (No. 8 of 1974).

4. On 21 May 2004 section 169 (other than subsection (4)(a)(ii) and (4)(b)(ii) of that section), and references to a code of conduct in sections 166(1), 167(2), 170(1) and 174(6) of the Act of 2001 shall come into operation.

5. On 1 January 2005 subsection (4)(a)(ii) and (4)(b)(ii) of section 169 and section 171(1)(b) of the Act of 2001 shall come into operation.

E25 Power pursuant to section exercised (14.11.2002, 1.01.2003 and 1.01.2004) by *Local Government Act, 2001 (Commencement) (No. 5) Order 2002* (S.I. No. 507 of 2002).

3. On 14 November, 2002 Parts 12 (insofar as it has not already been commenced) and 21 of the Act of 2001 shall come into operation.

4. On 14 November, 2002 paragraph 5 of Schedule 10 to the Act of 2001 shall come into operation.

5. On 14 November, 2002 section 5(1) of and Part 1 of Schedule 3 to the Act of 2001, shall come into operation to the extent specified in Part I of the Schedule to this Order.

6. On 14 November, 2002 section 5(2) of and Part 2 of Schedule 3 to the Act of 2001, shall come into operation to the extent specified in Part 2 of the Schedule to this Order.

7. On 14 November, 2002 section 5(3) of and Schedule 4 to the Act of 2001, shall come into operation for the purpose of

(a) the amendment to the Local Government (Ireland) Act, 1898 in the manner stated in column 3 of Schedule 4 to the Act of 2001,

(b) the amendments to the Local Government (Financial Provisions) Act, 1978 in the manner stated in column 3 of Schedule 4 to the Act of 2001,

(c) the amendment to the Local Government (Financial Provisions) Act, 1997 in the manner stated in column 3 of Schedule 4 to the Act of 2001.

8. On 14 November, 2002 section 231 of the Act of 2001 shall come into operation.

9. On 1 January, 2003 section 135 of the Act of 2001 shall come into operation.

10. On 1 January, 2004 section 1(4) of the Act of 2001 shall come into operation.

SCHEDULE

PART 1

Acts Repealed

Session and Chapter or Number and Year	**Short Title**	**Extent of Repeal**
1	**2**	**3**
17 & 18 Vict. c. 103	Towns Improvement (Ireland) Act, 1854	Section 59.
30 & 31 Vict. c. 46	County Treasurers (Ireland) Act, 1867	The whole Act.
34 & 35 Vict. c. 109	Local Government (Ireland) Act, 1871	Section 18.
35 & 36 Vict. c. 69	Local Government Board (Ireland) Act, 1872	Section 12.
61 & 62 Vict. c. 37	Local Government (Ireland) Act, 1898	Section 83(12).
2 Edw. 7. c. 38	Local Government (Ireland) Act, 1902	Sections 21 and 22.
No. 5 of 1925	Local Government Act 1925	Section 86.
No. 1 of 1929	Cork City Management Act, 1929	The whole Act insofar as it is not already repealed.
No. 27 of 1930	Local Government (Dublin) Act, 1930	Sections 54(2), 61, 62 and 95.
No. 35 of 1934	Limerick City Management Act, 1934	Sections 16(2), 23 and 24.
No. 55 of 1936	Local Authorities (Miscellaneous Provisions) Act, 1936	Sections 2 and 3.
No. 3 (Private) 1937	Local Government (Galway) Act, 1937	The whole Act insofar as it is not already repealed.
No. 36 of 1937	Local Government (Nomination of Presidential Candidates) Act, 1937	The whole Act.
No. 25 of 1939	Waterford City Management Act, 1939	Sections 15(2), 22 and 23.
No. 12 of 1940	County Management Act, 1940	The whole Act insofar as it is not already repealed.
No. 5 of 1941	Cork City Management (Amendment) Act, 1941	Sections 14 and 15.
No. 23 of 1941	Local Government Act, 1941	Part IV and sections 68, 69 and 77.
No. 24 of 1946	Local Government Act, 1946	Sections 7 to 9, 15 to 17, 22, 26 and 27, 34, 64 and 65, 80 and 81.
No. 9 of 1955	Local Government Act, 1955	Sections 48 and 61.
No. 12 of 1955	City and County Management (Amendment) Act, 1955	The whole Act insofar as it is not already repealed.
No. 40 of 1960	Local Government (No. 2) Act, 1960	Part II.
No. 35 of 1978	Local Government (Financial Provisions) Act, 1978	Sections 11, 12 and 14.
No. 8 of 1994	Local Government Act, 1994	Section 44.
No. 29 of 1997	Local Government (Financial Provisions) Act, 1997	Sections 8, 13 and 16.

PART 2

ORDERS REVOKED

Number and Year	Short Title	Extent of Revocation
1898 No. 1120	Local Government (Application of Enactments) Order, 1898	The whole Order insofar as it is not already revoked.
1899 No. 44	Local Government (Adaptation of Irish Enactments) Order, 1899	Article 43.

E26 Power pursuant to section exercised (1.01.2004) by *Local Government Act, 2001 (Commencement) (No. 4) Order 2002* (S.I. No. 250 of 2002).

2. On 1 January, 2004 Chapter 5 of Part 9 of the Local Government Act, 2001 shall come into operation.

3. On 1 January, 2004 section 5(1) of and Schedule 3 to the Local Government Act, 2001 shall come into operation for the purposes of the repeal of the Local Government (Amendment) (No. 2) Act, 1934 (No. 44 of 1934).

E27 Power pursuant to section exercised (1.01.2003) by *Local Government Act, 2001 (Commencement) (No. 3) Order 2002* (S.I. No. 218 of 2002).

3. On 1 January 2003, Part 15 of the Act of 2001 shall come into operation other than section 169 and any reference to a code of conduct in sections 166(1), 167(2), 170(1), 171(1)(b), and 174(6).

E28 Power pursuant to section exercised (16.05.2002) by *Local Government Act, 2001 (Commencement) (No. 2) Order 2002* (S.I. No. 213 of 2002).

2. Sections 109 and 110 of the Local Government Act, 2001 shall come into operation on the 16th day of May 2002.

E29 Power pursuant to section exercised (1.05.2002, 17.07.2002, 1.05.2004, 11.03.2002) by *Local Government Act, 2001 (Commencement) Order 2002* (S.I. No. 65 of 2002).

3. On 1 May 2002, section 19 of the Act of 2001 shall come into operation; and on that date also section 5(1) of and Part 1 of Schedule 3 to that Act shall come into operation for the purposes of the repeal of section 11 of the Local Government Act, 1994, (No. 8 of 1994).

4. (a) On 17 July 2002, Part 6 and Part 7 of the Act of 2001 and Schedule 10 to that Act, other than paragraph 3(3) and paragraph 5 of that Schedule, shall come into operation.

(b) On 1 May 2004, paragraph 3(3) of Schedule 10 to the Act of 2001 shall come into operation.

5. On 17 July 2002, section 5(1) of and Part 1 of Schedule 3 to the Act of 2001 shall come into operation to the extent specified in Part 1 of the Schedule to this Order.

6. On 17 July 2002, section 5(2) of and Part 2 of Schedule 3 to the Act of 2001 shall come into operation to the extent specified in Part 2 of the Schedule to this Order.

7. On 11 March 2002, section 5(1) of and Part 1 of Schedule 3 to the Act of 2001 shall come into operation for the purposes of the repeal of section 4 of the City and County Management (Amendment) Act, 1955 (No. 12 of 1955), insofar as that section is not already repealed.

SCHEDULE

Part 1
Acts Repealed

Article 5

Secssion and Chapter or Number and Year	Short Title	Extent of Repeal
1	2	3
3 & 4 Vict. c. 108	Municipal Corporations (Ireland) Act, 1840	The whole Act insofar as it is not already repealed.
10 & 11 Vict. c. 16	Commissioners Clauses Act, 1847	The whole Act insofar as it is not already repealed.

		Article 5
Secssion and Chapter or Number and Year	**Short Title**	**Extent of Repeal**
17 & 18 Vict. c. 103	Towns Improvement (Ireland) Act, 1854	Sections 27 and 28
61 & 62 Vict. c. 37	Local Government (Ireland) Act, 1898.	Sections 23(2) and 77.
2 Edw. 7. c. 38	Local Government (Ireland) Act, 1902	Sections 14 and 15.
No. 5 of 1925	Local Government Act, 1925	Sections 58 and 64.
No. 1 of 1929	Cork City Management Act, 1929	Section 7.
No. 27 of 1930	Local Government (Dublin) Act, 1930	Sections 31 and 37.
No. 35 of 1934	Limerick City Management Act, 1934	Sections 5(3) and 9.
No. 3 (Private) 1937	Local Government (Galway) Act, 1937	Sections 15 and 33.
No. 25 of 1939	Waterford City Management Act, 1939	Sections 4(3) and 8(6).
No. 12 of 1940	County Management Act, 1940	Section 18.
No. 23 of 1941	Local Government Act, 1941	Section 41.
No. 24 of 1946	Local Government Act, 1946	Sections 62, 63 and 66.
No. 9 of 1955	Local Government Act, 1955	Section 60.
No. 7 of 1985	Local Government (Reorganisation) Act, 1985	Sections 9, 25 and 27 and the Fifth Schedule.
No. 11 of 1991	Local Government Act, 1991	Part VI.
No. 8 of 1994	Local Government Act, 1994	Part V.

Part 2
Orders Revoked

		Article 6
Year and Number	**Short Title**	**Extent of Revocation**
1	**2**	**3**
1898 No. 1120	Local Government (Application of Enactments) Order, 1898	Articles 36 and 38 of the Schedule to the Order.

E30 Power pursuant to section exercised (1.01.2002 and unspecified dates) by *Local Government Act, 2001 (Commencement) (No. 3) Order 2001* (S.I. No. 588 of 2001).

3. On 1 January, 2002, subsections (2), (3) and (5) of section 1 of the Act of 2001, shall come into operation.

4. On 1 January, 2002, section 5(1) of and Part I of Schedule 3 to the Act of 2001, shall come into operation to the extent specified in Part 1 of the Schedule to this Order.

5. On 1 January, 2002, section 5(2) of and Part 2 of Schedule 3 to the Act of 2001, shall come into operation to the extent specified in Part 2 of the Schedule to this Order.

6. On 1 January, 2002, section 5(3) of and Schedule 4 to the Act of 2001, shall come into operation for the purpose of

(a) the amendment to the Housing (Traveller Accommodation) Act, 1998 (No. 33 of 1998) in the manner stated in column 3 of Schedule 4 to the Act of 2001, and

(b) the amendments to the Planning and Development Act, 2000 (No. 30 of 2000) in the manner stated in column 3 of Schedule 4 to the Act of 2001.

7. On 1 January, 2002, Part 3, other than sections 13(1)(i), 14, 19 and 22; Part 4, other than section 23; Part 5, other than Chapter 3; Part 9, other than Chapter 5; Part 10; sections 112 and 113(1); Part 13; Part 14, other than section 135; Part 16; section 197; Part 22, other than sections 223, 230 and 231; Part 24 insofar as not already commenced, of the Act of 2001, shall come into operation.

8. Section 13(1)(i) of the Act of 2001 shall come into operation and have effect for the purposes of the local elections in the year 2004 and from then on. Section 14 of the Act of 2001 shall come into operation and have effect on and from the ordinary day of retirement of members next after the enactment of the Act of 2001.

9. On 1 January, 2002, Schedules 1, 2, 5, 6, 7, 8, 12, 13, 14 and 15 to the Act of 2001, shall come into operation.

SCHEDULE

Part 1
Acts Repealed

Secssion and Chapter or Number and Year	Short Title	Extent of Repeal
1	2	3
6 & 7 Will. 4 c. 116	Grand Jury (Ireland) Act, 1836	Sections 35, 43, 44, 46, 54, 58, 66 to 68, 78, 82, 86, 108, 126 and 178 to 180 and Schedule (R).
3 & 4 Vict. c. 108	Municipal Corporations (Ireland) Act, 1840	The whole Act other than sections 10, 92 and 102.
3 & 4 Vict. c. 109	Counties and Boroughs (Ireland) Act, 1840	The whole Act.
6 & 7 Vict. c. 93	Municipal Corporations (Ireland) Act, 1843	The whole Act.
7 & 8 Vict. c. 106	County Dublin Grand Jury Act, 1844	Sections 40 and 110.
10 & 11 Vict. c. 16	Commissioners Clauses Act, 1847	Sections 53, 56 to 59.
10 & 11 Vict. c. 34	Towns Improvement Clauses Act, 1847	The whole Act.
16 & 17 Vict. c. 136	Grand Jury (Ireland) Act, 1853	Section 9.
17 & 18 Vict. c. 103	Towns Improvement (Ireland) Act, 1854	Section 38, 39, 41, 55, 58, 69, 72, 74 to 76 and 89.
23 & 24 Vict. c. 16	Municipal Corporations Mortgages etc. Act, 1860	The whole Act.
34 & 35 Vict. c. 109	Local Government (Ireland) Act, 1871	Section 25.
41 & 42 Vict. c. 52	Public Health (Ireland) Act, 1878	Sections 7, 200, 201 and 277.
45 & 46 Vict. c. 50	Municipal Corporations Act, 1882	The whole Act.
47 & 48 Vict. c. 70	Municipal Elections (Corrupt and Illegal Practices) Act, 1884	The whole Act.
53 & 54 Vict. c. 59	Public Health Acts Amendment Act, 1890	Section 38.
61 & 62 Vict. c. 37	Local Government (Ireland) Act, 1898	Sections 1, 4, 6(b), 10, 11, 12, 14, 18, 21, 22, 27, 31, 33, 35, 40, 41, 48 to 50, 58, 59, 68, 72, 78, 81, 82, 84, 86, 100 and 108 and the Second and Third Schedules.
63 & 64 Vict. c. 63	Local Government (Ireland) Act, 1900	Section 9.
2 Edw. 7. c. 38	Local Government (Ireland) Act, 1902	Sections 6 and 8.
9 Edw. 7. c. 47	Development and Road Improvement Funds Act, 1909	The whole Act.
No. 13 of 1924	Local Government (Temporary Provisions) (Amendment) Act, 1924	The whole Act.

Secssion and Chapter or Number and Year	Short Title	Extent of Repeal
No. 5 of 1925	Local Government Act, 1925	Sections 2, 3, 5, 6, 16, 70, 73, 74, 81 and the First Schedule.
No. 1 of 1929	Cork City Management Act, 1929	The whole Act other than sections 1, 7, 11(2), 16 and 23.
No. 27 of 1930	Local Government (Dublin) Act, 1930	Sections 7, 17 to 19, 30, 38 to 41, 45, 51, 53, 54(1), 55 to 57, 59, 60, 67, 80 and 103 and the First Schedule.
No. 35 of 1934	Limerick City Management Act, 1934	Sections 2 to 4, 5(1) and (2), 11 to 14, 16(1), 17 to 19, 21, 22, 31 to 34, 39, 40 and the First Schedule.
No. 55 of 1936	Local Authorities (Miscellaneous Provisions) Act, 1936	Section 6.
No. 3 (Private) 1937	Local Government (Galway) Act, 1937	The whole Act other than sections 1, 2, 9, 15, 33 and 39.
No. 25 of 1939	No. 25 of 1939	Sections 2, 3, 4(1) and (2), 10 to 13, 15(1), 16 to 18, 20, 21, 30 to 32 and 37 to 39.
No. 12 of 1940	County Management Act, 1940	The whole Act other than sections 1, 2, 18, 21, 39 and 41.
No. 5 of 1941	Cork City Management (Amendment) Act, 1941	Sections 7, 8, 10 to 12, 22, 23 and 26.
No. 15 of 1941	Local Officers and Servants (Dublin) Act, 1941	The whole Act.
No. 23 of 1941	Local Government Act, 1941	Part II (insofar as it is not already repealed), Part III (insofar as it is not already repealed and other than section 41), section 67, Part VIII (insofar as it is not already repealed) and sections 76, 78, and 90.
No. 13 of 1942	County Management (Amendment) Act, 1942	The whole Act.
No. 8 of 1945	Local Government (Dublin) Act, 1945	The whole Act.
No. 30 of 1945	Local Authorities (Acceptance of Gifts) Act, 1945	The whole Act.
No. 24 of 1946	Local Government Act, 1946	Section 25, Part III (insofar as it is not already repealed) and Part IV and sections 70, 71, 73, 82, 83, 95 and 98.
No. 24 of 1950	Limerick City Management Act, 1950	The whole Act.
No. 9 of 1955	Local Government Act, 1955	Chapter 1 of Part II other than sections 21 and 24(2), sections 31 to 33, 40, 41, 51, 54, 58, 59, 65 and Part 1 of the Second Schedule.
No. 12 of 1955	City and County Management (Amendment) Act, 1955	Sections 2, 3, section 4 (except insofar as it relates to a planning function within the meaning of section 44 of the Local Government Act, 1991), sections 5, 6, 12, 13, 15 to 17, 19 and 20.
No. 9 of 1958	Local Government Act, 1958	The whole Act.
No. 10 of 1959	Local Government Act, 1959	The whole Act.
No. 40 of 1960	Local Government (No. 2) Act, 1960	Sections 11 and 12.
No. 3 of 1962	Road Fund (Grants) (Temporary Provisions) Act, 1962	The whole Act.
No. 8 of 1965	Cork City Management (Amendment) Act, 1965	The whole Act.
No. 21 of 1966	Housing Act, 1966	Sections 85, 87 and 88.

Secssion and Chapter or Number and Year	Short Title	Extent of Repeal
No. 6 of 1968	Local Government (Roads and Drainage) Act, 1968	The whole Act.
No. 32 of 1972	County Management (Amendment) Act, 1972	The whole Act.
No. 35 of 1978	Local Government (Financial Provisions) Act, 1978	Section 13.
No. 21 of 1983	Local Government (Financial Provisions) (No. 2) Act, 1983	Section 9.
No. 7 of 1985	Local Government (Reorganisation) Act, 1985	Sections 5 to 7, Part III (insofar as it is not already repealed and other than section 9) and sections 19 to 23, and the First, Second, Third, and Fourth Schedules.
No. 3 of 1986	Canals Act, 1986	Section 15.
No. 28 of 1988	No. 28 of 1988	Section 27.
No. 11 of 1991	Local Government Act, 1991	Parts II to IV and sections 41, 42 and 46 to 50, 53 and 54(a).
No. 31 of 1993	Local Government (Dublin) Act, 1993	Part II and sections 39 and 40.
No. 8 of 1994	Local Government Act, 1994	Part II other than section 11, Part III other than section 24, Part IV, Part VI and section 46 and Parts IX and X, sections 61 and 64 to 66 and the Third, Fourth and Fifth Schedules.
No. 16 of 1998	Local Government Act, 1998	Sections 9 and 10.
No. 25 of 2000	Local Government Act, 2000	The whole Act.

Part 2
Orders Revoked

Year and Number	Short Title	Extent of Revocation
1	2	3
1898 No. 1120	Local Government (Application of Enactments) Order, 1898	Articles 8, 11, 12, 13, 15, 16, 24, 30, 33, 41, 43 to 46 of the Schedule to the Order.
1899 No. 44	Local Government (Adaptation of Irish Enactments) Order, 1899	Articles 4 to 7, 13, 15 to 17, 19 to 36, 42, 44 and 45.

E31 Power pursuant to section exercised (1.01.2002) by *Local Government Act, 2001 (Commencement) (No. 2) Order, 2001* (S.I. No. 551 of 2001).

2. On the 1st day of January, 2002, section 142 of the Local Government Act, 2001, shall come into operation.

3. On the 1st day of January, 2002, section 51 of the Local Government Act, 1991 (No. 11 of 1991) shall be repealed.

E32 Power pursuant to section exercised (9.10.2001 and 1.01.2002) by *Local Government Act, 2001 (Commencement) Order 2001* (S.I. No. 458 of 2001).

2. On the 9th day of October, 2001, subsections (1), (6) and (7) of section 1 and sections 2, 3, 4, 6, 7, 8 and 247 of the Local Government Act, 2001 shall come into operation.

3. On the 9th day of October, 2001 section 5(1) of, and Part 1 of Schedule 3 to, the Local Government Act, 2001 shall come into operation to the extent specified in the Schedule to this Order.

4. On the 1st day of January, 2002, Part 23 of the Local Government Act, 2001 shall come into operation.

SCHEDULE

Repeals

Number	Short Title	Extent of Repeal
No. 13 of 1937	Local Authorities (Electrical Employees) Act, 1937	The whole Act.
No. 22 of 1940	Local Authorities (Cost of Living) Act, 1940	The whole Act.
No. 34 of 1940	Unemployment (Relief Works) Act, 1940	The whole Act.
No. 13 of 1945	Local Authorities (Cost of Living) (Amendment) Act, 1945	The whole Act.
No. 9 of 1955	Local Government Act, 1955	Section 62.
No. 12 of 1955	City and County Management (Amendment) Act, 1955	Section 7 and sections 9 and 11 insofar as they apply to an estimates committee.

Expenses.

8.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART 2

Local Government Areas and Local Authorities

Establishment day.

9.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

Annotations

Editorial Notes:

E33 Power pursuant to section exercised (1.01.2001) by *Local Government Act, 2001 (Establishment Day) Order 2001* (S.I. No. 591 of 2001).

Local government areas.

10.—(1) On and from the establishment day and for the purposes of local government, the State has local government areas in accordance with this section.

(2) The State continues to stand divided into local government areas to be known as counties and cities which are the areas set out in *Parts 1* and *2*, respectively, of *Schedule 5*.

(3) Within the county in which they are situated and of which they form part, there continue to be such other local government areas as are set out in *Schedule 6* which—

(*a*) in the case of the areas set out in *Chapter 1* of *Part 1* of that Schedule, shall be known as boroughs, and

(*b*) in the case of the areas set out in *Chapter 2* of *Part 1* and *Part 2* of that Schedule, shall be known as towns,

and in this Act a reference to a town shall include a reference to a borough.

(4) (*a*) The boundaries of a county referred to in *subsection (2)* are the boundaries of the corresponding county as existing immediately before the establishment day and, for that purpose, the corresponding counties to Tipperary North Riding and Tipperary South Riding shall be North Tipperary and South Tipperary, respectively.

(*b*) The boundaries of a city referred to in *subsection (2)* are the boundaries of the corresponding county borough as existing immediately before the establishment day.

(*c*) The boundaries of a town referred to in *subsection (3)* are the boundaries of the corresponding borough, urban district or town, as the case may be, as existing immediately before the establishment day.

(5) For the purposes of this section, all maps showing such boundaries prepared by the Chief Boundary Surveyor under the Survey (Ireland) Acts, 1825 to 1870, or by the Commissioner of Valuation or otherwise in accordance with law continue to have all such force and effect as they had immediately before the establishment day.

(6) This section is without prejudice to *Parts 8* and *17* and *section 227*.

(7) This section is without prejudice to the continued use of the description city in relation to Kilkenny, to the extent that that description was used before the establishment day and is not otherwise inconsistent with this Act.

Establishment, titles and administrative areas of local authorities and consequential provisions.

11.—(1) On and from the establishment day and for the purposes of local government, the areas referred to in *section 10* shall each have a local authority as provided for in this section.

(2) For each county or city set out in *Schedule 5* there continues to stand established under this section a body for the purposes of local government and each such body is a local authority and each such county or city is its administrative area.

(3) The local authorities referred to in *subsection (2)* are the primary units of local government and shall be known as—

(*a*) in the case of a county set out in *Part 1* of *Schedule 5*, the name of such county followed by the words "County Council", and

(*b*) in the case of a city set out in *Part 2* of *Schedule 5*, the name of such city followed by the words "City Council".

(4) (*a*) For each of the towns set out in *Schedule 6* there continues to stand established under this section a body for the purposes of local government and each such body is a local authority and each such town is its administrative area.

(*b*) The local authority for each of the towns set out in *Schedule 6* shall be known by the name of the town followed by the words—

(i) in the case of a town set out in *Chapter 1* of *Part 1* of that Schedule, "Borough Council", and

(ii) in any other case, "Town Council",

and references in this Act to "town council" shall be construed accordingly.

(5) (*a*) In respect of a local authority to which *subsection (3)* or *(4)* relates, each member (being directly elected or co-opted in accordance with this Act) shall be known as a councillor and collectively shall comprise the elected council of the local authority.

(*b*) Each local authority shall have a Cathaoirleach and Leas-Chathaoirleach elected in accordance with *Part 5*.

(6) For the purposes of functions conferred on it by or under this or any other enactment—

(*a*) a county council has jurisdiction throughout its administrative area except for such functions as are by law vested in any town council, the administrative area of which is situated in the county concerned, but without prejudice to *section 70*,

(*b*) a city council has jurisdiction throughout its administrative area,

(*c*) subject to *paragraph (a)*, a town council has jurisdiction throughout its administrative area.

(7) A local authority to which *subsection (3)* or *(4)* relates shall—

(*a*) continue to be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold, manage, maintain and dispose of land or any interest in land,

(*b*) have a seal which shall be judicially noticed and every document claiming to be an instrument made by it and to be sealed with its seal (claiming to be authenticated in accordance with *subsection (8)*) shall be received in evidence and be deemed to be that instrument without further proof unless the contrary is shown.

(8) The seal referred to in *subsection (7)(b)* shall be authenticated by the signature of the Cathaoirleach or of an employee of the authority nominated in writing for that purpose by the manager following consultation with the Cathaoirleach.

(9) Any seal used immediately before the establishment day by a local authority to which this section relates continues to have all such force and effect as it had immediately before that day.

(10) Notwithstanding *subsection (9)*, at any time after the establishment day a local authority to which this section relates may provide itself with a new seal which shall be judicially noticed and *subsection (7)* regarding the evidential value of the seal applies also to such seal.

(11) Notwithstanding the repeal of enactments relating to its establishment and constitution, a county council, county borough corporation, borough corporation (other than a county borough corporation), urban district council or the commissioners of a town in being immediately before the establishment day, continue in being but subject to the provisions of this Act applying and having effect.

(12) *Subsection (11)* applies and has effect in relation to the continuation in being of the bodies mentioned in that subsection notwithstanding any change brought about by this Act in the corporate name of any such body or in its corporate status or constitution and the functions vested by any enactment in such body shall, subject to the provisions of this Act, continue to stand so vested.

(13) A reference in any other enactment or other document to a local authority (being a local authority which continues to stand established) by its name applying before it was changed under this Act shall be read as a reference to that body as renamed.

(14) All acts done and decisions made before the establishment day by a local authority (which continues to stand established under this section), whether by resolution, manager's order or otherwise, shall subject to this Act continue to have all such force and effect as they had immediately before that day.

(15) (*a*) The land and other property and all rights related thereto which was, before the establishment day, vested in or held by a local authority which continues to stand established under this section continues, subject to the provisions

of this Act, to be so vested or held by that authority for the same estate, right, title or interest and may be disposed of in accordance with *Part 16*.

(*b*) *Paragraph (a)* is without prejudice to the generality of *subsection (14)*.

(16) Subject to this Act, royal charters and letters patent relating to local authorities shall continue to apply for ceremonial and related purposes in accordance with local civic tradition but shall otherwise cease to have effect.

(17) (*a*) This section is without prejudice to *section 73, Part 17* or *21*.

(*b*) *Subsection (6)* is without prejudice to *Part 10*.

PART 3

Local Authority Membership

Eligibility for local authority membership.

12.—Subject to *section 14* and to the disqualifications set out in F6**[***sections 13 and 13A***]** and to the provisions of *section 19* relating to co-option, a person is eligible for election or co-option to, and membership of, a local authority, if he or she is a citizen of Ireland or is ordinarily resident in the State and has or will attain the age of 18 years—

(*a*) on or before polling day at a local election, or

(*b*) if there is no poll, the latest day for receiving nominations at the election, or on or before the day of co-option to a local authority.

Annotations

Amendments:

F6 Substituted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Disqualifications from local authority membership.

13.—(1) Subject to *subsection (2)*, a person is disqualified from being elected or co-opted to, or from being a member of a local authority if he or she—

(*a*) is a member of the Commission of the European Community, or

(*b*) is a representative in the European Parliament, or

(*c*) is a Judge, Advocate General or Registrar of the Court of Justice of the European Community, or

(*d*) is a member of the Court of Auditors of the European Community, or

(*e*) is a Minister of the Government or a Minister of State or the chairman of Dáil Éireann (An Ceann Comhairle), or the chairman of Seanad Éireann, or

(*f*) is appointed under the Constitution as a Judge or as the Comptroller and Auditor General, or

(*g*) is a member of the Garda Síochána or a wholetime member of the Defence Forces as defined in section 11(4)*(b)* of the Electoral Act, 1992, or

(*h*) is a civil servant who is not by terms of employment expressly permitted to be a member of a local authority, or

(*i*) is a person employed by a local authority and is not the holder of a class, description or grade of employment designated by order under *section 161(1)(b)* or deemed to have been made under that section, or

F7**[**(ii) is a person employed by the Health Service Executive and is at a grade or of a description of employment designated by order of the Minister for Health and Children, or**]**

(*j*) is undergoing a sentence of imprisonment for any term exceeding 6 months imposed by a court of competent jurisdiction in the State, or

(*k*) fails to pay any sum or any portion of any sum charged or surcharged, by an auditor of the accounts of any local authority, upon or against that person, or

(*l*) fails to comply with a final judgement, order or decree of a court of competent jurisdiction, for payment of money due to any local authority, or

(*m*) is convicted of, or has had a conviction confirmed on appeal for, an offence relating to any of the following:

(i) fraudulent or dishonest dealings affecting a local authority;

(ii) corrupt practice;

(iii) acting when disqualified.

(2) (*a*) A disqualification arising under *subsection (1)(k)* commences—

(i) where no appeal is taken, on the expiration of the time limit for an appeal, or

(ii) where an appeal is taken to the Minister or the High Court, on the expiration of one month from the date of an order confirming the charge or surcharge,

and the disqualification shall be for 5 years from the date of its commencement.

(*b*) A disqualification arising under *subsection (1)(l)* comes into effect on the seventh day after the last day for compliance with the relevant final judgement, order or decree and the disqualification shall be for 5 years from such last day.

(*c*) A disqualification arising under *subsection (1)(m)* commences—

(i) where no appeal is taken against the conviction, when the time limit for taking an appeal has passed, or

(ii) where an appeal is taken against the conviction and the appeal is disallowed, one month from the determination of the appeal,

and the disqualification shall be for 5 years from the date of conviction or determination of the appeal, as the case may be.

(3) Nothing in this section operates to prejudice any disqualification referred to in *section 182* or in section 20 of the Local Elections (Disclosure of Donations and Expenditure) Act, 1999, or in any other enactment.

Annotations

Amendments:

F7 Inserted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 21 item 2, S.I. No. 887 of 2004, art. 2(i).

F8**[**Application of disqualification to members of Dáil Éireann and Seanad Éireann.

13A.—(1) A person who is a member of either House of the Oireachtas is disqualified from being elected or co-opted to, or from being a member of, a local authority.

(2) In respect of local elections to be held in the year 2004 and thereafter, section 13(1) shall be read as if the following were substituted for paragraph (*e*):

'(*e*) is a member of Dáil Éireann or Seanad Éireann, or'.**]**

Annotations

Amendments:

F8 Inserted (2.06.2003) by *Local Government (No. 2) Act 2003)* (17/2003), s. 2(1), subject to transitional provision in subs. (2), commenced on enactment.

Prohibition on multiple membership of local authorities.

14.—(1) A person shall not hold membership simultaneously of—

(*a*) more than one local authority of the same class, or

(*b*) a city council and town council.

(2) For the purposes of this section, local authorities shall be deemed to consist of the following 2 classes:

(*a*) county councils and city councils;

(*b*) town councils.

Offence to act when disqualified.

15.—(1) A person is guilty of an offence if he or she knowingly acts as a member of a local authority when disqualified, or knowingly votes when prohibited by or under any enactment.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £1,500 for each such offence.

(3) An offence under this section may be prosecuted by a local government elector or a local authority.

(4) This section is without prejudice to any other disqualification or penalty arising out of the actions of the person concerned.

Cesser of membership.

16.—(1) A person ceases to be a member of a local authority and a casual vacancy arises in its membership immediately upon he or she becoming disqualified from membership of a local authority under F9**[***sections 13, 13A***]** or *182*, or under section 20 of the Local Elections (Disclosure of Donations and Expenditure) Act, 1999.

(2) When a person ceases to be a member of a local authority under this section he or she also ceases to be a member of any body to which he or she—

(*a*) was elected, nominated or appointed by a local authority, or

(*b*) is a member by virtue of being a member of a local authority.

(3) Nothing in *subsection (1)* or *(2)* shall be read so as to affect the validity of anything previously done by the person while a member of the local authority or of the body concerned.

(4) A person to whom a disqualification referred to in *subsection (1)* applies is so disqualified from being or becoming a member of any committee, joint committee or joint body.

Annotations

Amendments:

F9 Substituted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Term of office.

17.—(1) In this section—

"incoming members" has the meaning given in *subsection (3)(b)*;

"ordinary day of retirement", in relation to the outgoing members of a local authority, means the seventh day—

(*a*) after the polling day at the election of the incoming members of the local authority, or

(*b*) where the poll for any local electoral area of the local authority or for any polling station at the election of incoming members of the local authority is for any reason countermanded, interrupted or adjourned, after the day on which the poll is completed or the fresh poll is held.

(2) Subject to this Act, the members of a local authority hold office until the next ordinary day of retirement and retire together on that day as provided for by this section.

(3) On the ordinary day of retirement—

(*a*) each of the outgoing members of the local authority retires, and

(*b*) each person elected at the election comes into office as a member of the local authority (in this section collectively referred to as the "incoming members").

(4) The term of office of a member of a local authority continues until the next ordinary day of retirement of members of the local authority, unless such member sooner dies, resigns, becomes disqualified, is removed from office or otherwise ceases to be a member of the local authority.

Resignation from membership.

18.—(1) A member of a local authority may resign from membership by notice in writing signed by him or her and delivered to the principal offices of the local authority.

(2) A person ceases to be a member of the local authority—

(*a*) on the date specified in the notice as the resignation date, or

(*b*) where no date is specified, on receipt of the notice,

and accordingly a casual vacancy occurs in the membership of the local authority.

(3) A person who resigns from membership of a local authority under this section also ceases on such resignation to be a member of any body—

(*a*) to which he or she was elected, nominated or appointed by the local authority, or

(*b*) of which he or she is a member by virtue of being a member of the local authority.

(4) (*a*) A person shall be deemed to have resigned from membership of a local authority where the person is absent from attendance at any meeting of the authority for a continuous period of 6 consecutive months ("the relevant period") from the date ("the relevant date") of his or her last attendance at a meeting of the authority.

(*b*) *paragraph (a)* does not apply where the absence was—

(i) due to illness, or

(ii) in good faith for another reason,

and which, in either case, is accepted by the local authority and approved by resolution under this paragraph before the end of the relevant period, in which case the period shall stand extended to 12 months from the relevant date.

(*c*) Where a resolution is passed under *paragraph (b)* and the continuous period of absence continues uninterrupted—

(i) due to illness, or

(ii) in good faith for another reason,

and, in either case, is accepted by the local authority and approved by resolution under this paragraph before the expiry of the relevant period as extended under *paragraph (b)*, then the period shall stand extended to 18 months from the relevant date.

(*d*) A casual vacancy under this subsection occurs on the next day after—

(i) in the case of *paragraph (a)*, the end of the relevant period,

(ii) in the case of *paragraph (b)*, the end of the relevant period as extended under that paragraph, or

(iii) in the case of *paragraph (c)*, the end of the relevant period as extended to 18 months under that paragraph.

(5) Attendance as a member at a meeting of any committee or joint committee or joint body of the authority shall be deemed for the purposes of *subsection (4)* to be attendance at a meeting of the authority.

Casual vacancies.

19.—(1) A casual vacancy in the membership of a local authority occurs—

(*a*) where *section 16(1)* applies,

(*b*) upon the death or resignation (including deemed resignation by virtue of *section 18(4)*) of a member of a local authority,

F10**[**(*c*) in such circumstances as are set out in articles 25, 28, 124 and 125 of the Local Elections Regulations 1995 (S.I. No. 297 of 1995),**]**

(*d*) in such circumstances as may be prescribed by regulations made by the Minister under *section 27*, or

(*e*) in such circumstances as are referred to in section 15(1) of the Local Elections (Petitions and Disqualifications) Act, 1974.

(2) It is the duty of the meetings administrator to notify the members of the local authority in writing on becoming aware that a casual vacancy has or may have occurred.

(3) (*a*) A casual vacancy shall be filled by the co-option by the local authority of a person to fill the vacancy and except where *paragraph (c)* or *(d)* or *(e)* of *subsection (1)* apply, subject to such person being nominated by the same registered political party who nominated for election or co-option the member who caused the casual vacancy.

(*b*) Where the person causing the casual vacancy was a non-party candidate at his or her election to the local authority, the vacancy shall be filled by the co-option by the local authority of a person to fill the vacancy (except where *paragraph (c)* or *(d)* or *(e)* of *subsection (1)* apply) in accordance with such requirements and procedures as may be set out in its standing orders.

(*c*) A local authority shall in making standing orders consider the inclusion of provisions for the purposes of *paragraph (b)*.

(4) (*a*) A co-option shall be made, after due notice, at the next meeting of the local authority after the expiration of 14 days from the occurrence of the vacancy or as soon after the expiration of the 14 days as circumstances permit.

(*b*) In this subsection "due notice" means not less than 3 clear days' notice given in writing to every member of the local authority.

(5) A person is not to be proposed at a meeting of the local authority for co-option without his or her prior written consent.

(6) A person co-opted to fill a casual vacancy shall be a member of the local authority until the next ordinary day of retirement of members of that local authority unless he or she sooner ceases to be a member.

Annotations

Amendments:

F10 Substituted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Savers *(Part 3)*.

20.—(1) The acts, decisions and proceedings of a local authority shall not be invalidated only because of a vacancy or vacancies in its membership or of the disqualification or want of qualification of any of its members.

(2) *Subsection (1)* is without prejudice to the requirements of *paragraph 11* of *Schedule 10* in respect of the quorum for a meeting of a local authority.

(3) Any person who immediately before the establishment day is a member of a local authority shall, on and from such day, continue as such member subject to and in accordance with this Act.

(4) A person to whom *subsection (3)* applies and who is an alderman shall continue to bear that title until the next ordinary day of retirement after the commencement of this provision, or until his or her otherwise ceasing to be a member of the local authority, whichever is the earlier.

Number of members of local authorities, etc.

21.—(1) Subject to *section 22* F11**[**...**]**, each county council and city council consists of the number of members specified in *Parts 1* and *2*, respectively, of *Schedule 7* opposite the reference to the county council or city council concerned.

(2) (*a*) The number of members of a town council referred to in *Part 3* of *Schedule 7* is 12.

(*b*) Subject to *section 22(5)*, the number of members of any other town council is 9.

(3) Without prejudice to *paragraph 11* of *Schedule 10*, where a provision of this Act provides that at least a specified proportion of the total number of members of a local authority is necessary in relation to the doing of any particular act, then in a case where such proportion consists of a whole number and a remainder, the whole number shall of itself be sufficient.

Annotations

Amendments:

F11 Deleted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Alteration of number of members of local authority.

22.—(1) (*a*) A county council or a city council may by resolution adopt a proposal (in this section referred to as a "proposal") for the alteration of the number of members of that council.

(*b*) A proposal under *paragraph (a)* and a public notice under *paragraph (d)* shall specify the current number of members of the authority and the number by which it is proposed to be altered and whether by way of increase or decrease.

(*c*) It is necessary for the adoption of a proposal under *paragraph (a)* that at least one-half of the total number of members of the authority vote in favour of the resolution.

(*d*) Before adopting a proposal the local authority shall invite submissions on it from the public by way of a public notice and the authority shall consider any submissions received.

(*e*) Following the adoption of a resolution under this subsection a local authority may make application to the Minister for an alteration in the number of members.

(2) Where an application has been duly made to the Minister under *subsection (1)*, the Minister may by order alter the number of members of the county council or city council concerned, whether or not to the extent proposed.

(3) (*a*) Before deciding whether to make an order under *subsection (2)*, the Minister shall request the Local Government Commission to prepare a report with respect to the application and *Part 11* applies to such a request and report.

(*b*) The Local Government Commission may recommend an alteration otherwise than in accordance with the application to the Minister or that no alteration be made.

(*c*) A report prepared under *paragraph (a)* shall include such recommendations as the Local Government Commission may consider appropriate in relation to the alteration of local electoral areas under *section 23* and the number of members assigned to each of them.

(4) An order under *subsection (2)* shall not apply to any local elections which occur within 6 months of the making of the order but shall apply to any subsequent local elections.

(5) (*a*) A town council to which *section 21(2)(b)* applies may by resolution adopt a proposal for the alteration to 12 of the number of members of that council where the population of the town concerned exceeds 15,000 as shown in the most recent census.

(*b*) *Subsections (1)* to *(4)* shall apply with any necessary modifications for the purposes of this subsection.

(6) An application under this section shall not be made to the Minister within 5 years of the decision by the Minister on any previous application by the local authority concerned.

PART 4

Local Elections

Local electoral areas.

23.—(1) Subject to *subsection (7)*, the Minister may by order—

(*a*) divide a county, city or town into local electoral areas, and

(*b*) in respect of the members of the local authority, fix the number of such members to be elected for each local electoral area.

(2) The number of members of a local authority to which an order under this section relates to be elected at an election of members of the local authority held after the making of the order for each local electoral area specified in the order shall, without prejudice to any subsequent order, be the number fixed by the order for the local electoral area.

(3) Where, on the commencement of this provision, an order is in force dividing a county, city or town into local electoral areas or fixing the number of members for each local electoral area, the order shall continue in force in relation to the county, city or town and be deemed to be an order under this section and may be amended or revoked accordingly.

(4) In respect of any local electoral area in a county, city or town, the Minister may by order—

(*a*) amend, modify, or revoke any division made by an order under this section, including an order under this subsection or an order deemed by *subsection (3)* to be an order under this section, or

(*b*) alter the number of members of the local authority to be elected for a local electoral area by virtue of an order under this section, including an order under this subsection or an order deemed by *subsection (3)* to be an order under this section.

(5) An order under this section shall first have effect for the purpose of the election of members of the local authority held next after the order is made.

(6) Subject to *subsections (1)* to *(5)*, at every election of the members of any council of a town which is not divided into local electoral areas there shall be one local electoral area, which shall (subject to regulations made under section 17 of the Local Government Act, 1994, which are continued in force by virtue of *section 30(1)*) consist of the area of such town and all such members shall be elected for such local electoral area.

(7) (*a*) Before deciding whether to make an order under this section the Minister shall request the Local Government Commission to prepare a report in respect of the relevant county, city or town and *Part 11* applies to such a request and report.

(*b*) In considering making a request under *paragraph (a)*, the Minister may have regard to the extent of population changes in local electoral areas within counties and cities as shown in the latest census report of the Central Statistics Office which—

(i) sets out the population of the State, classified by area, and

(ii) is published following a census of population.

(*c*) The provisions of an order made under this section shall not vary in any material respect from the recommendations of the Local Government Commission in respect of the relevant county, city or town unless the Minister is satisfied there are substantial reasons for so doing and such order shall set out the reasons for such variation.

(8) A reference to a town under this section shall, subject to *part 8*, be read as a reference to the area of such town as altered for local electoral purposes only by section 17 of the Local Government Act, 1994, and regulations made under it.

Right to vote at local elections.

24.—(1) For the purposes of this section and subject to this Part and regulations made under it, every person whose name is on the register of local government electors prepared under Part II of the Electoral Act, 1992, for the time being in force for a local electoral area (in this Act referred to as the "register of electors") is entitled to vote at the poll at a local election in that area.

(2) A person's name shall be taken to be on the register of electors if it includes a name which, in the opinion of the returning officer or presiding officer, was intended to be the person's name.

(3) A person who has voted at a local election shall not in any legal proceeding be required to state for whom he or she has voted.

(4) A person who—

(*a*) is registered in the register of electors for the time being in force for a local electoral area but is not entitled to be so registered, or

(*b*) is not registered in the register of electors,

shall not vote at the poll at a local election in that area.

(5) Nothing in this section shall be read so as to entitle any person to vote who is not entitled to do so, or as relieving that person from any penalties to which that person may be liable to, for voting.

Prohibition of plural voting.

25.—(1) A person shall not vote or apply for a ballot paper—

(*a*) more than once at an election of the members of a local authority otherwise than under Article 64 of the Local Elections Regulations, 1995,

(*b*) F12**[**...**]**

(*c*) at an election of the members of more than one local authority of the same class held at the same local elections, F13**[**or**]**

(*d*) F12**[**...**]**

(*e*) at both an election of the members of a city council and an election of the members of a local authority of the class specified in *subsection (2)(b)* held at the same local elections.

(2) For the purposes of this section, local authorities shall be deemed to consist of the following 2 classes:

(*a*) county councils and city councils;

(*b*) town councils.

(3) (*a*) A person who contravenes *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

(*b*) A person who aids, abets, counsels or procures the commission of an offence under *subsection (1)* is guilty of an offence and is liable:

(i) on summary conviction to a fine not exceeding £1,500, or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both, or

(ii) on conviction on indictment, to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 2 years or to both.

Annotations

Amendments:

F12 Repealed (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 7(a), commenced on enactment.

F13 Inserted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Year of elections to all local authorities.

26.—(1) (*a*) An election of members of every local authority shall be held in the year 2004 and in every fifth year thereafter.

(*b*) Nothing in this subsection affects *Part 21* of this Act or any order made under that Part.

(2) The poll at local elections shall be held on such day in the month of May or June and shall continue for such period, not being less than 12 hours, between the hours of 7.00 a.m. and 10.30 p.m., as may be fixed by the Minister by order.

(3) An order under this section shall be published in the *Iris Oifigiúil* as soon as may be after it is made.

Conduct of elections.

27.—(1) (*a*) Local elections shall be held in accordance with regulations made by the Minister under this section.

(*b*) If an election is contested, the poll shall be taken according to the system of proportional representation, each local government elector having one transferable vote.

(*c*) In this subsection "transferable vote" has the meaning given to it by section 37 of the Electoral Act, 1992.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may in particular include provision for all or any of the following matters in relation to local elections:

(*a*) nominations;

(*b*) deposits by candidates;

(*c*) deaths of candidates;

(*d*) duties of returning officers;

(*e*) staff of returning officers;

(*f*) taking of polls and counting of votes;

(*g*) use, free of charge, of schools and public rooms;

(*h*) arrangements for postal voting;

(*i*) arrangements for special voting;

(*j*) voting by persons in the employment of returning officers;

(*k*) voting by physically ill or physically disabled local government electors;

(*l*) polling on islands;

(*m*) issue of polling information cards;

(*n*) maintenance of secrecy of voting;

(*o*) removal of persons misconducting themselves in polling stations;

(*p*) procedure in cases of disorder or obstruction;

(*q*) interference with ballot boxes or ballot papers;

(*r*) election of the same person in more than one local electoral area, or to more than one local authority of the same class within the meaning of *section 14*;

(*s*) casual vacancies that occur in the circumstances specified in *paragraph (r)*, or occuring in other specified circumstances related to local elections;

(*t*) the manner in which the costs of local elections are to be paid by local authorities;

(*u*) provisions corresponding to sections 60, 105, 134 to 154, 156 to 160 and 163 of the Electoral Act, 1992, with such modifications as appear to the Minister to be appropriate.

(3) Where a provision of regulations under this section corresponds to a provision of the Electoral Act, 1992, which declares a matter to be an electoral offence, the regulations may provide for a corresponding offence in relation to local elections and lay down a penalty for it which does not exceed the relevant penalty specified in section 157 of that Act.

(4) Regulations made under section 22 of the Local Government Act, 1994, and in force at the commencement of this provision shall continue in force and have effect as if made under this section and may be amended or revoked accordingly.

(5) Where regulations under this section are proposed to be made, a draft of them shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each House.

(6) No local election is invalid by reason of non-compliance with any regulations under this section, or any mistake in the use of forms provided for or by any such regulations, if it appears to the court before which the matter is raised:

(*a*) that the election was conducted in accordance with the principles laid down in the regulations under this section taken as a whole, and

(*b*) that the non-compliance or mistake did not materially affect the result of the election.

(7) Regulations under this section apply to a new election under *Part 21*.

(8) Where regulations under this section provide for the issue of polling information cards by a local authority, a decision to issue them is a reserved function.

Temporary arrangements with respect to certain polling districts and register of electors.

28.—(1) In this section the "manager" means—

(*a*) in relation to any part of a polling district situated in a city, the manager for the city,

(*b*) in relation to any part of a polling district situated in a county, the manager for the county.

(2) This section applies where after—

(*a*) the alteration of the boundary of a local authority under *Part 8* or otherwise, or

(*b*) the making of an order under *section 23*—

(i) dividing a county, city or town into local electoral areas, or

(ii) amending or modifying any division made by such an order,

a polling district existing immediately before the alteration or revision or amendment or modification of such division, as the case may be, is not wholly situated within the area of a local authority or of a local electoral area, as the case may be.

(3) Where *subsection (2)* applies, the manager of the relevant local authority shall, for each part of the polling district situated within the area of the local authority—

(*a*) join it or parts of it with any adjoining polling district or districts within that area, or

(*b*) constitute it as a polling district and appoint a polling place for it.

(4) An arrangement made under *subsection (3)* has effect until, and only until, the first scheme under section 28 of the Electoral Act, 1992, in relation to the county or city in which the part concerned of the polling district is situated comes into operation after the making of the arrangement.

(5) An arrangement made under *subsection (3)* shall, as soon as practicable, be notified to the Minister by the manager.

(6) In respect of a part of a polling district referred to in *subsection (3)*, the manager shall make such alterations in relation to the part of the register of electors in force as may be necessary to secure that the part of the register concerned shall be in conformity with the arrangement made under that subsection and may conveniently be used for the purposes of taking a poll.

Consequential appointments to certain other bodies.

29.—(1) The year 2004, and every year after 2004 which is a year in which local elections are held, is an election year for the purposes of the Harbours Act, 1946.

(2) The year 2004, and every year after 2004 which is a year in which local elections are held, is an election year for the purposes of the Vocational Education Acts, 1930 to 1999.

(3) (*a*) The appointments made under section 10 of the School Attendance Act, 1926, which first occur after the commencement of this subsection shall be made in the year 2004 and shall be regarded as quinquennial appointments.

(*b*) Nothing in *paragraph (a)* operates to prejudice the power of any person, conferred by or under section 10 of the School Attendance Act, 1926, to appoint persons to fill casual vacancies among the membership of a school attendance committee.

Savers *(Part 4)*.

30.—(1) Subject to *Part 8*, regulations made under subsections (1) and (2) of section 17 of the Local Government Act, 1994, with reference to the Third Schedule to that Act altering local authority boundaries for electoral purposes only shall continue in force, notwithstanding the repeal of those provisions by this Act.

(2) Subject to *Part 8*, the area of any county or town (including any borough or urban district) the boundary of which was altered for electoral purposes only under section 17 of the Local Government Act, 1994, is for such purposes the area so altered and the local government electors standing registered in respect of such area are entitled to vote at the local elections to be held in 2004 and from then on.

PART 5

Cathaoirleach and Leas-Chathaoirleach

Chapter 1

General

Cathaoirleach and Leas-Chathaoirleach.

31.—(1) Subject to this Part each local authority shall have a chairperson and vice-chairperson who shall be elected and hold office in accordance with this Part and who in this Act are referred to as "Cathaoirleach" and "Leas-Chathaoirleach", respectively, and shall be so known except where the provisions of *section 32* apply.

(2) The holders of the offices of Cathaoirleach and Leas-Chathaoirleach shall as appropriate be styled—

(*a*) in the case of a county council, in the Irish language "Cathaoirleach Chontae ....." and "Leas-Chathaoirleach Chontae ....." followed by the name of the county in Irish, and in the English language "Cathaoirleach of the County of ....." and "Leas-Chathaoirleach of the County of ....." followed by the name of the county in English,

(*b*) in the case of a city council, in the Irish language "Cathaoirleach Chathair ....." and "Leas-Chathaoirleach Chathair ....." followed by the name of the city in Irish, and in the English language "Cathaoirleach of the City of ....." and "Leas-Chathaoirleach of the City of ....." followed by the name of the city in English,

(*c*) in the case of a town council, in the Irish language "Cathaoirleach Bhaile ....." and "Leas-Chathaoirleach Bhaile ....." followed by the name of the town in Irish, and in the English language "Cathaoirleach of the Town of ....." and "Leas-Chathaoirleach of the Town of ....." followed by the name of the town in English.

(*d*) in the case of a borough council, in the Irish language "Cathaoirleach Bhuirg ....." and "Leas-Chathaoirleach Bhuirg ....." followed by the name of the borough in Irish, and in the English language "Cathaoirleach of the Borough of ....." and "Leas-Chathaoirleach of the Borough of ....." followed by the name of the borough in English.

(3) Any reference in any other enactment to the lord mayor, mayor, chairman, deputy lord mayor, deputy mayor or vice-chairman or cognate words shall, where the context so requires, be read as a reference to the Cathaoirleach or Leas-Chathaoirleach or other title standing for the time being by virtue of *section 32*, as the case may be.

(4) The Cathaoirleach shall take precedence at all meetings of the local authority and all proceedings of the elected council.

(5) Anything authorised or required by this Act or otherwise by law to be done by, to or with the Cathaoirleach may where necessary be done by, to or with the Leas-Chathaoirleach of the local authority.

(6) The Cathaoirleach may, where the Leas-Chathaoirleach is unavailable, nominate from among the other members of the local authority a member for the purpose of representing the Cathaoirleach at any ceremony or event in that capacity and that member shall be entitled to act in that capacity for such purpose.

(7) Where a casual vacancy occurs in the office of Cathaoirleach of a local authority, the Leas-Chathaoirleach shall assume the responsibilities of the office pending the election in accordance with this Part of a Cathaoirleach.

(8) A person holding the office of Cathaoirleach or Leas-Chathaoirleach on the commencement of this provision shall continue to hold that office in accordance with this Part.

(9) Subject to this Act, an outgoing Cathaoirleach or Leas-Chathaoirleach shall be eligible for re-election.

(10) F14**[**...**]**

(11) *Section 34* shall apply to a Cathaoirleach or Leas-Chathaoirleach elected in 2004 in accordance with F14**[**...**]** this Part and thereafter.

Annotations

Amendments:

F14 Deleted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Alternative titles to Cathaoirleach and Leas-Chathaoirleach, etc.

32.—(1) Where prior to the commencement of *section 31*—

(*a*) Cork City Council or Dublin City Council used the title "Lord Mayor" or "Deputy Lord Mayor",

(*b*) any other city council used the title "Mayor" or "Deputy Mayor", or

(*c*) any borough council referred to in *Chapter 1* of *Part 1* of *Schedule 6* used the title "Mayor" or "Deputy Mayor",

to describe its office of Cathaoirleach or Leas-Chathaoirleach as the case may be, it shall continue to so use such title or titles notwithstanding the provisions of *section 31*.

(2) A local authority referred to in *subsection (1)* may by resolution give the title Cathaoirleach or Leas-Chathaoirleach to its Lord Mayor or Deputy Lord Mayor, Mayor

or Deputy Mayor, as the case may be, and in that case shall be styled in accordance with *section 31*.

(3) Where titles are continued in accordance with *subsection (1)*, the holders of the offices concerned shall, as appropriate, be styled—

(*a*) in the case of Cork City Council, in the Irish language "Ard-Mhéara Chathair Chorcaí" and "Leas Ard-Mhéara Chathair Chorcaí", and in the English language "Lord Mayor of the City of Cork" and "Deputy Lord Mayor of the City of Cork",

(*b*) in the case of Dublin City Council, in the Irish language "Ard-Mhéara Chathair Bhaile Átha Cliath" and "Leas Ard-Mhéara Chathair Bhaile Átha Cliath", and in the English language "Lord Mayor of the City of Dublin" and "Deputy Lord Mayor of the City of Dublin",

(*c*) in the case of any other city council, in the Irish language "Méara Chathair ....." and "Leas-Mhéara Chathair ....." followed by the name of the city in Irish, and in the English language "Mayor of the City of ....." and "Deputy Mayor of the City of ....." followed by the name of the city in English,

(*d*) in the case of a borough council, in the Irish language "Méara Bhuirg ....." and "Leas-Mhéara Bhuirg ....." followed by the name of the borough in Irish, and in the English language "Mayor of the Borough of ....." and "Deputy Mayor of the Borough of ....." followed by the name of the borough in English.

(4) Notwithstanding the provisions of *section 31* a local authority may subject to the provisions of *Schedule 8* give an alternative title to its Cathaoirleach or Leas-Chathaoirleach or revert to the title or titles of Cathaoirleach or Leas-Chathaoirleach as the case may be.

Resignation of Cathaoirleach or Leas-Chathaoirleach.

33.—(1) The Cathaoirleach or Leas-Chathaoirleach may resign from that office by notice in writing signed by him or her and delivered to the principal offices of the local authority.

(2) The vacancy caused by a resignation under *subsection (1)* shall occur on the date specified in the notice as the resignation date or, where no such date is specified, on receipt of such notice.

Removal of Cathaoirleach or Leas-Chathaoirleach from office.

34.—(1) Subject to this section, a local authority may by resolution remove from office the Cathaoirleach or Leas-Chathaoirleach of such local authority for stated misbehaviour or if his or her removal appears to them to be necessary for the effective performance by the local authority of its functions.

(2) Notice of the intention to propose a resolution under this section (in this section referred to as a "notice") shall—

(*a*) be signed by at least one-third of the total number of members of the local authority concerned,

(*b*) contain a statement of the reasons for the proposed removal,

(*c*) specify a day for the holding of a special meeting to consider the proposed removal, being a day which is not less than 21 days after the day on which the notice is delivered under *paragraph (d)*,

(*d*) be delivered to the meetings administrator, and

(*e*) be delivered or sent to the Cathaoirleach or Leas-Chathaoirleach concerned.

(3) The meetings administrator shall on receipt of a notice and without delay send a copy of it to every member of the local authority and convene a special meeting for the date so specified to consider the proposed removal.

(4) (*a*) Such special meeting shall be chaired by a member of the local authority, other than the person the subject of the notice, chosen by the members present at the meeting.

(*b*) The person the subject of the notice shall at such meeting be afforded an opportunity to make a statement of response in relation to the proposed removal.

(5) It is necessary for the passing of a resolution under this section that at least three-quarters of the total number of members of the local authority concerned vote in favour of the resolution.

Annotations

Editorial Notes:

E34 Power pursuant to section exercised (1.01.2004) by *Athlone Town Boundary Alteration (Supplementary) Order 2003* (S.I. No. 705 of 2003).

Chapter 2

Election by Local Authority

Application of *Chapter 2*.

35.—F15**[**...**]**

Annotations

Amendments:

F15 Repealed (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 7(a), commenced on enactment.

Annual election of Cathaoirleach and Leas-Chathaoirleach by local authority.

36.—(1) (*a*) Subject to *paragraph (c)*, a local authority shall elect a Cathaoirleach and Leas-Chathaoirleach from amongst its members at every annual meeting.

(*b*) The election of a Cathaoirleach shall be carried out in accordance with *section 37*.

(*c*) A member of a local authority who is a member of Dáil Éireann or Seanad Éireann shall be disqualified from being elected or from being a Cathaoirleach or Leas-Chathaoirleach of a local authority.

F16**[**(*d*) On the commencement of *section 2* of the *Local Government (No. 2) Act 2003*, paragraph (*c*) shall cease to apply and have effect.**]**

(2) (*a*) Subject to *subsection (3)*, a member who holds the office of Cathaoirleach or Leas-Chathaoirleach shall hold that office (unless he or she becomes disqualified under *subsection (1)(c)*, resigns under *section 33* or is removed from office under *section 34*) from election until a successor is elected at the next annual meeting of the local authority after that member's election to that office.

(*b*) In a year in which local elections are to be held under *section 26* and notwithstanding *subsection (3)*, *subsection (4)* shall apply in respect of a Cathaoirleach.

(3) Except as is provided for in *subsection (4)*, the Cathaoirleach or Leas-Chathaoirleach of a local authority shall, upon ceasing to be a member of the authority, cease to be Cathaoirleach or Leas-Chathaoirleach of that authority.

(4) Following a local election the Cathaoirleach shall continue to hold office for the period between the retirement of the outgoing members and the commencement of the annual meeting at which the successor is elected unless he or she sooner dies or resigns from the office or becomes disqualified for local authority membership.

Annotations

Amendments:

F16 Inserted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Method of election of Cathaoirleach by local authority.

37.—Subject to *paragraph 4* of *Schedule 10*, the following provisions shall apply and have effect in respect of the election of a Cathaoirleach by the members of a local authority:

(*a*) one or more than one member may be proposed and seconded for nomination and every person so proposed and seconded who does not reject the nomination shall be a candidate and no other person shall be a candidate otherwise than in accordance with this provision;

(*b*) where there is only one candidate, such candidate shall be elected;

(*c*) where there are more than 2 candidates, a poll shall be taken;

(*d*) if at such poll a majority of the members present vote for any particular candidate, such candidate shall be elected;

(*e*) if at such poll no candidate receives the votes of a majority of the members present, the candidate receiving the least number of votes shall be excluded from the election, and, subject to *paragraph (g)*, one or more further polls (according as may be necessary) shall be taken;

(*f*) *paragraphs (d)* and *(e)* shall apply in relation to such further poll or polls;

(*g*) where there are only 2 candidates or where, as a result of one or more polls all the candidates except 2 have been excluded, the question as to which of such candidates shall be elected shall be put to the members present and whichever of such candidates receives the majority of votes cast shall be elected;

(*h*) if from an equality of votes given to 2 or more candidates any question arises as to which of such candidates is to be excluded or as to which of such candidates is to be elected, such question shall be decided by lot in accordance with *paragraph (i)*;

(*i*) in deciding any such question by lot, the names of the candidates concerned shall be written on similar slips of paper, the slips shall be folded so as to prevent identification and mixed and drawn at random, and the candidate whose name is first drawn shall be—

(I) the candidate who shall be excluded, where the question concerns an exclusion, or

(II) the candidate who shall be elected, where the question concerns an election.

Casual vacancy in the office of Cathaoirleach or Leas-Chathaoirleach.

38.—(1) Where a casual vacancy occurs in the office of Cathaoirleach or Leas-Chathaoirleach of a local authority the members of the authority—

(*a*) present at the next meeting of the authority after the occurrence of the vacancy, or

(*b*) if that meeting is held within 14 days of the occurrence of the vacancy, present at the next following meeting of the authority,

shall elect one of their number to be Cathaoirleach or Leas-Chathaoirleach, as the case may be.

(2) *Section 37* shall apply in relation to the election of a member to fill a casual vacancy in the office of Cathaoirleach.

(3) A person elected to fill a casual vacancy in the office of Cathaoirleach or Leas-Chathaoirleach shall be elected for the remainder of the term of office of his or her predecessor.

(4) Not less than 3 clear days' notice shall be given to each member of the local authority of a meeting to fill a casual vacancy under this section.

CHAPTER 3

Direct Election

Application of *Chapter 3*.

39.—F17**[**...**]**

Annotations

Amendments:

F17 Repealed Part 5, Chapter 3 (ss. 39 to 43) (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 7(b), commenced on enactment.

Direct election and tenure of Cathaoirleach of county council and city council.

40.—F18**[**...**]**

Annotations

Amendments:

F18 Repealed Part 5, Chapter 3 (ss. 39 to 43) (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 7(b), commenced on enactment.

Casual vacancy in office of Cathaoirleach of county council or city council.

41.—F19**[**...**]**

Annotations

Amendments:

F19 Repealed Part 5, Chapter 3 (ss. 39 to 43) (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 7(b), commenced on enactment.

Amendments to certain Acts, relating to direct elections, etc.

42.—F20**[**...**]**

Annotations

Amendments:

F20 Repealed Part 5, Chapter 3 (ss. 39 to 43) (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 7(b), commenced on enactment.

Election petitions in relation to direct elections.

43.—F21**[**...**]**

Annotations

Amendments:

F21 Repealed Part 5, Chapter 3 (ss. 39 to 43) (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 7(b), commenced on enactment.

PART 6

Meetings and Proceedings of Local Authorities

Application (*Part 6*).

44.—(1) This Part and *Schedule 10* apply and have effect in relation to the meetings and proceedings of local authorities and to connected matters.

(2) Meetings of a local authority or a joint body may be held in Irish or in English or in both languages.

(3) In respect of meetings and proceedings of joint bodies, the Minister may by regulations under this subsection—

(*a*) make provisions corresponding to those provided for local authorities under this Part and *Schedule 10*,

(*b*) apply this Part or *Schedule 10*, with any necessary modification or adaptation,

and any such provisions apply and have effect in relation to such meetings and proceedings.

(4) (*a*) Subject to *paragraph (b)*, any provision provided for by or under statute relating to meetings and proceedings of a joint body to which that paragraph relates, and in force immediately before the commencement of this provision, continues in operation until it ceases to have effect under *paragraph (b)*.

(*b*) On the commencement of regulations under *subsection (3)*, the matters with respect to which the regulations were made are governed by those regulations, and any previous provisions (whether made by or under statute) as may be specified in those regulations relating to those matters cease to have effect as respects the body mentioned in the regulations to such extent as may be so specified.

Attendance of public and media at meetings.

45.—(1) In this section—

"media" includes accredited representatives of local and national press, local and national radio and local and national television;

"members of the public" means any person who is not attending the meeting at the request of the local authority.

(2) Subject to *subsections (3)* and *(5)*, members of the public and representatives of the media are entitled to be present at a meeting of a local authority.

(3) Where a local authority is of the opinion that the absence of members of the public and representatives of the media from the whole or any part of a particular meeting is desirable because—

(*a*) of the special nature of the meeting, or of an item of business to be, or about to be, considered at the meeting, or

(*b*) for other special reasons,

the authority may by resolution decide to meet in committee for the whole or a part of the meeting concerned, where the authority considers that such action is not contrary to the overall public interest.

(4) (*a*) It is necessary for the passing of a resolution under *subsection (3)* that at least one-half of the total number of members of the local authority concerned vote in favour of the resolution.

(*b*) A resolution under *subsection (3)* shall indicate in a general way the reasons for the resolution and those reasons shall be recorded in the minutes of the meeting.

(5) A local authority may, by standing orders, regulate the right of members of the public and representatives of the media to be present at meetings and, in particular and without prejudice to the generality of the foregoing, may—

(*a*) taking account of available space, limit the number of persons to be admitted,

(*b*) make rules governing the conduct of persons present at meetings,

(*c*) provide for the removal of members of the public who interrupt the proceedings or who otherwise misconduct themselves, or

(*d*) make rules in relation to the taking of photographs or the use of any means for recording or relaying the proceedings as they take place or at a later stage.

(6) Nothing in *subsection (5)*, other than *paragraph (a)*, shall be read so as to enable a local authority to limit the attendance of representatives of the media, and *paragraph (a)* shall not be read as enabling a local authority to prohibit the attendance of such representatives.

Meetings administrator.

46.—The manager shall from time to time as may be necessary assign the duties of meetings administration to an employee (referred to in this Act as a "meetings administrator") of a local authority.

Effective discharge of business.

47.—A local authority shall seek to secure as regards the establishment of committees under *Part 7* and as regards meetings of the authority and its committees, that they are organised and operate so as to promote effectiveness and efficiency in the discharge of business.

PART 7

Committees and Joint Committees

Strategic policy committees.

48.—(1) A local authority, being a county council or city council, shall establish by resolution committees to be known as strategic policy committees to consider matters connected with the formulation, development, monitoring and review of policy which relate to the functions of the local authority and to advise the authority on those matters.

(2) (*a*) A strategic policy committee consists partly of persons who are and partly of persons who are not members of the local authority concerned.

(*b*) The chairperson of a strategic policy committee shall be a member of the local authority concerned.

(3) (*a*) The establishment of a strategic policy committee shall be undertaken by the local authority in accordance with such guidelines as may be issued by the Minister for that purpose under *section 54(2)*.

(*b*) Guidelines referred to in *paragraph (a)* shall include provision for—

(i) the representation of sectoral interests,

(ii) the term of office of—

(I) members of strategic policy committees, and

(II) chairpersons, which shall not be less than 3 years,

and

(iii) the procedures to apply to ensure fairness and equity in the appointment of chairpersons.

(*c*) Any guidelines issued by the Minister prior to the commencement of this section and relating to strategic policy committees continue to apply until such time as guidelines are issued under *section 54(2)*.

(4) Subject to *subsection (5)*, a member of a local authority who is a member of either House of the Oireachtas is disqualified from being elected or from being a chairperson of a strategic policy committee.

(5) *Subsection (4)* has effect for the purposes of any election of a chairperson of a strategic policy committee held after the commencement of this section.

(6) An annual report of a local authority shall include an outline of the activities of strategic policy committees during the period to which the annual report relates.

F22**[**(7) On the commencement of *section 2* of the *Local Government (No. 2) Act 2003*, subsections (4) and (5) cease to apply.**]**

Annotations

Amendments:

F22 Inserted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Municipal policy committees.

49.—(1) A town council may establish by resolution a committee to be known as a municipal policy committee to consider matters connected with the formulation, development, monitoring and review of policy which relate to the functions of the town council and to advise the town council on those matters.

(2) A municipal policy committee consists partly of persons who are and partly of persons who are not members of the town council concerned.

(3) (*a*) The establishment of a municipal policy committee shall be undertaken by a town council in accordance with such guidelines as may be issued by the Minister for that purpose under *section 54(2)*.

(*b*) The chairperson of a municipal policy committee shall be a member of the town council concerned.

(4) *Subsections (3)* to *(6)* of *section 48* apply to a municipal policy committee as if the references to a strategic policy committee were references to a municipal policy committee.

Area committees.

50.—(1) A local authority which is a county council or city council may establish by resolution a committee in respect of a local electoral area or of 2 or more adjoining such areas or any other area in its administrative area to be known by some appropriate name followed by the words "Area Committee", or by such other title, as may be designated by the authority.

(2) Where the Cathaoirleach of a town council is not otherwise a member of an area committee within whose area such town is situated he or she shall, by virtue of his or her office, be a member of such area committee.

Committees of local authorities.

51.—(1) If a local authority considers it appropriate, it may by resolution establish either or both—

(*a*) one or more than one committee to consider matters connected with the functions of the authority referred to it by the authority and to assist and advise the authority on those matters, and

(*b*) one or more than one committee to perform functions of the authority delegated to it under this section but may not delegate generally all of its functions to any committee.

(2) (*a*) A local authority may, by resolution, delegate with or without restrictions to a committee established under *subsection (1)(b)* any of its functions that may be performed by resolution other than—

(i) the power to adopt the local authority budget,

(ii) the power to make a development plan, or to make a variation of a development plan, under Part II of the Act of 2000,

(iii) the power to determine an annual rate on valuation or borrow money, or

(iv) any other functions as may be prescribed by regulations made by the Minister.

(*b*) It is necessary for the passing of a resolution under *paragraph (a)* that at least one-half of the total number of members of the local authority concerned vote in favour of the resolution.

(3) A local authority may, by resolution, dissolve a committee established by it but the dissolution is without prejudice to anything previously done by the committee.

(4) (*a*) The members of a committee first appointed shall be appointed by resolution of the local authority by which it was established and subsequent appointments shall be by such resolution or in such other manner as that local authority may provide for by resolution.

(*b*) A committee consists of such number of persons, not being less than 3, as the local authority by which it was established considers appropriate.

(*c*) Subject to *paragraph (d)*, a committee may at the discretion of the local authority by which it was established, consist either wholly of persons who are members of that authority or partly of persons who are, and partly of persons who are not, such members.

(*d*) A person who is not a member of the local authority concerned shall not be appointed to be a member of a committee unless, in the opinion of the authority, he or she is a person having knowledge, qualifications or experience relevant to the functions of the committee.

(5) Notwithstanding the repeal or revocation under *section 5* of an enactment by or under which a committee of a local authority stood established immediately before such repeal or revocation the committee shall continue to stand established after such repeal or revocation as if it was established under this section and this Part applies and has effect accordingly in relation to it.

(6) Unless dissolved in accordance with *subsection (3)* a committee shall be deemed to be dissolved on the ordinary day of retirement of members of the local authority concerned in accordance with *section 17*.

(7) A reference to a committee in this section includes a committee established under *section 50*.

(8) Nothing in this section prejudices the establishment and continued operation of a local consultative committee.

Joint committees of local authorities.

52.—(1) In this section "local authority" includes such other bodies (if any) as may be prescribed by regulations made by the Minister.

(2) If 2 or more local authorities consider it appropriate to do so, they may, by resolution of each of the authorities, jointly establish either or both—

(*a*) a joint committee of those authorities to consider matters connected with the functions of the authorities specified in the resolution and to advise the authorities on those matters, and

(*b*) a joint committee of those authorities to perform functions of those authorities delegated to it by them under *subsection (6)*.

(3) A local authority may join in the establishment of more than one joint committee.

(4) More than one joint committee may be established by the same local authorities.

(5) Where resolutions under *subsection (2)(b)* relating to a joint committee, with the consent of the Minister, so provide—

(*a*) the joint committee shall be a body corporate with perpetual succession and be known by such name as may be specified in the resolutions or determined by the joint committee,

(*b*) the joint committee may sue and be sued in its corporate name,

(*c*) the joint committee has power to acquire, hold, manage, maintain and dispose of land or an interest in land,

(*d*) the joint committee shall have a common seal which shall be authenticated by the signature of the chairperson, or of an employee nominated in writing for that purpose by the manager, following consultation with the chairperson,

(*e*) judicial notice shall be taken of the seal of the joint committee and every document claiming to be an instrument made by it and to be sealed with its seal, claiming to be authenticated in accordance with *paragraph (d)*, shall be received in evidence and be deemed to be that instrument without further proof unless the contrary is shown.

(6) (*a*) Subject to this subsection a local authority by resolution, and with the consent of the other authorities concerned, may delegate with or without restrictions to a joint committee established under *subsection (2)(b)* any of its functions that may be performed by resolution.

(*b*) *Paragraph (a)* does not apply to the functions of a local authority to adopt the local authority budget or to determine an annual rate on valuation or any other functions as may be prescribed by regulations made by the Minister.

(*c*) It is necessary for the passing of a resolution under *paragraph (a)* that at least one-half of the total number of members of the local authority concerned vote in favour of the resolution.

(7) The Minister may direct a local authority—

(*a*) to establish a joint committee under *subsection (2)* with one or more other local authorities as may be specified in the direction, and

(*b*) where appropriate, subject to such (if any) conditions or restrictions as may be specified in the direction, to delegate to the joint committee such of the functions of the local authority as may be specified in the direction,

upon and subject to such terms and conditions as may be specified in the direction.

(8) A joint committee may be dissolved by resolution of any one of the local authorities by which it was established with, in the case of a joint committee established by virtue of a direction under *subsection (7)*, or to which *subsection (5)* applies, the consent of the Minister, but the dissolution is without prejudice to anything previously done by the committee.

(9) Where a joint committee is established under *subsection (2)(b)* such executive functions as may be appropriate to the functions delegated under that subsection shall vest in the manager for that joint committee.

(10) (*a*) The members of a joint committee shall be appointed by the local authorities by which it was established by each authority appointing such number of persons to be members of the joint committee as may be agreed upon by those authorities.

(*b*) A joint committee consists of 6 or more persons, as is agreed by the local authorities by which it was established and may, subject to *paragraph (c)*, at the discretion of those authorities, be composed either wholly of persons who are members of those authorities or partly of persons who are, and partly of persons who are not, such members.

(*c*) A person who is not a member of one of the local authorities concerned shall not be appointed to be a member of a joint committee unless, in the opinion of the authority by which he or she is so appointed, he or she possesses knowledge, qualifications or experience relevant to the functions of the joint committee.

(11) (*a*) Notwithstanding the repeal or revocation under *section 5* of an enactment by or under which a joint committee of a local authority stood established immediately before such repeal or revocation, the committee shall continue to stand established after such repeal or revocation as if it was established under this section and this Part applies and has effect accordingly in relation to it.

(*b*) Except as provided for by this section or otherwise by law, it is not lawful for local authorities to establish a joint committee or to delegate any of their functions to a joint committee.

Saver for acts of committee or joint committee.

53.—The acts, decisions and proceedings of any committee or joint committee of a local authority shall not be invalidated only because of a vacancy or vacancies in its membership or of the disqualification or want of qualification of any of its members.

Regulations (*Part 7*).

54.—(1) The Minister may make regulations—

(*a*) specifying conditions, restrictions or other provisions which apply in relation to the delegation of functions to, or the revocation of a delegation of functions to, a joint committee to which *section 52(2)* applies or to a committee,

(*b*) as respects the procedures, general administration and general finances of joint committees to which *section 52(2)* applies,

(*c*) providing for the attendance of members of the public and representatives of the media at meetings of joint committees or committees other than those—

(i) specified in the regulations, or

(ii) at which the local authority concerned, in accordance with such procedures as may be specified in the regulations, determines such attendance is not permitted,

and *section 45(3)* and *(4)* shall apply to such attendance at meetings of joint committees or committees subject to any necessary modifications,

(*d*) as respects such other matters relating to joint committees or committees as the Minister considers appropriate.

(2) The Minister may issue general policy guidelines to local authorities for the purposes of any provision of this Part and the authorities shall comply with any such guidelines.

Annotations

Editorial Notes:

E35 Power pursuant to section exercised (17.07.2002) by *Local Government Act, 2001 (Meetings) Regulations 2002* (S.I. No. 66 of 2002).

PART 8

Local Authority Boundary Alteration

Interpretation *(Part 8)*.

55.—In this Part—

"application" shall be read in accordance with *section 57*;

"proposer", "proposal", "respondent", "statement of response" and "amended proposal" shall be read in accordance with *section 56*.

Proposal by local authority for alteration of boundary.

56.—(1) (*a*) A county council or city council may, by resolution, adopt a proposal that the boundary of the county or city be altered in accordance with this Part.

(*b*) A town council may, by resolution, adopt a proposal that the boundary of the town be altered in accordance with this Part.

(*c*) A county council may, by resolution, adopt a proposal that the boundary of any town situated in such county be altered in accordance with this Part.

(*d*) A county council and a town council may jointly adopt a proposal that the boundary of a county be altered in accordance with this Part so as to incorporate an area in an adjoining county, with provision for the simultaneous alteration of the boundary of such town to coincide with the county boundary so altered.

(*e*) A proposal shall specify the alteration to which it relates by reference to a map.

(2) (*a*) A local authority which makes a proposal under *subsection (1)* and a proposal so made are referred to in this Part, respectively, as a "proposer" and a "proposal".

(*b*) For the purposes of *subsection (1)(d)* the proposer shall be a county council.

(3) A proposer shall—

(*a*) furnish a copy of the proposal to each local authority whose boundary is affected by the proposal and such other local authorities as may be prescribed by regulations made by the Minister and each authority so affected by a proposal is referred to in this Part as a "respondent",

(*b*) publish a notice of the proposal in the form so prescribed giving details of the proposal and inviting submissions with regard to it from any person concerned within such period as is specified in the notice, and

(*c*) otherwise inform such persons of the proposal as may be so prescribed.

(4) (*a*) Within 6 months from the receipt by each respondent of a copy of the proposal or such longer period as may be agreed upon by the proposer and the respondent, each respondent shall consider the proposal and make a statement of its response to the proposal (in this Part referred to as a "statement of response"), and furnish a copy of it to the proposer.

(*b*) The making of a statement of response is a reserved function.

(5) Following consideration by a proposer of any submission that it receives within the period referred to in *subsection (3)(b)* and of any statement of response furnished to it in accordance with *subsection (4)(a)*, the proposer may by resolution amend the proposal in such manner as it thinks fit and a proposal so amended is referred to in this Part as an "amended proposal".

Application for boundary alteration.

57.—(1) Upon the expiration, in relation to a proposal, of the periods referred to in *subsections (3)(b)* and *(4)(a)* of *section 56,* a proposer may make application (in this Part referred to as an "application") to the Local Government Commission for

the making of a report in relation to the boundary to which the proposal or the amended proposal, as the case may be, relates.

(2) An application shall be accompanied by the proposal, any submissions received by the proposer, the statement of response from each respondent and any amended proposal.

(3) A decision to make an application under *subsection (1)* is a reserved function.

Supplementary provision to *sections 56* and *57*.

58.—(1) A proposal, a statement of response and any amended proposal shall set out—

(*a*) the financial and other implications of the proposal or of the amended proposal, as the case may be, and

(*b*) the adjustments in relation to financial, administrative or other matters to be made between the proposer and each respondent concerned as a consequence of the alteration of the boundary concerned.

(2) (*a*) A proposer shall furnish a copy of the application made by it to each respondent and to such other persons as may be prescribed by regulations made by the Minister.

(*b*) A proposal, a statement of response, an amended proposal and an application shall comply with such requirements as may be so prescribed.

(*c*) The Minister may prescribe by regulations any matter of procedure or any other requirement which he or she considers necessary for the satisfactory operation of this section or *sections 56* and *57*.

Minister may request review.

59.—(1) The Minister may request the Local Government Commission to prepare a report in relation to the boundary of any local authority and the Commission shall comply with such request.

(2) A copy of any such request shall be sent by the Minister to the local authorities concerned.

Report by Local Government Commission.

60.—(1) Where an application is made by a proposer to the Local Government Commission under *section 57*, then following consideration by it of the application, it shall either—

(*a*) prepare a report in accordance with *subsection (5)*, or

(*b*) notify the proposer and the respondent in writing that for stated reasons set out in the notification it considers it inappropriate to deal with the application.

(2) Where an application referred to in *subsection (1)* has the agreement of each respondent, the Commission shall carry out its functions under that subsection as a matter of priority and shall accordingly ensure that the application is dealt with as expeditiously as possible.

(3) A notification under *subsection (1)(b)* may refer to such matters as the Commission considers relevant to the particular case.

(4) Where a request is made by the Minister to the Local Government Commission under *section 59,* the Commission shall prepare a report in accordance with *subsection (5)*.

(5) Subject to *Part 11,* the Local Government Commission shall—

(*a*) review the boundary of the local authority concerned,

(*b*) make such recommendations with respect to the boundary, or otherwise under *subsection (7),* that it considers to be necessary in the interests of effective and convenient local government, and

(*c*) prepare and furnish to the Minister a report in writing of that review and its recommendations, including any recommendations under *section 90(3)(c)* in relation to financial and other ancillary or related matters.

(6) A report and recommendations by the Local Government Commission on an application under *section 57* may provide for the alteration of a boundary (whether by enlargement or reduction) otherwise than in accordance with the terms of the proposal or amended proposal, as the case may be, or that no alteration be made.

(7) (*a*) Where the Local Government Commission does not recommend a boundary alteration, it may make such other recommendations affecting the local authorities concerned as are in its opinion—

(i) necessary in the interests of effective and convenient local government, and

(ii) are designed to secure proper organisational arrangements, co-operation, co-ordination and delivery of local government services.

(*b*) Without prejudice to the generality of *paragraph (a),* arrangements may relate to—

(i) the delivery of specified services in specified areas by a specified local authority,

(ii) the establishment of a joint committee,

(iii) joint organisational arrangements affecting the area, or

(iv) any matter or thing for which provision may be made in a supplementary order under *section 62*.

Power to alter boundaries, etc.

61.—(1) Following consideration of a report by the Local Government Commission with respect to the boundary of a local authority the Minister may by order alter the boundary of the relevant county, city or town.

(2) An order under *subsection (1)* may provide for the alteration of the boundary (whether by enlargement or reduction) otherwise than in accordance with the recommendations in the report but, where that alteration differs in a material respect from that recommended, the order shall set out the reasons for such variation.

(3) Where it is proposed to make an order under this section in relation to the boundary of a county or city—

(*a*) a draft of the order shall be laid before each House of the Oireachtas, and

(*b*) the order shall not be made until a resolution approving of the draft has been passed by each House.

(4) Where a report of the Local Government Commission makes recommendations under *section 60(7),* the Minister may by direction in writing require the local authorities the subject of the report to take such steps to implement those recommendations—

(*a*) in a manner and within such period, and

(*b*) subject to such variation,

as may be specified in the direction.

(5) Each local authority shall comply with a direction to it under *subsection (4)*.

Provisions consequential on boundary alteration.

62.—(1) In this section and in *Schedule 11*—

"authority concerned" means a local authority whose boundary is affected by a primary order;

"primary order" means an order under *section 61(1)*;

"relevant area" means the portion of the administrative area of one local authority, or any part of that portion, which by virtue of a primary order becomes part of the administrative area of another local authority;

"supplementary order" means an order made under *subsection (2)*.

(2) (*a*) The Minister or any other Minister of the Government, with the consent of the Minister, may by order make such provision as he or she considers necessary or expedient in relation to any matter arising from, in consequence of, or otherwise related to, the boundary alteration effected by a primary order.

(*b*) Without prejudice to the generality of *paragraph (a),* a supplementary order may make provision for all or any of the matters set out in *Schedule 11*.

(3) A supplementary order made by a Minister of the Government, other than the Minister, may only make provision with respect to matters in relation to which functions stand conferred on that Minister of the Government.

(4) A supplementary order made by the Minister may be made as one with a primary order.

(5) If a supplementary order so provides, a supplementary order may have retrospective effect with effect from the date of coming into force of the appropriate primary order.

(6) Where a boundary alteration is effected under this Part in respect of a town whose boundary was altered by regulations under section 17 of the Local Government Act, 1994, any alterations made under that section shall cease to have effect in respect of the town or of any county boundary concerned.

(7) Where a boundary alteration is effected by a primary order, any reference in any enactment (including any reference read in accordance with *section 3* and *Schedule 2*) to a county, city or town, whether to such areas generally or to any particular such area, shall, subject to any provision to the contrary in a supplementary order and unless the context otherwise requires, be read as a reference to the area of such county, city or town as so altered.

PART 9

Functions of Local Authorities

Chapter 1

General Functions of Local Authorities

Statement of local authority functions.

63.—(1) The functions of a local authority are—

(*a*) to provide a forum for the democratic representation of the local community, in accordance with *section 64,* and to provide civic leadership for that community,

(*b*) to carry out such functions as may at any material time stand conferred on the relevant authority by or under any enactment (including this Act and any other enactment whether enacted before or after this Act),

(*c*) to carry out any ancillary functions under *section 65,* and

(*d*) to take such action as it considers necessary or desirable to promote the community interest in accordance with *section 66*.

(2) (*a*) Without prejudice to the scope of *subsection (1)(b)* and for ease of reference only, there is set out—

(i) in *Part 1* of *Schedule 12,* certain Acts of the Oireachtas, the responsibility for which is primarily that of the Minister, which confer functions on local authorities or on classes of local authorities, and

(ii) in *Part 2* of *Schedule 12,* certain Acts of the Oireachtas, the responsibility for which is primarily that of a Minister of the Government other than the Minister, which confer functions on local authorities or on classes of local authorities.

(*b*) *Paragraph (a)* shall not be read as setting out all relevant Acts which confer functions on local authorities or on classes of local authorities.

(3) Subject to law, a local authority is independent in the performance of its functions.

(4) Subject to law, the functions of a local authority shall be performed for or on behalf of the local authority and in its name by the elected council or the manager as may be appropriate in accordance with *Part 14*.

Representational functions of local authorities.

64.—(1) As a forum for the democratic representation of the local community a local authority may represent the interests of such community in such manner as it thinks appropriate.

(2) Without prejudice to the generality of *subsection (1),* a local authority may for the purposes of giving effect to that subsection—

(*a*) ascertain and communicate to other local authorities and public authorities the views of the local community in relation to matters as respects which those other authorities perform functions and which affect the interests of the administrative area of the authority and the local community,

(*b*) promote, organise or assist the carrying out of research, surveys (including public opinion surveys) or studies with respect to the local community or its administrative area,

(*c*) facilitate and promote interest and involvement in local government affairs generally,

(*d*) promote interest among young people in democracy and local government and in community and civic affairs generally,

(*e*) promote the use of the Irish language and support Gaeltacht communities.

(3) The making of a decision by a local authority in relation to the representation of the views of the local community under this section is a reserved function.

Ancillary functions of local authorities.

65.—(1) A local authority may do anything ancillary, supplementary or incidental to or consequential on or necessary to give full effect to, or which will facilitate or is conducive to the performance of, a function conferred on it by this or any other enactment or which can advantageously be performed by the authority in conjunction with the performance of such a function.

(2) The reference in *subsection (1)* to a function conferred on a local authority shall be read as including—

(*a*) all such functions as may at any material time stand conferred on the local authority by or under any enactment (including this Act and any other enactment whether enacted before or after this Act),

(*b*) the provision of offices, equipment or the doing of anything else which is necessary for or related to the general operation, organisation or administration of the authority.

(3) Every enactment relating to a function of a local authority shall be read and have effect in accordance with this section.

Promotion of interests of local community.

66.—(1) In this section "assistance in money or in kind" includes—

(*a*) grants, loans, guarantees or other financial aid,

(*b*) land and structures of any kind and related services, facilities or equipment,

(*c*) plant, machinery or equipment or the carrying out of works,

(*d*) the services of staff of the local authority concerned,

(*e*) financial aid in relation to the employment of staff, and

(*f*) professional or technical assistance.

(2) A decision by a local authority under this section to provide assistance in money or in kind to which *paragraph (a), (b)* or *(e)* of *subsection (1)* applies is a reserved function.

(3) (*a*) Subject to this section, a local authority may take such measures, engage in such activities or do such things in accordance with law (including the incurring of expenditure) as it considers necessary or desirable to promote the interests of the local community.

(*b*) For the purposes of this section a measure, activity or thing is deemed to promote the interests of the local community if it promotes, directly or indirectly, social inclusion or the social, economic, environmental, recreational, cultural, community or general development of the administrative area (or any part of it) of the local authority concerned or of the local community (or any group consisting of members of it).

(*c*) Nothing in *subsection (4)* or *section 67* shall be read as restricting the generality or meaning of this subsection.

(4) Without prejudice to the generality of *subsection (3)*, a local authority may for the purposes of this section—

(*a*) carry out and maintain works of any kind,

(*b*) provide, maintain, manage, preserve or restore land, structures of any kind or facilities,

(*c*) fit out, furnish or equip any building, structure or facility for particular purposes,

(*d*) provide utilities, equipment or materials for particular purposes,

(*e*) provide any service or other thing or engage in any activity that, in the opinion of the authority, is likely to benefit the local community,

(*f*) upon and subject to such terms and conditions as the authority considers appropriate, provide assistance in money or in kind (including the provision of prizes and other incentives) in respect of the organisation or promotion of competitions, seminars, exhibitions, displays, festivals or other events, or organise or promote such events,

(*g*) upon and subject to such terms and conditions as the authority considers appropriate, provide assistance in money or in kind to persons engaging in any activity that, in the opinion of the authority, benefits the local community,

(*h*) take such measures in relation to the matters mentioned in *section 67* as it considers necessary or desirable,

(*i*) enter into such contracts and make such other arrangements (including the incorporation of one or more than one company) as the authority considers necessary or expedient either alone or jointly with any other local authority or public authority or any other person.

(5) A local authority shall not, by virtue of this section, perform any function (including the incurring of expenditure or any liability, whether contractual or otherwise) which is conferred on the authority by any other provision of this Act (other than *section 67*) or of any other enactment.

(6) A local authority shall not, by virtue of this section, undertake or provide assistance in money or in kind for the undertaking of any activity that would—

(*a*) prejudice or unnecessarily duplicate activity arising from the performance of a statutory function by any person in the administrative area of the authority, or

(*b*) having regard to the activities or proposed activities of that person in relation to the area, involve wasteful or unnecessary expenditure by the local authority.

(7) The Minister may, with the consent of the Minister for Finance, prescribe by regulations matters in respect of which a local authority is not to exercise the functions conferred by this section or in respect of which such exercise is subject to terms or conditions set out in the regulations.

(8) Expenditure (including the incurring of any liability whether contractual or otherwise) by a local authority in respect of the performance of its functions under this section (whether in respect of a particular activity or otherwise or in respect of a particular period or otherwise) shall not exceed such amount as may be prescribed by regulations made by the Minister.

(9) There shall be recorded in the annual report of a local authority for every year expenditure and other particulars in relation to the performance of its functions under this section.

(10) A local authority may make such charges for the use of, admission to or otherwise in relation to amenities, facilities, services or any other thing provided under this section (including matters mentioned in *section 67*) as it considers appropriate.

Annotations

Modifications (not altering text):

C10 Functions transferred and references to "Department of Finance" and "Minister for Finance" in subs. (7) construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 37 of 2001	Local Government Act 2001	Sections 66(7), 81(6), 92(2), 109(8), 169(1)(a), 212(3) and 231(1)
...	...	...

Amenity, recreation and other functions.

67.—(1) In accordance with and subject to *section 66*, a local authority may take such measures, engage in such activities or do such things (including the incurring of expenditure) as it considers necessary or desirable to promote the interests of the local community in relation to the matters indicated in *subsection (2)*.

(2) (*a*) The matters referred to in *subsection (1)* are—

(i) general recreational and leisure activities,

(ii) sports, games and similar activities,

(iii) artistic, linguistic and cultural activities,

(iv) civic improvements,

(v) general environmental and heritage protection and improvement,

(vi) allotments, fairs and markets, and related amenities, facilities and services,

(vii) the public use of amenities (both natural and made or altered by human intervention), and

(viii) the promotion of public safety.

(*b*) Without prejudice to the generality of *paragraph (a)*, the matters referred to in *subsection (1)* shall also include the matters set out in the first column of *Schedule 13* as expanded upon in the second column of that Schedule.

(3) This section also applies to any amenity, facility, service, allotment or any other thing referred to in section 31(4) of the Local Government Act, 1994.

(4) Nothing in this section shall be read as limiting the operation of *section 66*.

Irish language and local authorities.

68.—(1) A local authority may, in performing its functions, take such steps as it considers appropriate to encourage the use of the Irish language.

(2) (*a*) The Minister shall in accordance with this section issue, or arrange for the issue, to local authorities of guidelines, codes of practice or other guidance as regards the use of the Irish language in local government either generally or in respect of aspects of local authority functions.

(*b*) Without prejudice to the generality of *paragraph (a)*, such guidance may deal with the use of the Irish language by local authorities in relation to—

(i) correspondence with members of the public, including written, oral, telephone and electronic communications;

(ii) stationery, advertisements, notices or other official documents;

(iii) the provision of services in the Gaeltacht;

(iv) the provision of, or access to, suitable training for employees;

(v) the promotion generally of the Irish language.

(3) A local authority shall have regard to such guidance in the performance of its functions.

(4) (*a*) For the purposes of this section the Minister may from time to time appoint an advisory group to be known by such name as may be designated by him or her.

(*b*) An advisory group appointed under this section shall include—

(i) at least one person who is a member of a local authority;

(ii) at least one person who is a manager or other employee of a local authority;

(iii) at least one person who is an officer of the Minister; and

(iv) at least 2 persons from organisations concerned with the promotion of the Irish language.

Local authorities to have regard to certain matters in performing functions, etc.

69.—(1) Subject to *subsection (2)*, a local authority, in performing the functions conferred on it by or under this or any other enactment, shall have regard to—

(*a*) the resources, wherever originating, that are available or likely to be available to it for the purpose of such performance and the need to secure the most beneficial, effective and efficient use of such resources,

(*b*) the need to maintain adequately those services provided by it which it considers to be essential and, in so far as practicable, to ensure that a reasonable balance is achieved, taking account of all relevant factors, between its functional programmes,

(*c*) the need for co-operation with, and the co-ordination of its activities with those of other local authorities, public authorities and bodies whose money

is provided (directly or indirectly) either wholly or partly by a Minister of the Government the performance of whose functions affect or may affect the performance of those of the authority so as to ensure efficiency and economy in the performance of its functions,

(*d*) the need for consultation with other local authorities, public authorities and bodies referred to in *paragraph (c)* in appropriate cases,

(*e*) policies and objectives of the Government or any Minister of the Government in so far as they may affect or relate to its functions,

(*f*) the need for a high standard of environmental and heritage protection and the need to promote sustainable development, and

(*g*) the need to promote social inclusion.

(2) A local authority shall perform those functions which it is required by law to perform and this section shall not be read as affecting any such requirement.

(3) Every enactment relating to a function of a local authority shall be read and have effect subject to this section.

(4) A local authority shall not by virtue of *sections 63* to *67* perform any function—

(*a*) which it is prohibited from enjoying or performing by this or any other enactment, or

(*b*) without being subject to or complying with any conditions or restrictions to which, by virtue of this or any other enactment, the performance of the function is subject.

Exercise of certain functions.

70.—The functions of a local authority under *sections 64* to *67* may be performed by any local authority in respect of its administrative area and may in respect of a town be exercised separately by the town council or county council concerned or jointly by both.

Objective of unified service to the public.

71.—(1) Without prejudice to *sections 69* and *70*, this section applies in relation to a county council and each town council situated in the county concerned, both of which are collectively referred to in this section as the "relevant local authorities".

(2) The relevant local authorities shall take such steps as may be practicable—

(*a*) for the purpose of promoting the objective that the public, in their dealings with relevant local authorities, have a unified local government service provided to them, and

(*b*) to improve customer service to the public generally.

(3) For the purposes of *subsection (2)*, relevant local authorities shall endeavour to seek the proper integration and co-ordination of their organisational arrangements, systems and procedures, including the provision of shared office accommodation and shared locations for public contact with them including electronic locations.

(4) It is the duty of the relevant local authorities to co-operate for the purpose of ensuring that the services for which they are responsible are organised and delivered so as to maximise their effectiveness and efficiency and to promote the objectives to which *subsections (2)* and *(3)* relate.

Transfer of certain functions to local authorities.

72.—(1) (*a*) The Government may by provisional order transfer a function of a Minister of the Government (other than a function that is required by the Constitution to be performed by a Minister of the Government) that, in the opinion of the Government, could be performed effectively by local authorities

of a class or classes specified in the provisional order and is a function relating to the provision of a public service in the functional areas of local authorities of that class or those classes to local authorities of that class or those classes.

(*b*) The Government may by provisional order amend or revoke a provisional order under this subsection (including a provisional order under this paragraph).

(*c*) If a provision of a provisional order under this subsection that transfers a function is revoked, subsequent to its confirmation in accordance with *paragraph (d)*, the function shall thereupon become and be vested in the Minister of the Government from whom it was transferred by the provisional order.

(*d*) A provisional order under this subsection shall not have effect unless and until it is confirmed by an Act of the Oireachtas.

(2) (*a*) The Minister may by order transfer a function of local authorities of a class or classes specified in the order that, in the opinion of the Minister, could be performed more effectively by local authorities of another class or classes so specified to local authorities of that other class or those other classes.

(*b*) The Minister may by order amend or revoke an order under this subsection (including an order under this paragraph).

(*c*) Where an order under this subsection would relate to a function as respects the performance of which a function stands conferred on any Minister of the Government other than the Minister, the order shall not be made without the prior consent of that Minister of the Government.

(*d*) If a provision of an order under this subsection that transfers a function is revoked, the function thereupon becomes and is vested in the local authorities from which it was transferred by the order.

(3) (*a*) A provisional order under *subsection (1)* or an order under *subsection (2)* may contain such ancillary, subsidiary and incidental provisions as the Government or the Minister, as appropriate, may determine.

(*b*) Without prejudice to the generality of *paragraph (a)*, a provisional order under *subsection (1)* or an order under *subsection (2)* may—

(i) specify terms, conditions and restrictions upon and subject to which a function transferred by the provisional order or order (in this paragraph referred to as a "function concerned") is to be performed by the local authorities to which the function is transferred (in this paragraph referred to as the "local authorities concerned"),

(ii) provide for the transfer of assets and liabilities associated with a function concerned from the person or persons concerned to the local authorities concerned,

(iii) provide for the use by the local authorities concerned of the services of staff of the person or persons concerned,

(iv) provide for such financial arrangements and adjustments between the person or persons concerned and the local authorities concerned as are considered proper by the Government or the Minister, as appropriate,

(v) provide for any necessary application, adaptation or modification of an enactment,

(vi) provide for such other matters as are considered by the Government or the Minister, as appropriate, to be necessary to enable the transfer of a

function concerned to which the order relates to have full effect and to enable such function to be performed by the local authorities concerned.

Saver (functional area).

73.—Subject to *section 72* and *Chapter 5* of this Part, nothing in this Act affects the definition in any other enactment (however expressed or implied) of the functional area of a local authority for the purposes of a function conferred by that enactment.

Chapter 2

Ceremonial Functions

Civic honours.

74.—(1) (*a*) A local authority may confer a civic honour on a distinguished person in such manner as it may determine, including the admission of the person to the honorary freedom of its administrative area, and may establish and maintain a roll or other record in which to enter the names of persons so honoured.

(*b*) The Cathaoirleach may, without prejudice to *paragraph (a)*, propose a person for a civic honour under this section.

(2) Any roll or other record of civic honour established and maintained by a local authority before the commencement of this section shall continue as if established and maintained under this section.

(3) A decision of a local authority to confer a civic honour on a person is a reserved function.

(4) The repeal by this Act of section 48(3) of the Local Government Act, 1991, shall not have effect as respects any person to whom that section applies.

Twinning of local authority areas.

75.—(1) A local authority may enter into arrangements for the twinning of its administrative area or a part of it or establish other similar links with any other area, whether within or outside the State.

(2) The decision to enter into an arrangement under *subsection (1)* is a reserved function.

(3) A local authority shall not enter into an arrangement under *subsection (1)* unless, having had regard to the following matters, it is satisfied that the arrangement is justified:

(*a*) the benefits likely to accrue to its administrative area and the local community,

(*b*) the social, cultural and general interests of its administrative area and the local community, and

(*c*) the total cost involved.

(4) The Minister may issue directions to local authorities or specified classes of local authorities for the purposes of this section.

(5) There shall be recorded in the annual report of a local authority for every year expenditure and other particulars in relation to the performance of its functions under this section.

Entertainment and associated expenses of local authorities.

76.—(1) A local authority may incur reasonable expenditure for or in connection with the provision of receptions and entertainment for, and the making of presentations—

(*a*) to distinguished persons, and

(*b*) in connection with the holding of special events relevant to its functions.

(2) A decision to incur expenditure under *subsection (1)* is a reserved function.

(3) There shall be recorded in the annual report of a local authority for every year expenditure and other particulars in relation to the performance of its functions under this section.

Chapter 3

Library and Archival Functions

Library authorities.

77.—(1) Each of the following is a library authority:

(*a*) a county council,

(*b*) a city council,

(*c*) a joint library committee standing established at the commencement of this provision and carrying out the functions of a library authority:

and references to "library authority" shall be read accordingly.

(2) (*a*) A joint library committee referred to in *subsection (1)(c)* continues to stand established for the purposes of carrying out the functions of a library authority under this Chapter.

(*b*) The Minister may make regulations under this subsection for the purposes of the membership and continued operation of a joint library committee referred to in *subsection (1)(c)* as if it was a joint committee to which *section 52(2)(b)* applies and such regulations may for such purposes include provisions corresponding to *paragraphs (a)* to *(e)* of *section 52(5)*.

Annotations

Editorial Notes:

E36 Power pursuant to section exercised (1.09.2002) by *Local Government Act, 2001 (County Tipperary Joint Libraries Committee) Regulations 2002* (S.I. No. 214 of 2002).

Functions of library authorities.

78.—(1) A library authority may take such measures, engage in such activities or do such things in accordance with law (including the incurring of expenditure) for the provision of library services as it considers necessary or desirable.

(2) A library authority may, in particular, arrange for the provision of the following services:

(*a*) premises and facilities (including mobile facilities) for the borrowing of and reference to books and other printed matter, tapes and discs (being audio, video or both), slides, and such other material, including material available by means of the use of computers and information technologies, as it considers appropriate;

(*b*) activities and events of artistic, linguistic, educational, cultural, recreational, community or similar interest;

(*c*) such other information services, including services available by means of the use of computers and information technologies, as can in its opinion be supplied in conjunction with its functions as a library authority.

(3) A library authority is not, by virtue of *subsection (1)* or *(2)*, to undertake any activity which in its opinion would unnecessarily duplicate activity arising from the performance of a statutory function by any other public authority or person.

(4) A library authority may make such arrangements as it considers desirable for the provision of library services to any other library authority, public authority or other body (including a school) or by any such body to that library authority.

(5) A library authority shall from time to time, or if requested by the Minister, prepare and adopt a programme for the operation and development of its library service (in this section referred to as the "library development programme").

(6) Every library development programme prepared by a library authority under *subsection (5)* shall include—

(*a*) an outline of the existing library services,

(*b*) the development objectives and priorities for the library service,

(*c*) the measures taken or proposed to be taken to secure those development objectives,

(*d*) the financial or other implications of the library development programme,

(*e*) such other matters as are considered necessary by the library authority or as the Minister may specify in writing.

(7) The adoption of a library development programme is a reserved function.

An Chomhairle Leabharlanna.

79.—(1) In this section "Act of 1947" means the Public Libraries Act, 1947, which was repealed by the Local Government Act, 1994.

(2) The body known as An Chomhairle Leabharlanna (in this section referred to as the "Council") standing established on the commencement of this section shall continue to stand established and shall continue to be a body corporate with perpetual succession and a seal, and power to sue and be sued in its corporate capacity and hold land.

(3) Judicial notice shall continue to be taken of the seal of the Council, and every document claiming to be sealed with the seal of the Council and to be authenticated in the manner prescribed by regulations made by the Minister shall, unless the contrary is proved, be deemed to have been duly and lawfully so sealed and be received in evidence without further proof and, in particular, without proof of any signature affixed to such document for the purpose of such authentication and without proof of the office or authority of the person whose signature such signature claims to be.

(4) A person who immediately before the commencement of this section was either the chair (by whatever name called) or any other member of the Council continues to hold that office until the next appointment of members.

(5) The Council shall operate in accordance with this section and with the provisions of regulations made under subsection (7), without prejudice to the continued application of the Local Authorities (Officers and Employees) Act, 1926, to an office under the Council in so far as it applies on the commencement of this section.

(6) The functions of the Council include—

(a) the provision of advice, assistance and services to library authorities in relation to the public library service,

(b) the making of such recommendations to and the provision of such services for the Minister in relation to the public library service as the Minister may request or as the Council sees fit,

(c) action to promote and facilitate library co-operation,

(d) the maintenance and operation of the central library established under section 2 of the Act of 1947,

(e) such other functions as are specified in regulations made under subsection (7) F23**[**or under section 42A of the Copyright and Related Rights Act 2000**]**.

(7) (a) The Minister may make regulations for the purposes of the continued establishment and operation of the Council.

(b) Without prejudice to the generality of paragraph (a), regulations for such purposes may contain provisions in relation to—

(i) the expenses, funding and functions of the Council,

(ii) any matter provided for in the Act of 1947 or any matter which may be included in an order under the Local Government Services (Corporate Bodies) Act, 1971, or

(iii) such other provisions as the Minister may think proper for the purposes of this section.

(8) Regulations made under section 34 of the Local Government Act, 1994 , and in force at the commencement of this section continue in force and have effect as if made under subsection (7) and may be amended or revoked accordingly.

(9) The Minister may give to the Council, directions in writing on any matter relating to its functions or operation and the Council shall comply with any such directions.

Annotations

Amendments:

F23 Inserted (4.12.2007) by *Copyright and Related Rights (Amendment) Act 2007* (39/2007), s. 14, commenced on enactment.

F24 Repealed (15.08.2012) by *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), s. 15(1), S.I. No. 292 of 2012.

Modifications (not altering text):

C11 Prospective affecting provision: section repealed by *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), s. 15(1), not commenced as of 9.08.2012.

79.—F24**[**...**]**.

Editorial Notes:

E37 Power pursuant to section exercised (31.12.2008) by *Copyright and Related Rights (Public Lending Remuneration Scheme) Regulations 2008* (S.I. No. 597 of 2008).

E38 Power pursuant to section exercised (29.01.2003) by *Local Government (An Chomhairle Leabharlanna) (Amendment) Regulations 2003* (S.I. No. 28 of 2003) as amended (3.09.2007) by *Local Government (An Chomhairle Leabharlanna) (Amendment) Regulations 2007* (S.I. No. 708 of 2007) and as amended (26.02.2008) by *Local Government (An Chomhairle Leabharlanna) (Amendment) Regulations 2008* (S.I. No. 55 of 2008). These regulations also amend the *Local Government (An Chomhairle Leabharlanna) Regulations 1997* (S.I. No. 499 of 1997) and shall be construed as one and cited together as the *Local Government (An Chomhairle Leabharlanna) Regulations 1997 to 2008*.

Records and archives of local authorities.

80.—(1) In this section—

"local archives" includes—

(*a*) such records and documents (including copies) as are, at the commencement of this section, held by any local archives service operated by any local authority (whether alone or in co-operation with another person or body),

(*b*) archival material acquired by a local authority under *subsection (3)*, and

(*c*) other local records which are more than 30 years old, except such records as are certified, in accordance with directions under *subsection (4)*, to be unsuitable for classification as local archives;

"local records" includes books, maps, plans, drawings, papers, files, photographs, films, micro-films and other micrographic records, sound recordings, pictorial records, magnetic tapes, magnetic discs, optical or video discs, other machine-readable records, other documentary or processed material made or received, and held in the course of its business or as successor to any other body by a local authority and includes copies of any such records duly made, but does not include—

(*a*) grants, deeds or other documents of title relating to property for the time being vested in the local authority, and

(*b*) any part of the permanent collection of a library, museum or gallery.

(2) Subject to the other provisions of this section, it is a function of a local authority to make arrangements for the proper management, custody, care and conservation of local records and local archives and for inspection by the public of local archives.

(3) A local authority may acquire, by purchase, donation, bequest or loan, and undertake the care and conservation of, archival material of local interest which is in the possession of any other person or body (including another local authority).

(4) The Minister may, after consultation with the Director of the National Archives, give advice or directions to local authorities in relation to any matter relating to local records and local archives and, in particular and without prejudice to the foregoing, in relation to—

(*a*) the retention, management, preservation, restoration and reproduction of local records and local archives,

(*b*) the certification of local records to be unsuitable for classification as local archives, and the review of such certification at specified intervals,

(*c*) the availability of local archives for public inspection,

(*d*) the making and provision of copies and extracts from local archives,

(*e*) circumstances in which local archives, or particular classes of local archives, may be withheld from public inspection,

(*f*) the preparation of guides, lists, indexes and finding aids to local archives,

(*g*) the lending of local archives to appropriate institutions, bodies and societies, whether in the State or elsewhere, and

(*h*) the disposal of local records and local archives.

(5) Section 13 of the National Archives Act, 1986, shall cease to have effect in relation to records or documents of a local authority.

(6) Without prejudice to *subsection (4)*, the National Archives Advisory Council may advise the Minister on any matter affecting local archives and their use by the public.

(7) Nothing in this section affects any rights of a person claiming to be the owner of a document to recover the document.

(8) The making or supplying of reproductions by or under the direction of a local authority of archives which are held in accordance with this section and are open to public inspection shall not, subject to any terms or conditions under which archival material was acquired under *subsection (3)*, infringe the copyright of such archives.

(9) A person shall not remove, conceal, damage or destroy archives held by a local authority in accordance with this section.

(10) A person who contravenes *subsection (9)* is guilty of an offence and is liable on summary conviction to a fine not exceeding £1,500.

(11) Summary proceedings for an offence under this section may be brought by the local authority concerned.

Chapter 4

Non-Public Roads — Local Improvement Schemes

Assistance towards non-public roads.

81.—(1) In this section—

"functional area" means a country inclusive of any town with a town council situated in the county;

"improvement" includes associated drainage works;

"non-public road" means a road which is not a public road within the meaning of the Roads Act, 1993;

"road" has the same meaning as in the Roads Act, 1993;

"road authority" means a county council.

(2) The Minister may make a grant to a road authority in relation to assistance by the authority towards the construction or improvement of non-public roads in its functional area.

(3) A road authority may provide assistance by way of the carrying out of works, a financial contribution or otherwise towards the construction or improvement of a non-public road which—

(*a*) provides access to parcels of land of which at least 2 are owned or occupied by different persons, or

(*b*) provides access for harvesting purposes (including turf or seaweed) for 2 or more persons, or

(*c*) shall in the opinion of the road authority be used by the public.

(4) Assistance by a road authority under this section shall be—

(*a*) conditional on a prior written agreement by the parties concerned with the road authority and a financial contribution by such parties, and

(*b*) subject to such other terms and conditions as the Minister may consider appropriate.

(5) The provision of assistance by a road authority under this section does not make the authority liable for the maintenance of the non-public road in question nor impose any other duties or liabilities on the authority in respect of such road.

(6) After consultation with the Minister and with the consent of the Minister for Finance, any other Minister of the Government may make a grant to a road authority in relation to the construction or improvement of non-public roads in accordance with a scheme made by him or her.

(7) Section 6(2) of the Local Government Act, 1998, is hereby amended by the substitution of the following for paragraph (*b*):

"(*b*) the carrying out of works under *section 81* of the *Local Government Act, 2001*, or".

Annotations

Modifications (not altering text):

C12 Functions transferred and references to "Department of Finance" and "Minister for Finance" in subs. (6) construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 37 of 2001	Local Government Act 2001	Sections 66(7), 81(6), 92(2), 109(8), 169(1)(a), 212(3) and 231(1)
...	...	...

C13 Functions transferred and references to "Department of the Environment, Heritage and Local Government" and "Minister for the Environment, Heritage and Local Government" construed (1.01.2008) by *Roads and Road Vehicles (Transfer of Departmental Administration and Ministerial Functions) Order 2007* (S.I. No. 815 of 2007), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Transport.

(2) References to the Department of the Environment, Heritage and Local Government contained in any Act or instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Transport.

3. (1) The functions vested in the Minister for the Environment, Heritage and Local Government by or under—

(a) an Act set out in the first column of Part 1 of the Schedule, and

(b) a statutory instrument set out in the first column of Part 2 of the Schedule,

are transferred to the Minister for Transport to the extent specified in the second column of the Part concerned opposite the mention of Act or statutory instrument (as the case may be) so set out.

...

5. Anything commenced before the commencement of this Order by or under the authority of the Minister for the Environment, Heritage and Local Government may, in so far as it relates to functions transferred by this Order to the Minister for Transport, be carried on or completed on or after such commencement by the Minister for Transport.

...

Schedule

Part 1

Acts, certain functions under which are transferred from the Minister for the Environment, Heritage and Local Government to the Minister for Transport

...

Short Title of Act and number	**Extent of transfer of functions to the Minister for Transport**
...	...
Local Government Act 2001 (No. 37 of 2001)	Section 81
...	...

Chapter 5

Functions under Local Government (Sanitary Services) Acts, 1878 to 1995, etc.

Definitions (*Chapter 5*).

82.—In this Chapter—

"town sanitary authority" means a sanitary authority under the Local Government (Sanitary Services) Acts, 1878 to 1995, being an urban district council or a borough (other than a county borough) corporation and references to a "town sanitary district" shall be read as a reference to the relevant urban district or borough; but subject to *section 3*;

"water functions" means the functions of a town sanitary authority under—

(*a*) the Local Government (Sanitary Services) Acts, 1878 to 1995, and this Chapter, other than functions conferred on a town sanitary authority under—

(i) Parts IV to VI of the Local Government (Sanitary Services) Act, 1948,

(ii) the Local Government (Sanitary Services) (Joint Burial Boards) Act, 1952,

(iii) the Local Government (Sanitary Services) Act, 1964, except section 4,

(iv) Part II of the Public Health Acts Amendment Act, 1907,

(v) sections 34 to 37 and Part IV of the Public Health Acts Amendment Act, 1890,

(vi) so much of the Public Health (Ireland) Act, 1878, and the Public Health (Ireland) Act, 1896, as do not relate to the functions of a sanitary authority in relation to sewerage and drainage or the supply of water,

(*b*) the Water Supplies Act, 1942,

(*c*) the Health (Fluoridation of Water Supplies) Act, 1960,

(*d*) the Local Government (Water Pollution) Acts, 1977 and 1990, and

(*e*) any enactment as may be specified in regulations under *section 83(7)*.

Functions under Local Government (Sanitary Services) Acts, 1878 to 1995, etc.

83.—(1) On the coming into operation of this section—

(*a*) the water functions of a town sanitary authority shall transfer to and be functions of the county council in whose administrative county the relevant town sanitary district was situated, and

(*b*) the county council concerned is the sanitary authority for the purposes of those functions,

and the county shall for those purposes comprise a single sanitary district and each town sanitary district existing before such day shall form part of that single district.

(2) (*a*) Notwithstanding the repeal of the Local Government (Amendment) (No. 2) Act, 1934, by this Act and subject to *paragraph (b)*, nothing in this section affects the division of the administrative County of Cork into 3 county health districts by order under the Local Government (Amendment) (No. 2) Act, 1934, which shall each comprise a single sanitary district for the purposes of this section and each such district may be known as a "Division" or such other title as may be assigned by Cork County Council.

(*b*) Cork County Council may be resolution alter the boundaries of any such Division or terminate all such Divisions in consequence of which termination the County comprises of a single sanitary district for the purposes of this section.

(3) A reference in any enactment to a county health district shall, in so far as it relates or applies for the purposes of the water functions and subject to this section, be read as a reference to a sanitary district within the meaning of *subsection (1)*.

(4) On the commencement of this provision, all property, real and personal (including all interests, rights and easements in, to, and out of property and choses-in-action) which immediately before such commencement was vested in a town sanitary authority and was used solely for the purposes of the water functions and all rights, powers, licences and privileges connected with such functions shall, unless the relevant county council and town sanitary authority otherwise agree, stand vested in the county council without any conveyance or assignment.

(5) A town sanitary authority may issue a certificate under the hand of its town clerk in respect of specified property certifying, as it thinks proper, that the property vested or did not vest under this section and the certificate is evidence of the facts stated in it unless the contrary is shown.

(6) A sanitary authority may make arrangements with any other local authority in relation to the discharge of its water functions.

(7) The Minister may be regulations make such provision as in his or her opinion may be necessary arising from or connected with the transfer of functions effected by this section and for that purpose may—

(*a*) specify functions under any enactment which shall be water functions for the purposes of this section,

(*b*) make any necessary adaptation or modification of the Local Government (Sanitary Services) Acts, 1878 to 1995, the Water Supplies Act, 1942, the Local Government (Water Pollution) Acts, 1977 and 1990, or any other enactment for the purposes of this section,

(*c*) provide for financial adjustments between a county council and any other local authority affected by such transfer and for the method of determination of such adjustments,

(*d*) provide for the payment of money by or to a county council or by or to any other local authority affected by such transfer or for any other financial arrangements which may be necessary.

Saver (*Chapter 5*).

84.—Subject to this Act the functions vested in a town sanitary authority by the Local Government (Sanitary Services) Acts, 1878 to 1995, other than the water functions, shall continue to be so vested.

PART 10

Agreements and arrangements concerning functions

Agreements concerning functions.

85.—(1) Where in the opinion of a local authority any function performable by it should be performed, generally or in a particular case, by another local authority, and that other authority is able and willing so to perform the function, then the authorities may enter into an agreement that—

(*a*) the function shall be so performed on behalf of the first-mentioned authority by the other authority, and

(*b*) it becomes so performable by that other authority in accordance with the agreement.

(2) Where in the opinion of a body which is a public authority any function performable by it should be performed, generally or in a particular case, by a local authority, and that local authority is able and willing so to perform the function, then the body and the local authority may enter into an agreement that—

(*a*) the function shall be so performed on behalf of the body by the local authority, and

(*b*) it becomes so performable by that local authority in accordance with the agreement.

(3) Where—

(*a*) consequent on an agreement under this section, a function becomes performable by a local authority, and

(*b*) the body, being a local authority or other body as referred to in *subsection (2)*, as the case may be, which is the other party to the agreement would, if it performed the function, be authorised by law to do any act or thing in relation to such performance,

then the local authority is authorised to do that act or thing in relation to the performance by it of the function as if it were that body.

(4) An agreement under this section may contain terms and conditions as to—

(*a*) the performance of the function by the local authority, to such extent and for such period as may be specified in the agreement,

(*b*) the making of payments or the transfer of financial responsibility, and

(*c*) for such other matters as may be considered necessary to give effect to the agreement,

and may provide for an area of charge other than the area of charge specified in section 10 of the Local Government Act, 1946.

(5) The making of an agreement by a local authority under this section, in so far as it relates to it, is a reserved function.

(6) An agreement under this section may relate to all or part of the area of a local authority as may be specified in the agreement.

F25**[**(7) This section is without prejudice to *section 8* of the *Health Act 2004* and an agreement may not be entered into under this section in any case in which an agreement could be entered into under that section.**]**

Annotations

Amendments:

F25 Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 21 item 3, S.I. No. 887 of 2004 art. 2(i).

Joint discharge of functions and provision of services.

86.—(1) Two or more local authorities may make arrangements for the joint discharge of any of their functions.

(2) An arrangement under *subsection (1)* may relate to all or part of an area of a local authority.

(3) A local authority may, by agreement, provide staff or other services for or avail of such services of any person other than a local authority.

Direction to make agreements.

87.—(1) Whenever it appears to the Minister that an agreement under *section 85(1)* should be made between local authorities for the purpose of any of their functions, he or she may direct them to enter into an agreement.

(2) A direction under *subsection (1)* shall only be made by the Minister after giving each local authority concerned an opportunity to make representations to him or her in writing and after considering any representations so made.

(3) The Minister may direct that any agreement entered into under this section contains such terms and conditions as he or she may specify and the authorities concerned shall comply with any direction given by the Minister.

(4) An agreement entered into under this section shall not be revoked except with the consent of the Minister.

Savers (*Part 10*).

88.—(1) Where on the commencement of this section an agreement under section 59 of the Local Government Act, 1955, is in force, that agreement continues in force

as if it were an agreement made under *section 85* notwithstanding the repeal by this Act of section 59 of the Local Government Act, 1955.

(2) Without prejudice to section 20 of the Interpretation Act, 1937, references in section 10 of the Fire Services Act, 1981, section 14 of the Roads Act, 1993, section 2 of the Building Control Act, 1990, and section 5 of the Local Government Act, 1998, to section 59 of the Local Government Act, 1955, shall be read as references to *section 85* of this Act.

PART 11

Local Government Commission

Establishment of Local Government Commission.

89.—(1) The Minister shall by order establish in accordance with this Part a body to be known as the Local Government Commission (in this Part referred to as the "Commission") to perform the functions assigned to it by this Act.

(2) The Commission and its members are independent in the performance of their functions.

(3) (*a*) The Minister may by regulations prescribe any matter of procedure as regards the appointment and operation of the Commission or the carrying out of its functions.

(*b*) Without prejudice to the generality of *paragraph (a)*, regulations under that paragraph may provide for any of the following:

(i) the designation of organisations for the purposes of making nominations to which *subparagraph (iii)* relates in respect of *section 91(3)(a)*;

(ii) the designation of organisations for the purposes of making nominations to which *subparagraph (iii)* relates in respect of *section 91(3)(b)*;

(iii) the making of nominations by organisations to which *subparagraphs (i)* and *(ii)* relate, when so requested by the Minister within such period of time as is specified;

(iv) the making of an appointment to the Commission for the purposes of *section 91(3)(a)* from among those persons duly nominated;

(v) the making of an appointment to the Commission for the purposes of *section 91(3)(b)* from among persons duly nominated;

(vi) the conduct of an oral hearing held by the Commission under *section 93(6)*, the procedures at such hearing and the attendance by local authorities or other persons at such hearing.

Functions of Commission.

90.—(1) The Commission shall carry out the functions conferred on it by this Act in relation to—

(*a*) the alteration of local authority boundaries under *Part 8,*

(*b*) the alteration of local electoral areas and of the number of members assigned to those areas under *section 23*,

(*c*) the alteration of the number of members of a local authority under *section 22,*

(*d*) the establishment of a town council under *section 185*,

(*e*) an application by a town council under *section 187*,

(*f*) any matter arising on a request under *subsection (2)*,

and shall prepare and furnish to the Minister a report in accordance with those provisions and this Part.

(2) The Minister may request in writing the Commission under this subsection to prepare a report with respect to—

(*a*) any matter relating to any aspect of local government specified by the Minister in such request, either generally or in relation to a specified local authority, or

(*b*) the boundary of any administrative or geographical district or other division used for any purpose of public administration connected with or related to local government or any such district or other division which it is proposed to establish.

(3) A report of the Commission to the Minister under *subsection (1)* shall—

(*a*) be in writing,

(*b*) include the recommendations of the Commission in relation to the matters which are the subject of the report, and

(*c*) include recommendations in relation to such ancillary or related matters (including financial matters) as the Commission may consider appropriate or as the Minister may specify in a request under *subsection (4)(b)*.

(4) (*a*) In relation to any function referred to in *subsection (1),* the Minister may request the Commission to have regard to such considerations or matters in preparing its report as are specified in the request and the Commission shall comply with any such request.

(*b*) Where the Minister specifies in a request under this section, a report of the Commission shall include the recommendations of the Commission in relation to such ancillary or related matters (including financial matters) as may be specified in such request.

(5) (*a*) The Minister shall publish a report furnished to him or her by the Commission.

(*b*) The Minister shall have regard to such report in carrying out his or her functions under and in accordance with the provisions specified in *subsection (1)*.

Members of Commission.

91.—(1) Subject to *section 92(9)*, the Commission consists of not more than 5 and not less than 3 members, one of whom shall be the chairperson of the Commission.

(2) The chairperson shall be appointed by the Minister.

(3) The members shall be appointed by the Minister and shall include—

(*a*) a person having knowledge or experience of local government affairs,

(*b*) a person having knowledge or experience in the field of business, commerce, administration or community development,

(*c*) an officer of the Minister.

(4) A member of the Commission shall not take part in the preparation of a report with respect to a local authority if he or she is an employee of that authority.

(5) To enable it to carry out its functions the members of the Commission shall be appointed in accordance with this section from time to time as required.

Eligibility and tenure of office of members, etc.

92.—(1) A person appointed to be a member of the Commission holds office as such member for such period (not exceeding 3 years) as may be specified by the Minister at the time of the appointment.

(2) The chairperson and any other member of the Commission may be paid out of moneys at the disposal of the Minister, such remuneration (if any) and allowances for expenses incurred by the member as the Minister, with the consent of the Minister for Finance, may determine.

(3) (*a*) A person is disqualified from becoming a member of the Commission if he or she is—

(i) a member of either House of the Oireachtas,

(ii) a member of the European Parliament, or

(iii) a member of a local authority.

(*b*) A person ceases to be a member of the Commission if he or she—

(i) is nominated as a member of Seanad Éireann, or

(ii) is elected as a member of either House of the Oireachtas or as a member of the European Parliament, or

(iii) is regarded under Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to the European Parliament to fill a vacancy, or

(iv) becomes a member of a local authority.

(4) The chairperson or any other member of the Commission may at any time resign from office by letter addressed to the Minister and the resignation takes effect from the date of receipt of the letter by the Minister.

(5) Where a casual vacancy occurs among the members of the Commission, the Minister may appoint a person under this subsection to fill such vacancy who shall hold office for the remainder of the term of office of the replaced member.

(6) The Minister may remove from office any member (including the chairperson) of the Commission if, in the opinion of the Minister, that person has become incapable through ill-health of effectively performing the duties of the office or has committed stated misbehaviour or that person's removal appears to the Minister to be necessary or desirable for the effective performance by the Commission of its functions.

(7) A person may be re-appointed to be a member of the Commission.

(8) Subject to this section and *section 91*, the chairperson and other members of the Commission shall hold office on such terms and conditions as the Minister may determine.

(9) (*a*) Notwithstanding *section 91(1)*, the Minister may by order under this subsection increase the number of members of the Commission to not more than 7 members where in the opinion of the Minister it is necessary taking account of the volume of business coming before the Commission and the need to ensure the effective and efficient discharge by the Commission of its functions, but any such increase is for such temporary period as shall be specified in the order.

(*b*) A person appointed as an additional member of the Commission by virtue of an order under this subsection may be appointed under *subsection (5)* to fill a casual vacancy among the members of the Commission.

Annotations

Modifications (not altering text):

C14 Functions transferred and references to "Department of Finance" and "Minister for Finance" in subs. (2) construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 37 of 2001	Local Government Act 2001	Sections 66(7), 81(6), 92(2), 109(8), 169(1)(a), 212(3) and 231(1)
...	...	...

Meetings and procedures of Commission.

93.—(1) (*a*) The Commission shall hold such and so many meetings as may be necessary for the performance of its functions.

(*b*) The quorum for a meeting of the Commission is 3.

(2) The chairperson of a meeting of the Commission shall be—

(*a*) the chairperson of the Commission if present, or

(*b*) if and so long as the chairperson of the Commission is not present or if the office of chairperson is vacant, the members of the Commission who are present shall choose one of their number to be chairperson of the meeting.

(3) At a meeting of the Commission—

(*a*) each member of the Commission present has a vote, and

(*b*) every question at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting has a second or casting vote.

(4) Subject to *subsection (1)(b)*, the Commission may act notwithstanding one or more vacancies in its membership.

(5) Subject to this Act, the Commission shall regulate, by standing orders or otherwise, the procedure and business of the Commission.

(6) (*a*) The Commission has an absolute discretion to hold an oral hearing in relation to any matter in respect of which functions are conferred on it by this Act and the hearing may be conducted by one or more members of the Commission or by a person appointed by the Commission for that purpose.

(*b*) The member or members of the Commission or other person appointed to conduct an oral hearing under *paragraph (a)* shall make a report in writing on the hearing to the Commission and shall include in the report such recommendations as are considered appropriate with respect to the subject of the report.

(*c*) The Commission shall consider a report made to it under *paragraph (b)* before deciding on the recommendations that it will make in its report.

(*d*) An oral hearing may be conducted in Irish or in English or in both languages and the Commission shall take appropriate steps to encourage the use of the Irish language.

(7) Where the number of members of the Commission has been increased by order under *section 92(9)*, any function of the Commission may be exercised by a division of the Commission comprising of at least 3 of its members and meetings and decisions of any such division are, for all purposes, decisions of the Commission.

Services to Commission.

94.—(1) A local authority or a public authority may supply to the Commission, on such terms and conditions as may be agreed upon by the relevant authority and the Commission, any services, including services of staff, required by the Commission for the performance of any of its functions.

(2) (*a*) The Minister may supply to the Commission, on such terms or conditions as he or she may specify, any services, including services of staff, required by the Commission for the performance of any of its functions.

(*b*) To assist and advise the Commission in the performance of any of its functions, the Commission may request the Minister to arrange for the supply to it of the services of persons having expert knowledge likely to be of value to it in its work and the Minister shall consider any such request.

(3) The Director General of the Central Statistics Office and the Commissioner of Valuation shall, on a request being made, provide free of charge to the Commission such assistance as the Commission may reasonably require for the purpose of the performance of any of its functions.

Submissions to Commission.

95.—(1) The Commission shall as soon as practicable give public notice of its intention to prepare a report under a provision mentioned in *section 90(1)*.

(2) The public notice referred to in *subsection (1)*, which shall be published in a newspaper circulating in the area to which the subject matter of the report relates, shall indicate that—

(*a*) any person may make a submission to the Commission in relation to the subject matter of the report to be prepared by the Commission in a manner and within the period as is specified in the notice, and

(*b*) submissions received by the Commission within the period specified in the notice referred to in *paragraph (a)* shall be made available for public inspection.

(3) The Commission shall consider any submission made to it in accordance with such notice or made by a local authority under this section or otherwise.

(4) The submissions received by the Commission under this section are open to public inspection at such time and place and under such conditions as may be specified by the Commission and the Commission shall permit a copy of such submission or of extracts from them to be taken on payment of a fee which shall not exceed the reasonable cost of copying the submissions.

(5) (*a*) A local authority shall comply with a request in writing from the Commission to furnish to the Commission such information and particulars as the Commission may reasonably require for the purposes of any of its functions.

(*b*) The information requested under *paragraph (a)* shall be supplied by the local authority to the Commission within such period as is specified in the request.

(6) Without the consent of the Commission, a person shall not disclose to any person any information obtained while serving as a member of the Commission or as a person whose services are made available to the Commission under *section 94*, which relates to the business of the Commission or the performance of the functions of the Commission.

(7) A person who contravenes *subsection (6)* is guilty of an offence and is liable on summary conviction to a fine not exceeding £1,500.

(8) Summary proceedings for an offence under this section may be brought by the Minister.

PART 12

Financial Procedures and Audit

Chapter 1

Financial Procedures

Local financial year.

96.—In this Chapter "local financial year" means a calendar year or such other period as the Minister may by regulations prescribe.

The local fund.

97.—(1) Every local authority shall maintain a fund to be known as the local fund which consists of such accounts kept under *section 107* as may be necessary.

(2) (*a*) A fund maintained immediately before the commencement of this provision by a county council, borough corporation, urban district council or commissioners of a town under section 7 or 15(1) of the Local Government Act, 1946, or otherwise and a municipal fund maintained by a county borough corporation under any enactment relating to that corporation shall, notwithstanding the repeal of those sections or that enactment by this Act, continue to be maintained by those local authorities and each such fund shall be known as the local fund.

(*b*) A reference in any enactment to a county fund, municipal fund or any other fund, which was maintained immediately before the commencement of this provision, shall be read as a reference to a local fund.

(3) There shall be paid into the local fund all money received by or on behalf of a local authority, other than money received for the purposes of a community fund established under *section 109* F26**[**or a BID fund established under section 129K**]**.

(4) Subject to *section 99*, there shall be paid out of the local fund the expenses incurred by a local authority in the performance of its functions, other than expenses payable out of a community fund established under *section 109* F26**[**or a BID fund established under section 129K**]**.

(5) A payment shall not be made out of the local fund unless it is authorised in accordance with *section 99* or ordered by a court established under the Courts (Establishment and Constitution) Act, 1961.

Annotations

Amendments:

F26 Inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 3, S.I. No. 165 of 2006.

Banking arrangements.

98.—Subject to *section 106*, a local authority or joint body may enter into such arrangements, including investment arrangements, with such credit institutions authorised to carry on banking business in the State or financial institutions guaranteed by the Minister for Finance, as it deems appropriate, for the prudent management of moneys received by it.

Authorisation of payments.

99.—(1) In this section "local authority" includes a joint body.

(2) Payments may be made out of the funds of a local authority on the authorisation of the manager or an employee nominated under *subsection (3)* and, in each such case, the payments shall be counter-authorised by an employee, other than the manager or first-mentioned employee, nominated under *subsection (3)*.

(3) The manager may for the purposes of *subsection (2)* by order nominate an employee or employees of a local authority for which the manager is responsible.

County council expenditure: town services.

100.—(1) Where a county council provides a service or carries out a function in or in relation to a town with a town council which is a rating authority within the administrative area of the county council, it shall levy a charge (in this section referred to as a "county charge") on that town council for providing such service or carrying out such function (in this section referred to as the "provision of town services").

(2) In determining a county charge, the county council shall prepare a statement of estimated costs expected to arise during the period ending on 31 December of the forthcoming local financial year in relation to the provision of town services.

(3) The statement of estimated costs shall allow for any income accruing to the county council in respect of the provision of town services and may include an adjustment to take account of—

(*a*) actual or estimated costs, and

(*b*) actual or estimated incomes,

as respects the provision of town services in the current local financial year or in the previous local financial year.

(4) A county council shall transmit an invoice for any county charge, accompanied by a statement of estimated costs to the relevant town council.

(5) A town council shall pay the county charge to the relevant county council within the period as may be prescribed by regulations made by the Minister or at such other time as may be agreed by the local authorities concerned.

(6) In determining costs under this section, a county council shall have regard to any guidelines or shall comply with any directions which the Minister may from time to time issue.

Annotations

Editorial Notes:

E39 Power pursuant to section exercised (14.11.2002) by *Local Government (Financial Procedures and Audit) Regulations 2002* (S.I. No. 508 of 2002) as amended (14.11.2008) by *Local Government (Financial Procedures and Audit) Regulations 2002 (Amendment) Order 2008* (S.I. No. 467 of 2008).

Expenses of certain town councils.

101.—(1) A town council which is not a rating authority shall be supplied with money required to meet its expenses by the county council in whose county the town is situated, on the basis of a demand prepared by the town council in a format prescribed by regulations made by the Minister.

(2) Expenses of the county council which are incurred in meeting a demand under *subsection (1)* are chargeable on the area of the town concerned and shall be known as town charges.

(3) Nothing in this section prevents a town council referred to in *subsection (1)* from raising money in accordance with *section 109, 110* or otherwise.

Annotations

Editorial Notes:

E40 Power pursuant to section exercised (14.11.2002) by *Local Government (Financial Procedures and Audit) Regulations 2002* (S.I. No. 508 of 2002) as amended (14.11.2008) by *Local Government (Financial Procedures and Audit) Regulations 2002 (Amendment) Order 2008* (S.I. No. 467 of 2008).

Local authority budget.

102.—(1) In this section "local authority" includes a joint body.

(2) In each local financial year, each local authority shall prepare a draft local authority budget setting out for the next local financial year—

(*a*) the expenditure estimated to be necessary to carry out its functions, and

(*b*) the income estimated to accrue to it.

(3) The draft local authority budget shall be prepared under the direction of the manager in the format prescribed by regulations made by the Minister showing the amounts necessary for the functional programmes of the authority.

(4) The manager shall, as provided for in *section 133(4)(a)*, consult the corporate policy group in the preparation of a draft local authority budget.

(5) Any reference in any enactment to an estimate or estimate of expenses of a local authority shall be read as a reference to a local authority budget prepared under this section and adopted under *section 103(7)*.

Annotations

Editorial Notes:

E41 Power pursuant to section exercised (14.11.2002) by *Local Government (Financial Procedures and Audit) Regulations 2002* (S.I. No. 508 of 2002) as amended (14.11.2008) by *Local Government (Financial Procedures and Audit) Regulations 2002 (Amendment) Order 2008* (S.I. No. 467 of 2008).

Local authority budget meeting.

103.—(1) In this section "local authority" includes a joint body.

(2) A draft local authority budget prepared in accordance with *section 102* shall be considered by the local authority at a meeting (in this Act referred to as a "local authority budget meeting" or budget meeting)—

(*a*) at which the manager or an employee to whom *subsection (3)* relates is present,

(*b*) which is held during the period prescribed by regulations made by the Minister, and

(*c*) of which not less than 7 days' notice has been given to every member of the local authority.

(3) Where the manager is unable to be present at a local authority budget meeting or, where it would be inconsistent with the due performance of his or her functions in relation to the local authorities for which he or she is manager, to be present at such a meeting, such other employee as may stand nominated for that purpose by the manager shall attend the meeting instead.

(4) Not less than 7 days before the day on which a local authority budget meeting is to be held, the manager shall—

(*a*) place a copy of the draft local authority budget in the principal offices of the local authority,

(*b*) send a copy of the draft local authority budget, together with a report outlining the provisions of that draft, to every member of the local authority, and

(*c*) give public notice of the fact that the draft local authority budget has been prepared and that a copy of it has been placed in the principal offices of the local authority and indicate the place, date and time of the local authority budget meeting.

(5) A copy of a draft local authority budget—

(*a*) shall be made available at the principal offices of the local authority,

(*b*) may be inspected by any member of the public during normal opening hours, and

(*c*) copies may be purchased at a price not exceeding the reasonable cost of reproduction.

(6) The members of a local authority may adjourn a local authority budget meeting from time to time but any such adjournment shall be to a day that is within the period of 21 days beginning on the day on which the local authority budget meeting first begins.

(7) At a local authority budget meeting the local authority—

(*a*) may by resolution amend the draft local authority budget,

(*b*) shall by resolution adopt the draft local authority budget with or without amendment, and—

(i) where it is a local authority which is a rating authority, shall, subject to section 10 of the Local Government (Financial Provisions) Act, 1978, by resolution determine in accordance with the local authority budget as so adopted, the annual rate on valuation to be levied, or

(ii) where it is a town council which is not a rating authority or where it is a joint body, shall prepare and by resolution adopt, in accordance with the local authority budget as so adopted, the demand by a town council under *section 101* or a demand by a joint body whereby the money to meet the expenses of the town council or joint body, in the forthcoming local financial year is to be obtained.

(8) A copy of a local authority budget as adopted under *subsection (7)*—

(*a*) shall be made available at the principal offices of the local authority,

(*b*) may be inspected by any member of the public during normal opening hours, and

(*c*) may be purchased at a price not exceeding the reasonable cost of reproduction.

(9) Notwithstanding the other provisions of this section and *section 102*, a local authority budget may be adopted and the annual rate on valuation determined in the local financial year to which that budget or that rate applies where this is in accordance with the period prescribed by regulations made by the Minister for holding the local authority budget meeting.

(10) Where a local authority budget has not been adopted in accordance with this Chapter by a local authority before the beginning of a particular local financial year, it is lawful for the local authority to use money or to incur liability in that local financial year for any particular purpose or functional programme in respect of which money was used or liability was incurred by the local authority in the immediately preceding local financial year.

(11) (*a*) The amount used or the liability incurred as a consequence of *subsection (10)* by the local authority shall not exceed one-third of the amount previously used, or of the cost of meeting the liability previously incurred by the local authority in the immediately preceding local financial year.

(*b*) The Minister may by order vary the fraction referred to in *paragraph (a)*.

(12) (*a*) Any reference in any enactment to an estimates meeting of a local authority shall be read as a reference to a local authority budget meeting as provided for in this section.

(*b*) Any reference in any enactment to a rate in the pound or rates in the pound shall be read as a reference to an annual rate on valuation.

Annotations

Editorial Notes:

E42 Power pursuant to section exercised (14.11.2002) by *Local Government (Financial Procedures and Audit) Regulations 2002* (S.I. No. 508 of 2002) as amended (14.11.2008) by *Local Government (Financial Procedures and Audit) Regulations 2002 (Amendment) Order 2008* (S.I. No. 467 of 2008).

Limitation on additional expenditure.

104.—(1) In this section—

"additional expenditure" means the spending of money or the incurring of a liability not provided for in a local authority budget;

"local authority" includes a joint body.

(2) At any time after it has adopted a budget a local authority may, following a proposal under *subsection (3)* or otherwise, by resolution authorise the incurring of additional expenditure.

(3) Where, as respects any local financial year, the manager is of the opinion that the proper performance of the functions of the local authority concerned requires the incurring of additional expenditure, he or she shall submit to the local authority a proposal for authorisation to the incurring of such additional expenditure.

(4) (*a*) A local authority may by resolution adopt a scheme authorising the manager to incur additional expenditure without prior authorisation of the local authority under *subsection (2)*; but no such expenditure shall cause the total expenditure provided for in the budget to be exceeded save in such circumstances and subject to such requirements as may be provided for in regulations under *subsection (5)*.

(*b*) A local authority may, from time to time, by resolution amend a scheme under this subsection or make a new scheme.

(5) The Minister may make regulations for the purposes of *subsection (4)*.

(6) Nothing in this section shall prevent a manager from incurring additional expenditure—

(*a*) where he or she is of the opinion that such additional expenditure is necessary to avert or minimise a threat to public health, public safety, property or the environment, or

(*b*) in respect of a particular service or function where additional funding which would substantially offset such additional expenditure is made available to the local authority by the Minister or any other public authority for that service or function.

(7) Where the manager has incurred additional expenditure under *subsection (6)*, or to which a scheme under *subsection (4)* applies, he or she shall inform—

(*a*) without delay, the Cathaoirleach of the fact, and

(*b*) the members of the local authority of the fact at the next practicable meeting of the local authority following the incurring of additional expenditure,

giving details of the additional expenditure and its implications for the local authority budget.

Submission of financial statements and reports.

105.—(1) A local authority or a joint body, may by resolution require the preparation and submission to its members of statements of the financial position of the local authority or joint body, as the case may be.

(2) In the case of a county council or city council, its corporate policy group may, where a resolution has not been passed under *subsection (1)*, require the preparation and submission to it of statements of the financial position of the county council or city council.

(3) A statement of financial position submitted as a consequence of either *subsection (1)* or *(2)* shall contain such detail and shall be prepared and submitted at such intervals as may be specified in—

(*a*) the resolution of the local authority or joint body, as appropriate, or

(*b*) the requirement of the corporate policy group.

Borrowing and lending of money.

106.—(1) (*a*) In this section—

"local authority" includes a joint body;

"appropriate Minister" means—

(i) if the relevant borrowing or lending is in respect of matters which relate to the responsibility or interest of only one Minister of the Government other than the Minister, that Minister of the Government,

(ii) if such matters relate to the responsibility or interest of 2 or more Ministers of the Government (none of whom is the Minister), such one of those Ministers of the Government as has the greater or greatest interest in the matters, and

(iii) in all other cases, the Minister.

(*b*) If in relation to *paragraph (ii)* of the definition of "appropriate Minister" there is any doubt as to which of 2 or more Ministers of the Government has the greater or greatest interest, the doubt shall be determined by the Minister and the decision of the Minister shall be final.

(2) Subject to *subsections (3)* and *(8)* and any regulations made under *subsection (5)*, a local authority may borrow money in any manner which it considers suitable for the effective performance of its functions.

(3) (*a*) Borrowing by a local authority under this section shall only be with the sanction of the appropriate Minister.

(*b*) *Paragraph (a)* does not apply to borrowing which the appropriate Minister may exempt for the purposes of this subsection.

(4) Any application for the sanction of the appropriate Minister under *subsection (3)(a)* shall be in such format as may from time to time be specified by the appropriate Minister.

F27**[**(5) The Minister may, after consultation with the Minister for Finance and the Minister for Public Expenditure and Reform, make regulations in relation to borrowing by local authorities.**]**

(6) (*a*) A local authority may lend money to another local authority on such terms as to repayment and other matters as it considers proper.

(*b*) Where a sum which consists of either—

(i) a portion of a loan advanced under this section by a county council to a town council that is not a rating authority but is situated within its county, or

(ii) interest on any such loan,

and is not included in the appropriate demand under *section 101*, then the sum shall be deemed to have been included in the demand and *section 101(2)* shall have effect accordingly.

(7) A decision to borrow or lend under this section is a reserved function.

F27**[**(8) The appropriate Minister may, after consultation with the Minister for Finance and the Minister for Public Expenditure and Reform, sanction borrowing by a local authority in a currency other than the currency of the State.**]**

(9) Except in accordance with this section, a local authority shall not—

(*a*) borrow money, or

(*b*) lend money to another local authority.

Annotations

Amendments:

F27 Substituted (6.07.2011) by *Ministers and Secretaries (Amendment) Act 2011* (10/2011), s. 89, commenced as per s. 1(2) and S.I. No. 401 of 2011.

Keeping of accounts.

107.—(1) Subject to *subsection (2)*, every local authority or joint body shall each keep all proper and usual accounts of moneys received or spent by it, including an income and expenditure account and a balance sheet.

(2) Every local authority and joint body shall each establish and maintain financial systems, accounts, reporting and record keeping procedures, including the preparation of an annual financial statement, which are consistent with such accounting code of practice, or amendments to it, that the Minister may issue from time to time.

(3) Any accounting code of practice issued by the Minister which is current on the date of the commencement of this provision, shall be deemed to have issued in accordance with this section and be applicable to every local authority and, where appropriate, to every joint body.

Consideration of annual financial statement.

108.—(1) In this section, additional expenditure has the meaning given to it by *section 104(1)*.

(2) Every local authority or joint body shall prepare an annual financial statement in accordance with the accounting code of practice issued by the Minister under *section 107*.

(3) As soon as practicable after the preparation of an annual financial statement, such statement, with a report on it by the manager, shall be sent to each member of the local authority or joint body, as the case may be.

(4) Without prejudice to the generality of *subsection (3)*, a report under that subsection shall include details of additional expenditure incurred in the period to which the annual financial statement relates and of authorisations given under *section 104*.

(5) The annual financial statement shall be considered at the next practicable meeting of the local authority or joint body concerned which is held not less than 7 days after the annual financial statement was sent under *subsection (3)*.

(6) As soon as may be practicable after having been sent under *subsection (3)*, the annual financial statement shall be transmitted to the Minister and the Director of Audit.

Community fund.

109.—(1) In this section "community initiative" means any project or programme which in the opinion of the local authority will benefit the local community and includes the provision or improvement of amenity, recreational, cultural or heritage facilities, the protection or enhancement of the environment and programmes to promote social inclusion and community development.

(2) A local authority may by resolution establish a fund (in this section referred to as a "community fund") for the purposes of supporting community initiatives and may accept contributions to such fund by any voluntary, business or community group,

other local authority or public authority or other person and may itself make contributions to such fund.

(3) A community fund shall be separate from the local fund.

(4) (*a*) The accounts of a community fund shall be accounted for separately and be part of the records and the accounts of the local authority or local authorities which established the fund.

(*b*) The accounts of a community fund shall contain separate records for contributions in respect of particular community initiatives as the local authority which established it may consider appropriate.

(5) A local authority may enter into an agreement with any person making contributions to the fund as regards the application of money towards a particular community initiative.

(6) A local authority may undertake itself or assist any other person in such fund-raising activities as it considers appropriate for the purposes of a community initiative.

(7) A community fund may be established jointly by resolution of 2 or more local authorities subject to such arrangements as may be agreed by the authorities concerned.

(8) The functions conferred on a local authority by this section or by *section 110* shall—

(*a*) be subject to the exclusion of such matters, and

(*b*) be exercisable subject to such terms and conditions,

as the Minister may, with the consent of the Minister for Finance, prescribe by regulations.

Annotations

Modifications (not altering text):

C15 Functions transferred and references to "Department of Finance" and "Minister for Finance" in subs. (8) construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 37 of 2001	Local Government Act 2001	Sections 66(7), 81(6), 92(2), 109(8), 169(1)(a), 212(3) and 231(1)
...	...	...

Community initiative scheme.

110.—(1) In this section—

"community fund" has the meaning given in *section 109(2)*;

"community initiative" has the meaning given in *section 109(1)*;

"dwelling" includes a part of any premises let as a separate dwelling whether or not the person to whom it is let shares with any other person any accommodation, amenity or facility in connection with it or any other portion of the premises;

"occupier" means a person or persons who occupy the dwelling in question;

"scheme" means a scheme adopted by a local authority under this section and "draft scheme" shall be read accordingly.

(2) Where a local authority considers it appropriate it may, in accordance with this section, by resolution adopt a scheme for the making of an annual contribution by the occupier of each dwelling in the area to which the scheme applies towards particular community initiatives specified in the scheme.

(3) Annual contributions received in accordance with a scheme shall be paid into the community fund.

(4) A community initiative to which a scheme applies may be undertaken by a local community or other group, the local authority, any other person or jointly by any of them.

(5) A scheme shall—

(*a*) describe the particular initiative or initiatives to which annual contributions under the scheme are to be applied,

(*b*) provide for a separate record to be kept in the community fund as regards such annual contributions,

(*c*) specify the amount of the annual contribution to be paid by the occupier and different amounts may be specified for different categories of person as may be specified in the scheme,

(*d*) provide for the waiver or the remission in whole or in part of the annual contribution in the case of personal hardship, ability to pay or other specified circumstances,

(*e*) specify the period of years for which the scheme is to operate,

(*f*) specify the period within which an annual contribution is to be paid,

(*g*) specify the area to which the scheme applies, and

(*h*) provide for all such other matters as the local authority may consider necessary to ensure the satisfactory operation of the scheme.

(6) (*a*) Before adopting a scheme, a local authority shall publish a notice in at least one newspaper circulating in its administrative area indicating that a draft scheme has been prepared.

(*b*) The notice shall—

(i) describe the community initiative or initiatives and the area in respect of which the scheme would operate,

(ii) state the amount of the proposed annual contribution,

(iii) indicate that a copy of the draft scheme may be inspected at the principal offices of the local authority or at such other locations as may be specified and may be obtained free of charge at such offices or locations, and

(iv) indicate that any person may make submissions or observations in writing to the local authority in relation to the draft scheme on or before a date specified in the notice, and the date shall not be less than one month after the notice is first so published.

(7) (*a*) A local authority may by resolution decide to hold a plebiscite regarding a draft scheme in that part of its area in respect of which it is proposed to make a scheme.

(*b*) The Minister may make regulations governing the conduct of plebiscites and matters relating to plebiscites.

(8) A local authority may by resolution, for which at least one-half of the total number of members of the authority vote in favour, adopt a scheme with or without amendment at any time after—

(*a*) the date specified for the purposes of *subsection (6)(b)(iv)*,

(*b*) the consideration of any submissions or observations made to it under *subsection (6)(b)(iv)*, and

(*c*) the consideration of the outcome of any plebiscite held under *subsection (7)*.

(9) (*a*) Where a scheme has been adopted, the local authority shall in each year in which the scheme operates send to the occupier a notification to pay the annual contribution.

(*b*) The occupier shall pay to the local authority the annual contribution specified in the notification within the period specified.

(10) Where an annual contribution to be made by the occupier in accordance with a notification to pay has not been paid within the period specified for payment in the notification the local authority may recover such annual contribution from the occupier as a simple contract debt in any court of competent jurisdiction.

(11) A scheme may be made jointly by 2 or more local authorities in respect of an area specified in the scheme which includes part or all of the administrative area of each of the local authorities concerned but a scheme shall not be made in respect of any area which comprises an entire county or city.

(12) A notification to pay shall indicate—

(*a*) the amount of the annual contribution,

(*b*) the period within which it is to be paid, and

(*c*) the community initiative or initiative to which it relates.

(13) A notification to pay may be addressed to any occupier of the dwelling by name, but where the name of the occupier cannot be ascertained by reasonable inquiry, the notification may be addressed to "the occupier" without naming the occupier.

(14) Only one contribution is payable in respect of any dwelling in respect of a particular year.

Regulations (*Chapter 1*).

111.—(1) The Minister may make regulations for any or all of the following matters—

(*a*) the form of accounts to be kept by local authorities or joint bodies, including the functional programmes to be shown in such accounts and the matters in respect of which separate amounts are to be shown,

(*b*) the format of a local authority budget or a draft local authority budget,

(*c*) the periods for the holding of local authority budget meetings,

(*d*) the form and manner of any statement of estimated costs of a county council for town services, and the period for transmitting such statement to the town councils concerned,

(*e*) the form and manner of a demand under *section 101* of a town council which is not a rating authority and the period for serving that demand to meet those expenses on the relevant county council,

(*f*) the serving of a demand by a joint body in respect of its expenses on the relevant county council or city council and the format and period of serving that demand,

(*g*) specifying the periods within which payments made to persons authorised to receive money on behalf of a local authority shall be paid to the authority,

(*h*) the financial and administrative procedures to apply in relation to gifts received by a local authority,

(*i*) such other matters as the Minister may consider appropriate in relation to financial management and procedures.

(2) Regulations under this section may make provision in respect of any matter by reference to an accounting code of practice issued under *section 107*.

Annotations

Editorial Notes:

E43 Power pursuant to section exercised (14.11.2002) by *Local Government (Financial Procedures and Audit) Regulations 2002* (S.I. No. 508 of 2002) as amended (14.11.2008) by *Local Government (Financial Procedures and Audit) Regulations 2002 (Amendment) Order 2008* (S.I. No. 467 of 2008).

Obligations in case of proposal involving illegal payment, deficiency or loss.

112.—(1) Where a proposal is made at a meeting of a local authority or a joint body to do or effect any act, matter or thing—

(*a*) which constitutes a reserved function or is mentioned in a resolution under *section 140*, and

(*b*) in consequence of which an illegal payment is to be made out of the funds of the local authority or joint body, or a deficiency or loss is likely to result in or to such funds,

the manager (or, in his or her absence, such other employee as may be nominated by the manager) shall object and state the grounds of his or her objection, and, if a decision is taken on the proposal, the names of the members present and voting for and against the decision and abstaining from voting on the decision shall be recorded in the minutes of the meeting.

(2) Where, in accordance with *subsection (1)*, the names of the persons voting for a decision to do or effect any act, matter or thing are recorded in the minutes of the meeting of a local authority or joint body, those persons shall be surcharged on any surcharge or charged on any charge that may subsequently be made as a result of the decision as if they had made or authorised the making of the payment or caused the loss or deficiency, and no other person is to be surcharged or charged.

Savers.

113.—(1) Nothing in this Act (including the repeal of any enactment) affects the making, levying, collection or recovery of rates or the liability of a person to pay rates.

(2) Notwithstanding the repeal of the City and County Management (Amendment) Act, 1955, by this Act, section 10A of that Act (as inserted by section 44 of the Local Government Act, 1994) shall continue to apply and have effect and for that purpose—

(*a*) the reference in subsection (1) of that section to "section 10(4) of this Act" and in subsection (3) of that section to "subsection (4) of section 10" shall both be read as references to *section 103(7)* of this Act, and

(*b*) the references in subsections (7) and (8) to "Part IV of the Local Government Act, 1941" shall each be read as a reference to *part 21* of this Act.

Chapter 2

Audit

Interpretation (*Chapter 2*).

114.—(1) In this Chapter—

"audit committee" has the meaning given in *section 122*;

"audited financial statement" has the meaning given in *section 120(1)*;

"audit opinion" has the meaning given in *section 120(1)*;

"auditor's report" has the meaning given in *section 120(1)*;

"auditor's special report" has the meaning given in *section 120(2)*;

"local authority or other body" means a local authority, a joint body and any other body standing prescribed by regulations made by the Minister under *section 115*;

"local government auditor" shall be read in accordance with *section 116(1)*.

(2) Any reference to the Minister in this Chapter shall, in a case where the reference applies to a body prescribed by regulations under *section 115* for which another Minister of the Government is responsible, be read as a reference to that Minister.

Application (*Chapter 2*).

115.—(1) This Chapter applies to every local authority and every joint body and their accounts shall be audited by a local government auditor in accordance with the provisions of this Act.

(2) (*a*) The Minister may by regulations prescribe a body to be a body to which this Chapter also applies.

(*b*) The Minister shall not make regulations under this subsection in respect of a body for which another Minister of the Government is directly or indirectly responsible unless that Minister consents to those regulations being made.

Local Government Audit Service.

116.—(1) There is established on the commencement of this section a service to be known as the Local Government Audit Service and the Minister may appoint to such service such and so many suitably qualified persons, to be known as local government auditors, to carry out or assist in the carrying out of audits of the accounts of local authorities and other bodies.

(2) Local government auditors shall be independent in the exercise of their professional functions.

(3) The Minister may appoint a person (in this Act referred to as the "Director of Audit") to the Local Government Audit Service to carry out the functions set out in *subsection (4)*.

(4) The functions of the Director of Audit are—

(*a*) to organise, direct and allocate resources within the Local Government Audit Service,

(*b*) to assign audits of particular local authorities or other bodies to particular local government auditors,

(*c*) to provide such advice and assistance as the Minister may from time to time require for the purposes of *section 117(1)*,

(*d*) to arrange for auditors to certify claims or returns in accordance with *section 126*,

(*e*) to direct the Local Government (Value for Money) Unit established by section 14 of the Local Government (Financial Provisions) Act, 1997, and to ensure that the work of the unit is incorporated into local government audit practice,

(*f*) to report from time to time to the Minister on matters set out in *paragraphs (a)* to *(e)* and generally on the performance of the Local Government Audit Service,

(*g*) to bring proceedings under *section 119(4)*, and

(*h*) to carry out such other functions as the Minister may from time to time direct.

(5) By virtue of this subsection the Local Government (Value for Money) Unit referred to in *subsection (4)(e)* forms part of the Local Government Audit Service.

(6) (*a*) A person who is a local government auditor immediately prior to the commencement of this section shall by virtue of this subsection on such commencement stand assigned to the Local Government Audit Service.

(*b*) Nothing in this subsection shall be read as prejudicing the position of a person referred to in *paragraph (a)* as a civil servant for the purposes of the Civil Service Regulation Act, 1956.

Code of audit practice.

117.—(1) After consideration of the relevant professional auditing standards and following consultation with the Director of Audit, the Minister may issue and amend from time to time a code of audit practice in relation to the conduct of an audit and to such related matters as the Minister may consider appropriate.

(2) Notwithstanding the generality of *subsection (1)*, the code may include provisions as regards the consideration of—

(*a*) the general financial standing of the audited body,

(*b*) the adequacy of the audited body's financial systems,

(*c*) the adequacy of the audited body's arrangements for preventing and detecting fraud and corruption,

(*d*) the adequacy of arrangements by a local authority or other body to secure economy and efficiency in the use of resources and of the systems employed by the local authority or other body concerned for the purposes of enabling it to evaluate the effectiveness of its operations.

(3) (*a*) In carrying out the audit of a local authority or other body, a local government auditor shall comply with the code of audit practice provided for in *subsection (1)*.

(*b*) Nothing in this Chapter shall prejudice section 15 of the Local Government (Financial Provisions) Act, 1997.

Audit procedure.

118.—(1) The Minister may make regulations setting out the procedures to be followed by a local authority or other body and by a local government auditor in relation to the audit of accounts of the local authority or other body.

(2) Without prejudice to the generality of *subsection (1)*, the regulations may provide for any or all of the following—

(*a*) giving notice of the time and place for holding the audit;

(*b*) adjournment of the audit;

(*c*) public right of inspection of accounts;

(*d*) amendment or correction of errors in the annual financial statement;

(*e*) giving any member of the public a right to make an objection to the local government auditor concerning the accounts and the making of decisions on any such objections by the local government auditor;

(*f*) completion of the audit by the local government auditor;

(*g*) public notice of audited accounts;

(*h*) fees or a scale of fees for audit services.

(3) In the course of the audit of accounts of the local authority or other body, the local government auditor shall carry out such audit tests as he or she considers appropriate in order to be satisfied as to—

(*a*) whether the annual financial statement is prepared in accordance with *section 107* or with the accounting requirements otherwise applicable to the body concerned,

(*b*) whether the annual financial statement presents fairly the financial position of the authority or other body and of its income and expenditure for the period in question,

(*c*) whether the transactions of the audited body conform with the statutory or other authorisation under which they purport to have been carried out.

Annotations

Editorial Notes:

E44 Power pursuant to section exercised (14.11.2002) by *Local Government (Financial Procedures and Audit) Regulations 2002* (S.I. No. 508 of 2002) as amended (14.11.2008) by *Local Government (Financial Procedures and Audit) Regulations 2002 (Amendment) Order 2008* (S.I. No. 467 of 2008).

Right of auditor to inspect documents, obtain information, etc.

119.—(1) For the purposes of this Chapter a local government auditor shall in the course of audit—

(*a*) be given such office accommodation or other facilities as he or she may reasonably require,

(*b*) be given access to and allowed to inspect all books, deeds, contracts, accounts, vouchers, receipts, maps, plans, documents, or other data, information, materials or things, as he or she may reasonably require,

(*c*) be entitled at all reasonable times to enter and inspect any land or premises or structure (other than a dwelling) which is owned, used, controlled or managed by a local authority or other body.

(2) It is the duty of a local authority (its members and employees) or other body to afford every facility and co-operation to a local government auditor including the giving of information which he or she may reasonably request.

(3) Any person who obstructs or impedes or refuses to comply with a request of a local government auditor acting in the exercise of any of the functions conferred on him or her by this section is guilty of an offence and is liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

(4) Summary proceedings for an offence under this section may be brought by the Director of Audit.

Audit opinion and report.

120.—(1) On completion of the audit of accounts of a local authority or other body, the local government auditor—

(*a*) shall enter his or her opinion (in this Chapter referred to as an "audit opinion") in a form consistent with the code of audit practice referred to in *section 117* on the relevant annual financial statement (in this Chapter referred to as the "audited financial statement"),

(*b*) shall send copies of the audited financial statement without delay to the local authority or other body concerned, to the Director of Audit and to the Minister, and

(*c*) may prepare a report (in this Chapter referred to as an "auditor's report") on any matter or matters which come to his or her notice during the course of the audit and such report shall accompany the audited financial statement.

(2) (*a*) Where the local government auditor considers it appropriate in the public interest to do so, he or she may prepare a report (in this Chapter referred to as an "auditor's special report") on any matter or matters which come to his or her notice during the course of the audit before the completion of such audit.

(*b*) The auditor's special report shall be sent without delay to the local authority or other body concerned, to the Director of Audit and to the Minister.

(3) An audit opinion, auditor's report or auditor's special report shall be addressed to the local authority or other body concerned.

(4) Before the finalisation of an auditor's report or an auditor's special report, the local government auditor shall consult with the manager or chief officer of the audited body concerned, as the case may be, in respect of the matters the subject of such report and shall consider and record the comments of the manager or chief officer, as the case may be, which are of material significance to such matters.

Consideration of annual financial statement and auditor's report.

121.—(1) Following receipt by the local authority or joint body of the audited financial statement, auditor's report or auditor's special report, the manager for that local authority or joint body shall submit the statement for consideration at the next practicable meeting of the local authority or joint body concerned.

(2) At any time within 3 months of the audited financial statement, auditor's report or auditor's special report having been submitted to the local authority or joint body in accordance with *section 120*, the local government auditor who carried out the audit may notify the local authority or joint body that he or she wishes to speak to that authority or body about it.

(3) Following notification under *subsection (2)*, a local government auditor is entitled to speak to the local authority or joint body at its next meeting following the notification about the audited financial statement, auditor's report or auditor's special report or at such other meeting as he or she may specify.

Annotations

Amendments:

F28 Inserted by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 4, not commenced as of 9.08.2012.

Modifications (not altering text):

C16 Prospective amending provision: subs. (4) inserted by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 4, not commenced as of 9.08.2012.

F28**[**(4) A local government auditor is entitled to qualified privilege in relation to any statements made by him or her at a meeting referred to in subsection (3).**]**

Audit committee.

122.—(1) A local authority or joint body may, within 3 months of the meeting for which an audited financial statement, auditor's report or auditor's special report was submitted in accordance with section 121 (1), establish a committee (in this Chapter referred to as an "audit committee").

(2) An audit committee consists of such members of the local authority or joint body as the authority or body may decide but in no case may the number exceed half of the total number of members or 7 members, whichever is the lesser number.

(3) An audit committee may consider the audited financial statement of the local authority or joint body, as the case may be, together with any auditor's report or auditor's special report thereon and any other related matters.

(4) All meetings of an audit committee shall be in public.

(5) At the request of an audit committee the local government auditor who conducted the audit shall attend a meeting of the audit committee to clarify such issues as may be necessary in relation to the content of the auditor's report or auditor's special report or otherwise.

(6) The issue to be discussed by an audit committee at a meeting which a local government auditor attends is subject to such guidelines as the Minister may from time to time issue, but in no case while the local government auditor is in attendance may there be discussed an issue relating to—

(a) a surcharge under section 12 of the Local Government (Ireland) Act, 1871, or

(b) a charge under section 20 of the Local Government (Ireland) Act, 1902 (as amended by section 61(3) of the Local Government Act, 1925).

(7) At the request of the audit committee the manager for the local authority or joint body concerned shall attend the meeting of the committee and may arrange for the attendance of such other employees, as he or she may consider appropriate.

(8) The audit committee shall report to the local authority or joint body on its consideration of the audited financial statement, auditor's report or auditor's special report.

(9) A local government auditor is entitled to qualified privilege in relation to any statements made by him or her at an audit committee meeting or at a meeting referred to in section 121 (3).

Annotations

Amendments:

F29 Substituted by *Local Government (Business Districts Improvement) Act 2006* (42/2006), s. 5, not commenced as of 9.08.2012.

Modifications (not altering text):

C17 Prospective amending provisions: section substituted by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 5, not commenced as of 9.08.2012.

F29**[Audit committee.**

122.— (1) A local authority shall, within such period as the Minister prescribes by regulations for the purposes of this subsection, establish a committee (in this Chapter referred to as an 'audit committee').

(2) The functions of an audit committee shall be to—

(*a*) review financial and budgetary reporting practices and procedures within the local authority that has established it (the 'authority'),

(*b*) foster the development of best practice in the performance by the authority of its internal audit function,

(*c*) review any auditor's report or auditor's special report in relation to the authority and assess any actions taken by management within the authority in response to either such report,

(*d*) assess and promote efficiency and value for money with respect to the authority's performance of its functions,

(*e*) review systems that are operated by the authority for the management of risks, and

(*f*) make such recommendations to the authority as the committee considers appropriate in relation to the foregoing matters.

(3) The Minister may by regulations make provision in respect of all or any of the following matters regarding an audit committee:

(*a*) its membership;

(*b*) the holding by it of meetings, including the frequency of those meetings and the conduct of them;

(*c*) the preparation of reports by it and the furnishing of them to others;

(*d*) the performance by it of its functions, whether generally or in particular cases, and the procedures to be followed in relation to that performance; and

(*e*) matters incidental to, or consequential on, any of the foregoing matters (including provision for privilege to attach to statements made to it or made by members of it in their capacity as such members).

(4) The obligation imposed by subsection (1) applies in relation to a local authority notwithstanding that one or more than one audit committee (a 'relevant committee') stands established by the local authority under this section (being this section in the terms as it stood before the amendment of it by *section 5* of the *Local Government (Business Improvement Districts) Act 2006*) and accordingly, on and after the commencement of that *section 5*, such a relevant committee shall not constitute an audit committee for the purposes of subsections (1) to (3).**]**

Extraordinary audit.

123.—(1) The Minister may direct that an extraordinary audit of accounts of a local authority or other body, or of an aspect of those accounts, be carried out by a local government auditor if it appears to the Minister appropriate to do so, by reason of information contained in an auditor's report or a special auditor's report or for any other reason.

(2) *Sections 117* to *119* apply to the conduct of an extraordinary audit, with any necessary modifications or adaptations.

(3) *Sections 120* to *122* apply to a report resulting from an extraordinary audit.

Re-assignment of audit.

124.—(1) Where the local government auditor who conducted or is conducting an audit dies, retires, resigns or is otherwise not available, the Director of Audit may assign another local government auditor to be the local government auditor for the audit.

(2) At any attendance by a local government auditor assigned under *subsection (1)* at any meeting of a local authority or joint body he or she shall be deemed to have conducted the audit.

Audit fees.

125.—(1) The Minister may from time to time prescribe by regulations a fee or scale of fees in respect of the audits of accounts which are required to be audited in accordance with this Act.

(2) A local authority or other body shall pay to the Minister such amount as determined in accordance with such regulations made under this section.

Annotations

Editorial Notes:

E45 Power pursuant to section exercised (19.11.2003) by *Local Government (Audit Fees) Regulations 2003* (S.I. No. 622 of 2003).

Certification of claims, returns, etc.

126.—If required by the Minister, the Director of Audit shall make arrangements for local government auditors to certify claims or returns, or any class of claims or returns, in respect of grants, subsidies or other money due to a local authority or other body by a department of State, public authority or other local authority.

PART 13

Local Authorities and the Local Community

Consultation with the local community.

127.—(1) A local authority may take such steps as it considers appropriate to consult with and promote effective participation by the local community in local government.

(2) Without prejudice to the generality of *subsection (1)* a local authority may—

(*a*) undertake such action under *section 64* as the authority may consider appropriate,

(*b*) establish strategic policy committees or a municipal policy committee in accordance with *Part 7*,

(*c*) consult with local sectoral, community or other groups,

(*d*) arrange for the representation on area or other relevant committees of the authority of persons having knowledge or experience of relevance to the work of the particular committee,

(*e*) consult with a recognised association under *section 128*,

(*f*) make arrangements for attendance and raising of issues by interested persons at meetings of the authority or of any of its committees in accordance with such rules as may be determined by resolution of the authority,

(*g*) arrange for the holding of information meetings and the dissemination of information to the public in relation to any matter connected with its functions.

(3) (*a*) Where in relation to any function of a local authority under this or under any other enactment the relevant enactment requires the publication of a notice in a newspaper and the invitation of submissions or observations in connection with the performance of that function, the local authority may take such additional steps as it may consider appropriate to publicise, facilitate or promote the consultation process including the use of other forms of communications, including local radio stations, and the use of electronic forms of communication.

(*b*) A local authority may, in respect of reports, plans or any other material in relation to the performance of its functions, arrange for the making available or display of such materials at suitable locations additional to those required by this or any other enactment.

(4) Nothing in this section shall be read as limiting or departing from the role of a local authority as an elected body.

Recognised associations.

128.—(1) A local authority may declare that any body, whether corporate or unincorporate, be a recognised association for the purposes of this section where the local authority is of the opinion that the body is concerned with promoting the interests of the local community, or any part of or group within the local community, or of all or a part of the administrative area of that local authority.

(2) A local authority may—

(*a*) consult a recognised association on any relevant matter,

(*b*) provide assistance in money or in kind to such association,

(*c*) make arrangements with a recognised association under section 13(6) of the Roads Act, 1993, or *Chapter 4* of *Part 9*

(*d*) enter into an agreement in writing with a recognised association for the carrying out by the association on behalf of the local authority of certain functions of the authority which in its opinion may be satisfactorily carried out by the recognised association, subject to such terms, conditions,

restrictions and other requirements as the authority considers necessary and specifies in the agreement.

(3) *Subsection (2)(d)* does not apply in respect of a reserved function, the function to make arrangements under section 13(6) of the Roads Act, 1993, or *Chapter 4* of *Part 9* or any other function as the Minister may prescribe by regulations.

(4) Any works or other thing carried out or done by a recognised association in good faith as a result of an agreement made under *subsection (2)(d)* and in accordance with every requirement of such agreement shall be regarded as if the works or other thing was duly authorised, carried out or done by the local authority.

(5) For the purposes of *subsections (1)* and *(2)*, a local authority may have regard as to whether in its opinion—

(*a*) a body is properly constituted and representative,

(*b*) adequate financial and accounting arrangements are in place, and

(*c*) the body is in a position to comply with such requirements as the local authority may in all the circumstances of the case consider necessary and reasonable for such purposes.

(6) A declaration under *subsection (1)* is a reserved function.

(7) The Minister may by regulations prescribe such matters relating to recognised associations as he or she considers appropriate for the purpose of giving effect to this section including the procedures to be followed for the termination of an agreement under *subsection (2)(d)*.

Annotations

Editorial Notes:

E46 Power pursuant to section exercised (1.01.2002) by *Local Government Act, 2001 (Supplementary Provisions) Regulations 2001* (S.I. No. 590 of 2001).

County or City Development Boards.

129.—(1) There shall be established, by order of the Minister under this subsection, in each county and city a body to be known as the ".....County Development Board" or ".....City Development Board" as the case may be (in this section referred to as the "Board") with the name of the appropriate county or city prefixed.

(2) A Board shall, in so far as is provided by this section, operate under the aegis of the relevant county council or city council but is otherwise independent in the performance of its functions.

(3) Subject to and in accordance with guidelines issued under *subsection (9)*, the membership of a Board comprises—

(*a*) the members of the county council's corporate policy group or city council's corporate policy group (as the case may be) and the relevant county manager or city manager;

(*b*) representatives of public authorities operating in the county or city concerned;

(*c*) such representatives of social interests, to be known collectively in the context of a Board as the social partners, as may be provided for in such guidelines;

(*d*) such representatives of publicly funded or supported local development bodies concerned with local enterprise, rural development or community development as may be provided for in such guidelines;

(*e*) such other persons (if any) as may be provided for by such guidelines.

(4) (*a*) F30**[**The chairperson of a Board**]** shall be appointed by the Board on nomination by the corporate policy group of the county council or city council concerned from among members of the group.

(*b*) F31**[**...**]**

(5) The functions of a Board are—

(*a*) to take such steps, as the Board may consider appropriate, to enable each of the bodies and interests, whose functions affect the economic, social or cultural development of the county or city or any part of the county or city and its people (in this section referred to as the "community") to provide the maximum benefit each of them can to such development, both individually and collectively;

(*b*) to draw up a strategy (in this section referred to as the "strategy") for the economic, social and cultural development of the county or city and the community;

(*c*) to seek to secure that the policies and operations of the bodies and interests represented on the Board and of others accord generally with the strategy;

(*d*) to encourage and promote on an ongoing basis the co-ordination of the activities of the bodies and interests represented on the Board and co-operation generally between such bodies and interests so as to optimise resources and combined effort for the common good of the community.

(6) (*a*) A public authority, local authority, or other body which is represented on a Board, shall in so far as is not inconsistent with the performance of its functions—

(i) co-operate with the Board in its work, and

(ii) endeavour to comply with a request from the Board in respect of information of relevance to its functions.

(*b*) A Board may make recommendations to any public authority, local authority or other person as to the way in which the policies and programmes of such body or person should develop or operate as regards the county or city concerned and the community.

(*c*) Subject to the requirements of any other enactment, any public authority, local authority, or body referred to in *paragraph (a)*, shall in the performance of its functions as regards a county or city, have regard to the strategy and to any recommendations made under *paragraph (b)*.

(7) In performing its functions a Board shall have regard to Government policy and shall comply with any general policy directives as may be given to it by the Minister.

(8) The chief officer of a Board shall be an employee of the relevant county council or city council.

(9) The Minister may issue general guidelines for the purposes of this section as regards—

(*a*) representation on a Board in accordance with *subsection (3)* and the selection and tenure of such representatives;

F32**[**(*aa*) the tenure of a chairperson appointed under subsection (4);**]**

(*b*) the involvement of other bodies and interests in the work of a Board;

(*c*) the funding and administration of a Board;

(*d*) the preparation of the strategy and its ratification by the county council or city council concerned;

(*e*) such other matters as he or she considers appropriate.

(10) A Board has all such powers as are necessary for or incidental to the performance of its functions under this section.

(11) (*a*) This section applies and has effect in relation to a county development board or a city development board constituted before the commencement of an order under *subsection (1)*.

(*b*) Any guidelines relating to county development boards and city development boards which were issued by the Minister before the commencement of this section and current at such commencement apply and have effect as if issued under this section.

(*c*) Guidelines issued under this section may be revised by the Minister from time to time as required, or withdrawn, and new guidelines issued.

Annotations

Amendments:

F30 Substituted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

F31 Deleted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

F32 Inserted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Editorial Notes:

E47 Power pursuant to section exercised (1.01.2001) by *Local Government Act, 2001 (County and City Development Boards) Order 2001* (S.I. No. 589 of 2001).

F33[PART 13A

Business Improvement Districts

Definitions (Part 13).

129A.— In this Part:

'annual BID contribution' has the meaning assigned to it by section 129L;

'annual BID multiplier' means the annual BID multiplier determined for a chargeable period under section 129M(2);

'BID approval date', in relation to a BID scheme, means the date on which the rating authority concerned passes the resolution approving implementation or renewal of the scheme;

'BID company' has the meaning assigned to it by section 129I;

'BID contribution levy' has the meaning assigned to it by section 129N;

'BID fund', in relation to a BID scheme, means the fund established or renewed for that scheme under section 129K;

'BID levypayer', in relation to rateable property subject to a BID contribution levy, means the person liable to pay the levy in respect of the property under section 129N(5);

'BID proponent' means a person specified as a proponent of a BID proposal under section 129C(2)(*a*);

'BID proposal' has the meaning assigned to it by section 129C;

'BID scheme' means a scheme approved by a rating authority under section 129B(1)(*b*);

'business improvement district' means a business improvement district established under section 129B;

'chargeable period', in relation to a BID scheme, means each successive 12 month period over which the scheme is to operate, beginning on the scheme commencement date;

'rateable property' means relevant property that is rateable under the Valuation Act 2001;

'ratepayer', in relation to rateable property, means a person required to pay rates on that property;

'ratepayer plebiscite' means a plebiscite described in section 129G;

'scheme commencement date', in relation to a BID scheme, means the date that the scheme comes into force under section 129B(6)(*a*);

'valuation' means valuation within the meaning of the Valuation Act 2001;

'valuation list' means a valuation list as defined in the Valuation Act 2001.**]**

Annotations

Amendments:

F33 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F34**[**Rating authority approval of a business improvement district scheme.

129B.— (1) Subject to and in accordance with this Part, the rating authority for an administrative area may by resolution—

(*a*) specify an area within the administrative area and establish that area as a business improvement district, and

(*b*) approve implementation of a scheme ('BID scheme') to carry out or provide one or more projects, services or works described in subsection (2) and which scheme is financed in whole or in part by BID contribution levies under this Part.

(2) The projects, services and works referred to in subsection (1)(*b*) shall, in the rating authority's opinion, be—

(*a*) for the benefit of the business improvement district and those who live, work or carry on an activity in it, and

(*b*) in addition to and not instead of any project, service or work carried out or provided by the rating authority immediately before approval of the scheme.

(3) Without prejudice to the generality of subsection (2)(*a*), a BID scheme may include plans or initiatives respecting any of the following projects, services or works:

(*a*) the provision, improvement or support in the business improvement district of any of the matters described in Schedule 13;

(*b*) the improvement or beautification of streets or footpaths in the business improvement district or any land, buildings or other structures in it;

(*c*) the removal of graffiti from streets or footpaths in the business improvement district or any land, buildings or other structures in it;

(*d*) the carrying out of studies or making of reports respecting the business improvement district;

(*e*) the promotion of tourism in the business improvement district or otherwise marketing or promoting activities, performances, events or use of amenity or facilities in the business improvement district.

(4) A rating authority may not approve a scheme for implementation under subsection (1)(*b*) unless—

(*a*) the terms of the scheme provide that, subject to section 129S (respecting early termination), the scheme is to operate for at least one year from the time it is to come into force,

(*b*) the scheme has been made available to the public in accordance with section 129D and submissions from the public have been invited in accordance with section 129E,

(*c*) a ratepayer plebiscite has been held in respect of the scheme and a majority of the ratepayers who vote in the plebiscite vote in favour of its implementation, and

(*d*) having regard to submissions referred to in paragraph (*b*), the rating authority is of the opinion that the scheme is appropriate and does not conflict in a material way with the interests of the local community.

(5) It is necessary for the passing of a resolution under subsection (1) that at least one-third of the total number of members of the authority concerned vote in favour of the resolution.

(6) A BID scheme—

(*a*) comes into force on the date that—

(i) is agreed between the rating authority and the BID company responsible for the scheme, and

(ii) is specified in the resolution approving the scheme under subsection (1),

and

(*b*) subject to section 129S (respecting early termination), operates and has effect for the number of years (not exceeding 5 years) as may be specified in the terms of the scheme.

(7) The 5 year limit in subsection (6)(*b*) does not prevent a BID scheme being approved under subsection (1) for renewal for one or more further periods, each not exceeding 5 years, provided that the conditions under subsection (4) are met each time the scheme is renewed.

(8) A rating authority may not do any of the following in respect of a business improvement district for which a BID scheme is in effect:

(*a*) revise the boundaries of the business improvement district;

(*b*) consolidate the business improvement district with another business improvement district;

(*c*) divide the business improvement district into two or more business improvement districts.**]**

Annotations

Amendments:

F34 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F35**[**BID proposal.

129C.— (1) A person proposing a scheme for approval under section 129B may submit the proposal ('BID proposal') to the rating authority concerned.

(2) The BID proposal shall—

(*a*) specify the proponent's name and provide an address for delivery of any notices to the proponent in respect of the proposal,

(*b*) define the boundaries of the area being proposed as a business improvement district (including a map showing that area),

(*c*) provide a current list of each rateable property in the proposed business improvement district,

(*d*) set out the terms of the scheme being proposed, including all of the following:

(i) a description of the objectives to be achieved under the scheme and a detailed description of the scheme itself specifying each project, service and work to be carried out or provided;

(ii) the date by which the scheme is expected to be in operation and the number of years over which the scheme is expected to operate;

(iii) the BID company that will be responsible for implementing or renewing and administering and managing the scheme in accordance with this Part;

(iv) those terms of the scheme that may be altered by consent of the rating authority and the BID company referred to in subparagraph (iii),

(*e*) specify the projects, services or works, if any, that are currently being carried out or provided by the rating authority concerned ('baseline services') and are relevant to the scheme being proposed,

(*f*) provide estimates of the following for each year over which the scheme being proposed is to operate:

(i) the expenditure that will be necessary to carry out or provide the projects, services and works under the scheme;

(ii) the projected income for the scheme and the sources of that income, including any contribution, grant or assistance from a person or public authority (other than the annual BID contribution);

(iii) the annual BID contribution,

and

(*g*) include such other information that the Minister may by regulation prescribe for purposes of this section.

(3) On request of a BID proponent, the rating authority shall provide the proponent such information that the proponent may reasonably require in order to determine and specify in the proposal the baseline services relevant to the proposed scheme.

(4) The BID proponent shall—

(*a*) deliver to the rating authority concerned a copy of the BID proposal together with an initial request that the rating authority hold a ratepayer plebiscite on the proposal, and

(*b*) provide the rating authority with such information as it reasonably requires to be satisfied that the BID proposal is not inconsistent with this Part and that the proponent has sufficient funds to meet the costs referred to in section 129H, should the proponent be required to do so under that section.

(5) On receiving the initial request for a ratepayer plebiscite under subsection (4)(*a*), the rating authority shall, as soon as practicable but subject to subsection (6), comply with sections 129D and 129E.

(6) The rating authority is not required to comply with subsection (5) until such time as the BID proponent complies with the requirements of subsections (2) and (4).**]**

Annotations

Amendments:

F35 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F36**[**BID proposal to be available to public.

129D.— (1) A copy of a BID proposal—

(*a*) shall be made available at the principal offices of the rating authority concerned,

(*b*) may be inspected by any member of the public during normal opening hours, and

(*c*) may be purchased from the rating authority at a price not exceeding the reasonable cost of reproduction.

(2) In addition to but not instead of complying with subsection (1), the rating authority concerned may publish a copy of the BID proposal on the internet.**]**

Annotations

Amendments:

F36 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F37**[**Public input to BID proposal.

129E.— (1) The rating authority concerned shall by way of a public notice invite submissions from the public on a BID proposal.

(2) Notice under subsection (1) shall—

(*a*) describe the proposed scheme in general terms,

(*b*) specify the area within the administrative area that is being proposed as a business improvement district,

(*c*) include a statement that, if the scheme is established, an annual BID contribution levy will be imposed on and collected from ratepayers of rateable property within the proposed business improvement district,

(*d*) specify—

(i) an address or location at which a copy of the BID proposal may be inspected pursuant to section 129D(1),

(ii) the price for which a copy of the proposal may be purchased from the rating authority under section 129D(1), and

(iii) if a copy of the proposal is also published on the internet pursuant to section 129D(2), the website address for viewing that copy,

and

(*e*) indicate that any person may, in the manner and by a date specified in the notice ('closing date'), make a submission in relation to the BID proposal.

(3) For the purposes of subsection (2)(*b*), the notice may include—

(*a*) a map that clearly indicates the boundaries of the proposed business improvement district, or

(*b*) a list of the street addresses of the rateable properties within the proposed business improvement district.

(4) The closing date under subsection (2)(*e*) may not be less than 30 days after the date on which notice under this section is first published.

(5) The rating authority shall ensure that the BID proponent receives a copy of each submission made on the BID proposal.

(6) The rating authority shall prepare a report on the submissions (if any) made on the BID proposal; copies of that report shall be—

(*a*) furnished by it to the members of the authority, and

(*b*) made available by it to the public, on request and on payment to it of a fee (which fee shall not exceed the reasonable cost of making such a copy),

and, in addition to the foregoing, it may publish a copy of the report on the internet.**]**

Annotations

Amendments:

F37 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F38**[**Next steps after public input.

129F.— (1) If, based on submissions made under section 129E, the rating authority concerned is of the view that the BID proposal may be inconsistent with the interests of the local community, the rating authority shall, as soon as practicable after the closing date under section 129E(2)(*e*) and no later than 60 days after that closing date, notify the BID proponent in writing explaining the nature of the inconsistency.

(2) Following consideration by the BID proponent of submissions made under section 129E and any notice under subsection (1) of this section, the proponent may, but not

sooner than 60 days after the closing date referred to in subsection (1), deliver to the rating authority concerned—

(*a*) written confirmation of the initial request to have the BID proposal proceed to a ratepayer plebiscite, or

(*b*) written notice to withdraw the BID proposal.

(3) If the rating authority concerned does not receive written confirmation or notice under subsection (2) within 90 days after the closing date under section 129E(2)(*e*), the BID proponent is deemed to have withdrawn the BID proposal.

(4) A BID proponent who delivers notice to withdraw the BID proposal, or is deemed to have withdrawn the proposal, is liable to pay all costs incurred by the rating authority in relation to that proposal.

(5) The costs for which the BID proponent is liable under subsection (4) are recoverable as a simple contract debt in any court of competent jurisdiction and, if there is more than one such proponent, those proponents are jointly and severally liable for those costs.**]**

Annotations

Amendments:

F38 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F39**[**BID proposal goes to ratepayer plebiscite.

129G.— (1) Within 60 days of receiving written confirmation delivered in compliance with section 129F(2)(*a*), the rating authority concerned shall, in accordance with this section and the regulations made under subsection (6), hold a plebiscite to determine the level of support for the proposal among ratepayers of rateable property in the proposed business improvement district.

(2) Each rateable property in the proposed business improvement district shall be afforded one vote in the plebiscite.

(3) The vote under subsection (2) may only be exercised—

(*a*) by the ratepayer of the rateable property at the time of the plebiscite, and

(*b*) by completing and returning a ballot paper in the form and manner prescribed under subsection (6).

(4) In the case of a rateable property where 2 or more persons own or occupy the property and are liable for rates on that property—

(*a*) they shall be considered as one ratepayer for the purposes of subsection (3)(*a*),

(*b*) they are not entitled to vote in the plebiscite unless a majority of them concurs, and

(*c*) unless the vote is signed by a majority of them, it shall be disregarded for purposes of the plebiscite.

(5) No later than 45 days after receiving written confirmation under section 129F(2)(*a*), the rating authority concerned shall send, by ordinary post or any other means that may be prescribed by regulation, all ballot papers for completion under subsection (3) to the ratepayers concerned.

(6) The Minister may make regulations—

(*a*) relating to and governing the conduct of a ratepayer plebiscite,

(*b*) prescribing the form of a ballot paper under this section and the manner in which it is to be completed and returned, and

(*c*) prescribing means other than post for the delivery and return of ballot papers under this section.**]**

Annotations

Amendments:

F39 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

Editorial Notes:

E48 Power pursuant to section exercised (24.04.2007) by *Local Government (Business Improvement Districts Ratepayer Plebiscite) Regulations 2007* (S.I. No. 166 of 2007).

F40**[**Costs of ratepayer plebiscite.

129H.— (1) If less than 20 percent of the ratepayers who vote in a ratepayer plebiscite vote in favour of having the rating authority concerned approve implementation of the BID proposal as a BID scheme, the BID proponent is liable to pay all costs incurred by the rating authority in relation to that proposal.

(2) The costs for which a BID proponent is liable under subsection (1) are recoverable as a simple contract debt in any court of competent jurisdiction and, if there is more than one such proponent, those proponents are jointly and severally liable for those costs.**]**

Annotations

Amendments:

F40 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F41**[**BID company requirements.

129I.— (1) A BID company shall be a company limited by guarantee and formed and registered under the Companies Acts.

(2) The principal objects of the BID company shall be stated in its memorandum of association to be as follows:

(*a*) to implement or renew and administer and manage a BID scheme or, as the case may be, a scheme being proposed for purposes of this Part;

(*b*) to ensure that each project, service and work under the scheme is carried out in accordance with that scheme and this Part;

(*c*) to carry out the functions of a BID company in accordance with this Part.

(3) Subsection (2) does not prevent or restrict the inclusion of objects and powers that are—

(*a*) reasonably necessary, proper for or incidental or ancillary to attaining the principal objects referred to in subsection (2), and

(*b*) not inconsistent with this Part or any other enactment.

(4) A BID company shall have a board of directors consisting of not less than 6 members and at least two-thirds of those directors shall be—

(*a*) ratepayers of rateable property in the business improvement district or, as the case may be, in the area being proposed as a business improvement district, or

(*b*) representatives of such ratepayers.

(5) On approval of a BID scheme by a rating authority under section 129B, the rating authority is entitled to have the following representation on the board of directors for the BID company that will be implementing or renewing the scheme:

(*a*) if the board consists of less than 13 members, one of those members shall be selected by the elected council and one shall be selected by the manager;

(*b*) if the board of directors consists of 13 or more members, 2 of those members shall be selected by the elected council and 2 shall be selected by the manager.

(6) A vacancy in the membership of the board of directors under subsection (4) or (5) does not invalidate any act or proceeding of the board or impair the right of the board to act, if the number of members is not less than a quorum.**]**

Annotations

Amendments:

F41 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F42**[**BID company to meet and adopt first budget following approval of BID scheme.

129J.— (1) Within 60 days after the BID approval date, the board of directors of the BID company responsible for a BID scheme shall—

(*a*) hold a meeting of those directors, and

(*b*) at that meeting, prepare and adopt a budget for the first chargeable period under the scheme, setting out the matters described in section 129L(1)(*a*) to (*c*).

(2) The provisions of section 129L(1)(*a*) to (*c*) and (2) apply in respect of the budget to be prepared and adopted for the first chargeable period under subsection (1) of this section and, for this purpose, the references in section 129L(1) and (2) to 'next chargeable period' shall be read as 'first chargeable period'.

(3) The BID company shall within 7 days after the meeting under subsection (1) submit a copy of the adopted budget to the rating authority concerned.**]**

Annotations

Amendments:

F42 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F43[Separate BID fund to be established following approval of BID scheme.

129K.— (1) Within 60 days after the BID approval date, the rating authority that approves implementation of a BID scheme shall establish a fund ('BID fund') for that scheme.

(2) In the case of a BID scheme that is approved for renewal under section 129B, the BID fund previously established for that scheme is continued on that approval.

(3) The BID fund shall be separate from the local fund of the rating authority and the accounts of the BID fund shall be accounted for separately.

(4) All BID contribution levies collected by the rating authority in respect of the BID scheme shall be paid into the BID fund.

(5) Subject to subsection (6), the BID contribution levies that are collected during a chargeable period shall be paid out of the BID fund to the BID company responsible for the BID scheme as required under the terms of the scheme.

(6) The rating authority may recover from the BID fund all reasonable costs it incurs in performing functions related to the BID scheme.**]**

Annotations

Amendments:

F43 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F44[Annual budget for BID scheme.

129L.— (1) In each chargeable period under a BID scheme, the BID company responsible for the scheme shall prepare and adopt a budget setting out each of the following for the next chargeable period:

(*a*) the expenditure estimated to be necessary during that next chargeable period for—

(i) carrying out the projects, services and works under the scheme,

(ii) administering and managing the scheme, and

(iii) carrying out functions in respect of the scheme in accordance with this Part;

(*b*) any income, other than the annual BID contribution under paragraph (*c*), estimated to accrue to the BID company;

(*c*) the total sum of money ('annual BID contribution') that the BID company requests the rating authority contribute towards financing the scheme for the next chargeable period by means of imposing and collecting BID contribution levies under this Part.

(2) The annual BID contribution under subsection (1)(*c*) is to be determined by the formula

A — B

where

A is the expenditure referred to in subsection (1)(*a*), and

B is the income referred to in subsection (1)(*b*).

(3) The BID company shall submit a copy of the budget for the next chargeable period to the rating authority concerned at least 14 days before that next chargeable period begins.**]**

Annotations

Amendments:

F44 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F45**[**Annual BID multiplier.

129M.— (1) On receiving a copy of the budget adopted by a BID company under section 129J(3) or 129L(3), the rating authority concerned shall determine the annual BID multiplier to be levied against the valuation of each rateable property in the business improvement district to which the budget relates.

(2) The annual BID multiplier is to be determined by the formula

$$\frac{A + B}{C}$$

where

A is the annual BID contribution determined by the BID company pursuant to section 129L(2),

B is the total of—

(*a*) all estimated costs that the rating authority expects to incur over the next chargeable period in performing functions related to the BID scheme, and

(*b*) if the budget is for the first chargeable period of the scheme under section 129J, all costs incurred by the rating authority in relation to the BID proposal on which the scheme is based, and

C is the aggregate valuation of all rateable property situate in the relevant business improvement district according to the latest valuation list in force at the time of determining the annual BID multiplier under this section.**]**

Annotations

Amendments:

F45 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F46**[**Annual BID contribution levy.

129N.— (1) On determining the annual BID multiplier for a chargeable period under section 129M, the rating authority shall impose and collect for that chargeable period a BID contribution levy on each rateable property in the business improvement district in respect of which the BID scheme applies.

(2) Subject to subsection (3), the amount of the BID contribution levy in respect of a rateable property described in subsection (1) is to be determined by the formula

$$A \times B$$

where

A is the annual BID multiplier for the relevant chargeable period, and

B is the valuation of the rateable property, according to the latest valuation list in force on the date that that BID multiplier is determined.

(3) If a rateable property described in subsection (1) is unoccupied on the date that the annual BID multiplier is determined, the amount of the BID contribution levy is to be determined by applying the formula set out in subsection (2) and dividing that result by 2.

(4) Notice of the BID contribution levy imposed on a rateable property under this section shall be sent by post or otherwise delivered to the person liable to pay the levy for that property under subsection (5) (the 'BID levypayer') and the notice shall include the following information:

(*a*) the amount of the BID contribution levy;

(*b*) the date by which the BID contribution levy is due and payable and the manner in which it is to be paid.

(5) The following are liable to pay the BID contribution levy for a rateable property under this section:

(*a*) the person who is in occupation of the property on the date that the annual BID multiplier is determined;

(*b*) if the property is unoccupied on the date referred to in paragraph (*a*), the person who owns the property on that date.

(6) The date specified under subsection (4)(*b*) may not be less than 14 days from the date that the notice is sent under that subsection.

(7) The BID levypayer shall pay the full amount of the BID contribution levy to the rating authority by the date specified under subsection (4)(*b*).

(8) The BID contribution levy for which a BID levypayer is liable under this section is recoverable as a simple contract debt in any court of competent jurisdiction and, if there is more than one such levypayer in respect of a rateable property subject to the levy, those levypayers are jointly and severally liable for that levy.

(9) A BID contribution levy is not invalidated by any error or defect in the statement of the name of the BID levypayer in the notice under subsection (4) or by the use of the description 'the owner' or 'the occupier' without any name or addition, and the levy is recoverable from the BID levypayer notwithstanding any such error or defect or the use of any such description.

(10) For the purposes of this section, rateable property is 'unoccupied' if the person who owns the property on the date that the annual BID multiplier is determined (the 'owner') satisfies the rating authority that—

(*a*) the owner was not occupying the property on that date,

(*b*) no other person was entitled to the use or enjoyment of the property on that date, and

(*c*) acting in good faith, the owner was genuinely unable to find a suitable tenant for the property at a reasonable rent.**]**

Annotations

Amendments:

F46 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F47[Recalculation of levy in event of total destruction or demolition of property.

129O.— (1) If, during a chargeable period, a rateable property subject to a BID contribution levy is demolished or destroyed to the extent that it is incapable of rateable occupation by the owner of the property, the BID levypayer may apply in writing to the rating authority concerned for a refund or credit on the amount of the levy paid or payable for the chargeable period.

(2) On receiving the application and being satisfied that the condition described in subsection (1) has been met, the rating authority shall prorate the amount of the BID contribution levy that was paid or is payable for that portion of the chargeable period during which the property is incapable of rateable occupation and that prorated amount shall be—

(*a*) refunded to the applicant BID levypayer, in the case where the levy has already been paid in full,

(*b*) refunded to the applicant BID levypayer to the extent that any partial payment of the levy that has been made would result in an overpayment because of the application of this subsection, or

(*c*) if paragraphs (*a*) and (*b*) do not apply, credited to the account of the applicant BID levypayer.**]**

Annotations

Amendments:

F47 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F48[Recalculation of levy if valuation amended during chargeable period.

129P.— (1) This section applies if—

(*a*) a BID levypayer has paid the BID contribution levy payable in respect of a rateable property for a chargeable period,

(*b*) the valuation of the property changes during that chargeable period because of amendment to the valuation list described in section 28 of the Valuation Act 2001, and

(*c*) the BID levypayer has not received a refund or credit under section 129O in respect of the rateable property for that chargeable period.

(2) As soon as reasonably practicable after amendment of the valuation of the rateable property described in subsection (1), the BID contribution levy for that rateable property shall be recalculated by the rating authority under section 129N(2) or (3), as the case may be, using the same BID multiplier but the amended valuation for the property, and the recalculated amount shall be prorated based on the number of days remaining in the relevant chargeable period, beginning with the date that the valuation is amended.

(3) If, as a result of the recalculation under subsection (2), the payment of the BID contribution levy described in subsection (1)(*a*) involved an overpayment and there are no arrears of BID contribution levies outstanding on the property concerned or if there are such arrears they are less than the amount of the overpayment, then the rating authority shall pay to the BID levypayer concerned a refund in the amount of the overpayment less the amount of any such arrears owing.

(4) If, as a result of the recalculation under subsection (2), the payment of the BID contribution levy described in subsection (1)(*a*) involved an underpayment, then—

(*a*) the BID levypayer is liable for the balance owing,

(*b*) the balance owing may be recovered from the BID levypayer by the same means provided under section 129N, and

(*c*) the provisions of section 129N(4) to (9) apply for the purposes of that recovery.

(5) If—

(*a*) the amended valuation for the rateable property referred to in subsection (2) is consequently the subject of an appeal under Part 7 of the Valuation Act 2001, and

(*b*) after all appeals under that Part have been exhausted, the final valuation of the property for the relevant chargeable period is different than it was for purposes of the recalculation under subsection (2),

the rating authority shall recalculate the BID contribution levy for that property under section 129N(2) or (3), as the case may be, using the same formula applied in those provisions except where 'B' is now the final valuation of the property referred to in paragraph (*b*) of this subsection.

(6) If, as a result of recalculation under subsection (5), the amount of money paid by the BID levypayer for the relevant chargeable period involved an overpayment or an underpayment, then—

(*a*) in the case of an overpayment, subsection (3) applies, and

(*b*) in the case of an underpayment, subsection (4) applies.**]**

Annotations

Amendments:

F48 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F49**[**Care and management of BID contribution levies.

129Q.— All BID contribution levies imposed and to be collected pursuant to this Part are placed under the care and management of the rating authority concerned.**]**

Annotations

Amendments:

F49 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F50**[**Keeping of accounts and financial statements.

129R.— (1) A BID company responsible for a BID scheme shall keep all proper and usual accounts of moneys received or spent by it, including an income and expenditure account and a balance sheet.

(2) Without limiting subsection (1), the BID company shall establish, operate and maintain financial systems, accounts, reporting and record keeping procedures, including the preparation of annual financial statements, which are based on generally accepted accounting principles and practices.

(3) The BID company shall—

(*a*) submit to the rating authority a copy of its annual audited accounts no later than 12 weeks after the close of the financial year of the BID company to which those accounts relate, and

(*b*) on request of any person, provide a copy of those accounts at a price not exceeding the reasonable cost of reproduction.

(4) The rating authority may also require the preparation and submission to it of statements of the financial position of the BID company.

(5) Statements of financial position submitted shall contain such detail and be prepared and submitted at such intervals as may be specified by the rating authority.**]**

Annotations

Amendments:

F50 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F51**[**Early termination of BID schemes.

129S.— (1) The rating authority that approves implementation or renewal of a BID scheme may by resolution terminate the scheme if any of the following apply:

(*a*) in the opinion of the rating authority, the BID company responsible for the scheme—

(i) will have insufficient finances to meet its liabilities for the current chargeable period and the rating authority has offered the BID company a reasonable opportunity to arrange for—

(A) financing the shortfall, or

(B) a reduction in the projects, services or works under the scheme which is sufficient to offset the shortfall,

(ii) is not carrying out or providing the projects, services or works in accordance with the scheme, or

(iii) is not in compliance with any provision in this Part;

(*b*) the rating authority is unable, due to any cause beyond its control, to perform its functions in relation to the BID scheme.

(2) It is necessary for the passing of a resolution under subsection (1) that at least one-third of the total number of members of the authority concerned vote in favour of the resolution.

(3) At least 28 days before the date of the termination, the rating authority shall give written notice to the BID company of its intention to terminate the BID scheme under subsection (1).

(4) The BID company responsible for a BID scheme may terminate the scheme if any of the following apply:

(*a*) the BID company will have insufficient finances to meet its liabilities for the current chargeable period and it has made a reasonable effort to arrange for—

(i) financing the shortfall, or

(ii) a reduction in the projects, services or works under the scheme which is sufficient to offset the shortfall;

(*b*) the BID company is unable, due to any cause beyond its control, to carry out or provide the projects, services or works under the scheme;

(*c*) the projects, services or works to be carried out or provided under the scheme are no longer required.

(5) At least 28 days before the date of the termination, the BID company shall give written notice to the rating authority concerned of its intention to terminate the BID scheme under subsection (4).**]**

Annotations

Amendments:

F51 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

F52**[**Final accounting of BID fund on termination of BID scheme.

129T.— (1) As soon as is reasonably practicable after termination of a BID scheme under section 129S or after a scheme is no longer in force and is not renewed, the rating authority concerned shall give written notice of the termination to—

(*a*) if the termination occurs during a chargeable period under the scheme, those persons liable to pay a BID contribution levy for that chargeable period, and

(*b*) if the scheme is no longer in force and is not renewed under section 129B, those persons most recently liable to pay the BID contribution levy when the scheme was in force.

(2) The written notice referred to in subsection (1) shall explain if a refund is to be made under subsection (4).

(3) Subsection (4) applies if, after deducting—

(*a*) all costs incurred by the rating authority in performing functions related to the BID scheme, and

(*b*) all costs that the rating authority expects to incur in the performance of its functions under this part,

there is a credit to the relevant BID fund that would, when divided between the BID levypayers who paid the most recent BID contribution levy owing before the scheme's termination (and divided on a basis proportionate to their contribution to the annual BID contribution for the most recent chargeable period), enable a refund of at least €50 to each of those levypayers.

(4) The rating authority shall—

(*a*) after making the deductions described in subsection (3)(*a*) and (*b*), calculate the amount of the credit to the relevant BID fund that is to be refunded to each BID levypayer described in that subsection, and

(*b*) make arrangements for those refunds to be made.

(5) If subsection (3) does not apply, the rating authority shall transfer the credit balance in the relevant BID fund to the credit of the local fund of the rating authority.**]**

Annotations

Amendments:

F52 New Part 13A (ss. 129A-129T) inserted (24.04.2007) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 6, S.I. No. 165 of 2007.

PART 14

The Local Government Service

Chapter 1

The Elected Council

Policy role of elected council.

130.—It is a function of the elected council of a local authority to determine by resolution the policy of the local authority subject to and in accordance with this Act and the other enactments relating to that authority.

Reserved functions.

131.—(1) (*a*) The elected council of a local authority or the members of a joint body shall directly exercise and perform by resolution at a meeting of the local authority or body every function to which this section applies.

(*b*) The functions referred to in *paragraph (a)* shall be known as reserved functions of a local authority or of a joint body, as the case may be, and in this Act are referred to as "reserved functions".

(2) This section applies to every function—

(*a*) designated as a reserved function by any provision of this Act (including a designation by order under *subsection (3)*) or as specified in *Schedule 14*;

(*b*) designated as a reserved function by any provision of any other enactment relating to a local authority or joint body;

(*c*) expressly made exercisable by resolution under this Act or under any other enactment relating to a local authority or joint body which was enacted after the 13th day of June, 1940.

(3) (*a*) The Minister may by order designate a specified function of local authorities or joint bodies to be a reserved function and for so long as an order is in force the function is a reserved function.

(*b*) Any order made under subsection (2) of section 41 of the Local Government Act, 1991, or continued in force by subsection (5) of that section shall continue in force as if made under this subsection and may be amended or revoked accordingly.

(4) Any reference to a reserved function in respect of a local authority or joint body in any enactment enacted before the commencement of this provision or to a function exercisable by resolution to which *subsection (2)(c)* applies shall be read as a reference to a reserved function for the purposes of this Act.

(5) For the purposes of this section "function" does not include a function relating to the employees of a local authority or joint body or the direction, supervision, service, remuneration or discipline of such employees or any of them, other than a function referred to in *section 145(1)*.

Reserved functions: duty of manager.

132.—(1) It is the duty of every manager to carry into effect all lawful directions of the elected council of a local authority or a joint body for which he or she is manager in relation to the exercise and performance of the reserved functions of the local authority or joint body.

(2) (*a*) Where in relation to the exercise or performance of a reserved function a legal opinion was obtained by a local authority or joint body, the elected council or joint body may, without prejudice to *section 153*, by resolution direct that a second such opinion be obtained by the authority.

(*b*) Nothing in this subsection shall prejudice a local authority or joint body in carrying out any function which the authority or body is required by or under statute or by order of a court to duly carry out.

(3) It is the duty of every manager to advise and assist the elected council of a local authority or a joint body for which he or she is manager—

(*a*) generally as regards the exercise or performance by the council or body of its reserved functions, and

(*b*) as regards any particular matter or thing in relation to such exercise or performance on or in respect of which the council or body requests the advice or assistance of the manager,

and that council or body shall have regard to that advice or assistance.

Corporate policy group.

133.—(1) The elected council of every county council and city council shall form a committee, to be known as the corporate policy group, which shall consist of the Cathaoirleach and the chairpersons of the strategic policy committees, and which in this section is referred to as the "policy group" and which shall be chaired by the Cathaoirleach.

(2) (*a*) The policy group may advise and assist the elected council in the formulation, development, monitoring and review of policy for the local authority and for that purpose propose arrangements for the consideration of policy matters and the organisation of related business by the elected council.

(*b*) The policy group may make proposals for the allocation of business as between strategic policy committees and for the general co-ordination of such business.

(*c*) Nothing in this subsection prevents the submission of a report by a strategic policy committee directly to the elected council.

(3) The manager shall prepare the corporate plan for the local authority in consultation with the policy group in accordance with *section 134*.

(4) (*a*) The manager shall consult the policy group in the preparation of the local authority's draft budget and the policy group may for that purpose avail of the assistance of not more than 3 additional persons, who are not members of the authority.

(*b*) The additional persons referred to in *paragraph (a)* shall be persons who in the opinion of the policy group have financial, organisational or other knowledge or experience likely to be of special relevance to the policy group's consideration of the authority's draft budget.

(5) (*a*) The policy group may request the manager to provide a report to the policy group on any matter or thing related to a function of the local authority and specified by the policy group and, subject to *paragraph (b)*, the manager shall provide such report.

(*b*) A manager shall provide such a report in so far as compliance with such request would not—

(i) duplicate a similar request by the elected council or a direction under *section 138(2)*, or

(ii) be contrary to law.

(6) (*a*) Where the policy group requests a report under *subsection (5)*, the Cathaoirleach may at the time of such request by direction in writing signed and dated by him or her and given to the manager require the manager to refrain from doing any particular act, matter or thing related to the subject matter of the report and specifically mentioned in the direction and which the local authority or manager concerned can lawfully refrain from doing.

(*b*) Subject to *paragraph (c)*, a direction under *paragraph (a)* shall continue to have effect, unless withdrawn, until the next meeting of the local authority and may be extended by resolution at that meeting and where not so extended ceases to have effect.

(*c*) A direction under *paragraph (a)* (whether extended under *paragraph (b)* or not) shall not in any case have effect for longer than 3 months and shall cease to have effect on the expiration of 3 months after the date on which it is given, unless it is earlier withdrawn or has ceased to have effect under *paragraph (b)*.

(*d*) Where a direction ceases to have effect a similar direction or a direction of substantially like effect in relation to the act, matter or thing in question may not be given.

(*e*) The manager shall comply with a direction duly and lawfully given under this subsection.

(7) Nothing in this section shall prejudice a local authority in carrying out at any time any function which a local authority or manager is required by or under statute or by order of a court to carry out and any direction claiming to be given under *subsection (6)* which contravenes this subsection is invalid.

(8) Nothing in this section prejudices or derogates from the functions conferred on an elected council by this or any other enactment.

(9) Nothing in this section prevents the manager from dealing immediately with any situation which he or she considers is an emergency situation calling for immediate action and *section 138(5)* applies for the purposes of this subsection.

Corporate plan.

134.—(1) In this section, except where the context otherwise requires—

"local authority" means a county council or a city council;

"specified period" means a period not longer than 6 months from—

(*a*) in a local election year, the date of the annual meeting,

(*b*) in the case of a review, the date of a resolution or the date of a request under *subsection (8)*.

(2) Within the specified period and in accordance with this section, every local authority shall prepare a statement of strategy for the local authority (in this section referred to as a "corporate plan").

(3) The manager shall—

(*a*) prepare the corporate plan in consultation with the policy group,

(*b*) fix a schedule of meetings for that purpose, and

(*c*) provide such assistance (including assistance by way of consultancy or otherwise) as may be practicable to assist in the preparation of the corporate plan and in its consideration by the policy group.

(4) (*a*) It is the responsibility and the duty of the policy group and of the manager to take all such steps as are necessary to ensure that the corporate plan is submitted to the elected council for approval within the specified period.

(*b*) Where the corporate plan is not submitted in accordance with *paragraph (a)*—

(i) the Cathaoirleach shall convene a special meeting within 14 days of the expiration of such period, and

(ii) the Cathaoirleach and the manager shall make a joint submission to the elected council at the special meeting outlining the steps to be taken to ensure its completion and when it is proposed to submit the corporate plan to the elected council.

(5) (*a*) The elected council shall consider the corporate plan submitted in accordance with *subsection (4)* and may make such amendments as it considers appropriate and shall approve it with or without amendments.

(*b*) Where the corporate plan is not approved in accordance with *paragraph (a)* within the period of 2 months from the date of its submission to the elected council, it shall be deemed to be approved on the expiration of that period, subject to any amendments—

(i) made to it under *paragraph (a)* within that period, or

(ii) which are otherwise necessary or consequential and which the manager may make within 2 weeks after the expiration of that period.

(6) The corporate plan shall be prepared on the basis of an organisational wide strategic approach encompassing the various activities of the local authority concerned and shall include—

(*a*) a statement of the principal activities of the local authority,

(*b*) the objectives and priorities for each of the principal activities and strategies for achieving those objectives,

(*c*) the manner in which the authority proposes to assess its performance in respect of each such activity, taking account of relevant service indicators and of the need to work towards best practice in service delivery and in the general operation of the local authority,

(*d*) human resources activities (including training and development) to be undertaken for the staff of the local authority and, where appropriate for the elected council,

(*e*) the organisational structure of the local authority, both elected council and staff, including corporate support and information technology and the improvements proposed to promote efficiency of operation and customer service and in general to support the corporate plan,

(*f*) such other matters as may be set out in guidelines issued under *subsection (10)* for the purposes of this section.

(7) In preparing its corporate plan a local authority shall take account of such policies and objectives in relation to any of its functional programmes as are set out in any other plan, statement, strategy or other document prepared by it under any other provision of this or of any other enactment and shall comply with *sections 69, 71* and *129*.

(8) (*a*) A local authority may at any time decide by resolution to review its corporate plan and *subsections (3)* to *(7)* shall apply in relation to any such review.

(*b*) If requested by the Minister, a local authority shall carry out a review and following such review may make any amendments or a new corporate plan and *subsections (3)* to *(7)* shall apply in relation to any such review.

(9) The approval of the corporate plan, with or without amendments, is a reserved function.

(10) (*a*) From time to time the Minister may issue guidelines in connection with the preparation of corporate plans by local authorities for the purposes of this section and local authorities shall have regard to such guidelines.

(*b*) Guidelines may also provide, where relevant, for a corporate plan of a local authority to take account of and to reflect the principal activities of any town councils within its administrative area and for necessary consultation for that purpose.

(*c*) Any guidelines issued by the Minister in relation to the preparation of corporate plans by local authorities which are current on the date of the commencement of this provision shall be deemed to have issued in accordance with this section.

(*d*) Any corporate plan which is in the process of being adopted by a local authority immediately before the issue of guidelines referred to in *paragraph (c)* shall be deemed to have been adopted with due regard to those guidelines.

(11) (*a*) The manager shall prepare an annual progress report in respect of the local authority's corporate plan and such report shall be submitted to the elected council—

(i) at the same time as the authority's draft budget, or

(ii) at such other time as the elected council may by resolution decide.

(*b*) Details of the annual progress report shall be recorded in the local authority's annual report.

Report on capital programme.

135.—(1) Before the start of each local financial year the manager shall prepare and submit to the elected council a report indicating the programme of capital projects proposed by the local authority for the forthcoming and the following two local financial years having regard to the availability of resources.

(2) A report prepared under *subsection (1)* may be considered at the local authority budget meeting or at such other meeting as the elected council may by resolution decide.

(3) In considering the question of the resources likely to be available to it a local authority shall so consider—

(*a*) on the basis of a realistic and prudent assessment of the position, and

(*b*) on the basis of the information available to it at the time and having regard to the measures proposed by the authority to raise funding itself.

Furnishing of information to elected council.

136.—Without prejudice to *section 105, 135, 137* or *138* a manager shall, whenever requested—

(*a*) by an elected council of a local authority for which he or she is the manager or by its Cathaoirleach, or

(*b*) by a joint body for which he or she is the manager, or by its chairperson,

afford to the council, Cathaoirleach, joint body or chairperson (as the case may be) all information that may be in the possession or procurement of such manager in regard to any act, matter or thing relating to or concerning any business or transaction of such local authority or body which is mentioned in the request.

Plans, specifications to be prepared for elected council.

137.—(1) The elected council or a joint body may at any time by resolution require the manager for the local authority or joint body concerned to prepare and submit to the elected council or joint body, as the case may be—

(*a*) plans and specifications for the execution of any particular work specified in the resolution which can lawfully be executed by the local authority or joint body, and

(*b*) an estimate of the probable cost of the execution of such work.

(2) Whenever the elected council or joint body passes a resolution to which *subsection (1)* relates, the manager concerned shall, as soon as conveniently may be, prepare and submit to the elected council or joint body, plans and specifications and an estimate in accordance with the resolution.

Prior information to elected council.

138.—(1) The manager shall inform the elected council or joint body concerned—

(*a*) before any works (other than works of maintenance or repair) of the local authority or joint body concerned are undertaken, or

(*b*) before committing the local authority or joint body concerned to any expenditure in connection with proposed works (other than works of maintenance or repair).

(2) Subject to this section, an elected council or joint body may by resolution direct that, before the manager performs any specified executive function of the local authority or joint body, he or she shall inform the elected council or joint body, as the case may be, of the manner in which he or she proposes to perform that function, and the manager shall comply with the resolution.

(3) A resolution under *subsection (2)* may relate to any particular case or occasion or to every case or occasion of the performance of the specified executive function and may define what information is to be given and how and when it is to be given and the manager shall comply with the resolution.

(4) Nothing in this section prevents the manager from dealing immediately with any situation which he or she considers is an emergency situation calling for immediate action without regard to *subsections (1)* to *(3)*.

(5) Without prejudice to the generality of *subsection (4)*, an emergency situation for the purpose of that subsection shall be deemed to include a situation where, in the opinion of the manager, the works concerned are urgent and necessary (having regard to personal health, public health or safety considerations) in order to provide a reasonable standard of accommodation for any person.

Direction that works not proceed.

139.—(1) Where the elected council or joint body is informed in accordance with *section 138* of any works (not being any works which the local authority or joint body are required by or under statute or by order of a court to undertake), the elected council or joint body, as the case may be, may by resolution, direct that those works shall not proceed.

(2) The manager shall comply with a resolution of an elected council or joint body duly and lawfully passed under this section.

Annotations

Modifications (not altering text):

C18 Application of section restricted by *Water Services Act 2007* (30/2007), s. 36(5)(b), not commenced as of 9.08.2012.

Water Services Strategic Plan.

36.— ...

b) A local authority (whether or not acting as a water services authority) shall not, by resolution, under section 139 or 140 of the Act of 2001 or section 179 of the Act of 2000—

(i) give a direction that works not be proceeded with, or

(ii) require any act, matter or thing to be done or effected,

where the effect of such direction or requirement would be contrary to, or inconsistent with, any provision (including any objective contained therein) of a water services strategic plan made by the water services authority, or would limit or restrict the proper implementation of such a provision and any resolution purporting to be passed under the said section 139, 140 or 179, as the case may be, which contravenes this paragraph is void.

Requirement that a particular thing be done.

140.—(1) In this section "local authority" includes a joint body.

(2) Subject to this section, an elected council or joint body may by resolution require any particular act, matter or thing specifically mentioned in the resolution and which the local authority or the manager concerned can lawfully do or effect, to be done or effected in the performance of the executive functions of the local authority.

(3) Notice of the intention to propose a resolution under this section shall be given in writing to the manager and the notice—

(*a*) shall be signed by at least 3 members,

(*b*) shall contain the text of the proposed resolution, and

(*c*) may require that the proposed resolution be considered at a special meeting and shall then specify a day (not less than 7 days after the day on which the notice is received by the manager) for the holding of the special meeting.

(4) A resolution under this section shall not be considered at a meeting of the local authority which is held less than 7 days after the day on which the manager received the relevant notice under *subsection (3)*.

(5) Where the manager receives a notice under *subsection (3)*, he or she shall, as soon as possible, send a copy of the notice to every member of the local authority and, if the notice requires a special meeting and *subsection (6)* does not apply, a special meeting of the local authority shall be convened for the day specified in that behalf in the notice.

(6) Where a notice under *subsection (3)* specifies a day for the holding of a special meeting, and an ordinary meeting of the local authority is to be held on a day within the period of 14 days after the day on which the manager receives the notice, the resolution shall be considered at that ordinary meeting and a special meeting shall not be convened.

(7) Without prejudice to any other relevant requirements, it is necessary for the passing of a resolution under this section that at least one-third of the total number of members of the local authority concerned vote in favour of the resolution.

(8) A motion to pass a resolution under this section shall be considered before any other business at the meeting, other than—

(*a*) the election of a Cathaoirleach at any meeting where that office falls to be filled in accordance with *Part 5*, or

(*b*) any other business which the elected council or joint body may decide should take precedence.

(9) Where a resolution is duly and lawfully passed under this section, and if and when and in so far as money for its purpose is or has been provided, the manager shall cause the act, matter or thing mentioned in the resolution to be implemented.

(10) A resolution under this section does not apply or extend—

(*a*) to the performance of any function of a local authority generally,

(*b*) to every case or occasion of the performance of any such function or to a number or class of such cases or occasions so extended as to be substantially or in effect every case or occasion on which any such function is performed,

(*c*) to every case or occasion of the performance of any such function in a particular area or to a number or class of such cases or occasions so extended as to be substantially or in effect every case or occasion on which any such function is performed in that area, or

(*d*) so as to prevent the performance of any function of a local authority which the authority or the manager is required by law or by order of a court to perform,

and any resolution claiming to be passed under this section which contravenes this subsection is void.

(11) This section is without prejudice to section 34 of the Act of 2000 insofar as the said section 34 applies to notices under *subsection (3)* and resolutions referred to in *subsection (7)*.

Annotations

Modifications (not altering text):

C19 Application of section restricted by *Water Services Act 2007* (30/2007), s. 36(5)(b) and (16), not commenced as of 9.08.2012.

Water Services Strategic Plan.

36.— ...

b) A local authority (whether or not acting as a water services authority) shall not, by resolution, under section 139 or 140 of the Act of 2001 or section 179 of the Act of 2000—

(i) give a direction that works not be proceeded with, or

(ii) require any act, matter or thing to be done or effected,

where the effect of such direction or requirement would be contrary to, or inconsistent with, any provision (including any objective contained therein) of a water services strategic plan made by the water services authority, or would limit or restrict the proper implementation of such a provision and any resolution purporting to be passed under the said section 139, 140 or 179, as the case may be, which contravenes this paragraph is void.

...

(16) Section 140 of the Act of 2001 shall not apply to the exercise by the manager of a water services authority of his or her functions under subsection (13) and any resolution purporting to be passed under the said section 140 in relation to the performance by the manager of his or her functions under subsection (13) which contravenes this subsection is void.

Duty of members appointed to other bodies.

141.—(1) Where one or more than one member of a local authority is elected, appointed or nominated by that authority to another body, whether established by or under statute or otherwise, it is the duty of that member or members to represent the local authority and to present a report to it on the activities and operation of that body—

(*a*) annually, or

(*b*) at any other time, if so requested by resolution or by the Cathaoirleach.

(2) Every report to which *subsection (1)* relates shall be presented by the member or members concerned to a meeting of the local authority.

(3) Nothing in this section requires the disclosure of information to the authority which is confidential or which could not otherwise be disclosed.

(4) This section also applies to any person who holds membership of a body, by virtue of being Cathaoirleach or any other member of a local authority.

Members' expenses, remuneration, etc.

142.—(1) The Minister may by regulations, made with the consent of the Minister for Finance, provide for the payment by a local authority of allowances for expenses incurred by its members in connection with—

(*a*) attendance at meetings of the local authority, a committee of that authority or a joint committee or joint body involving that authority;

(*b*) attendance at conferences, seminars, training or other events to which *subsection (5)* applies;

(*c*) the post of chair of a strategic policy committee;

(*d*) any other specified matter.

(2) Regulations under this section may also provide for—

(*a*) the payment of remuneration to members or to Cathaoirligh of specified classes of local authorities, or

(*b*) subject to *subsection (4)(i)*, the making of superannuation arrangements in respect of members of specified classes of local authorities.

(3) Any payments referred to in *subsection (1)* or *(2)* are subject to and shall be made in accordance with regulations made under this section.

(4) Regulations under this section may provide for—

(*a*) an annual amount in respect of remuneration in such cases as may be specified;

(*b*) a composite annual allowance in respect of attendances at meeting referred to in *subsection (1)(a)* and at such events or other matters as may be specified;

(*c*) arrangements to apply as regards the authorisation under *subsection (5)* by the local authority of attendances to which that subsection applies;

(*d*) conditions, restrictions or other requirements to apply in relation to allowances, remuneration or superannuation and the making of payments (including the abatement or reduction in whole or in part of allowances or remuneration in specified circumstances or for specified persons in receipt of allowances or remuneration provided by a public authority or otherwise from public funds);

(*e*) the furnishing of specified information to a local authority for the purposes of this section;

(*f*) the payment of allowances to persons who are not members of a local authority;

(*g*) a public register of attendances and payments to which this section and *section 143* relate;

(*h*) deductions from payments referred to in *subsection (1)* or *(2)* for such matters as may be specified;

(*i*) the approval of the Minister, given with the consent of the Minister for Finance, to such arrangements for superannuation purposes as may be specified;

(*j*) the giving of directions from time to time in relation to any matter the subject of such regulations;

(*k*) any other matters which appear to the Minister to be necessary or expedient for the purposes of this section.

(5) (*a*) This subsection applies to a conference, seminar, training or other meeting or event held, whether within or outside the State, for the purpose of discussing, obtaining or imparting information regarding or connected with any matter that is of concern to the local authority in relation to the performance of its functions and is relevant to its administrative area and to the local community.

(*b*) An elected council may authorise one or more of its members to represent the authority at a meeting or event to which this subsection applies and such authorisation may, subject to regulations under this section, be given in an individual case or as regards such attendances generally during a particular year.

(*c*) A local authority may provide in its budget an amount to meet expenditure for the purposes of this subsection.

(*d*) An elected council shall not authorise under this subsection unless, having had regard to the following matters, it is satisfied that the authorisation is justified by reference to—

(i) the benefits likely to accrue,

(ii) the general interests of its administrative area and the local community, and

(iii) the total cost involved.

(*e*) An authorisation under this subsection is a reserved function and such authorisations shall not exceed the amount provided for in accordance with *paragraph (c)*.

(*f*) Where a member of an elected council attends a meeting or event by virtue of an authorisation under this section, he or she shall submit a summary of the proceedings to the next ordinary meeting of the local authority.

(*g*) Without prejudice to *paragraphs (a)* to *(f)*, the Minister may issue general guidelines for the purposes of this subsection, including guidelines as to expenditure in relation to attendance at specified information or training events.

(6) A local authority shall comply with any guidelines issued under *subsection (5)(g)*.

(7) A local authority of a class specified for the purposes of *subsection (2)* may, in relation to its members or a class or classes of its members and subject to regulations under this section, make provision in relation to the superannuation of its members or in relation to the superannuation of a class or classes of its members.

(8) Regulations made under section 51 of the Local Government Act, 1991, and in force at the commencement of this provision shall continue in force and have effect as if made under this section and may be amended or revoked accordingly.

Annotations

Editorial Notes:

E49 Power pursuant to section exercised (5.02.2010) by *Local Government Act 2001 (Section 142) Regulations 2010* (S.I. No. 37 of 2010).

E50 Power pursuant to section exercised (1.01.2007) by *Local Government (Expenses of Local Authority Members) Regulations 2006* (S.I. No. 668 of 2006).

E51 Power pursuant to section exercised (6.06.2002) by *Local Authority Members (Gratuity) Regulations 2002* (S.I. No. 281 of 2002), as amended (23.07.2002) by *Local Authority Members (Gratuity) (Amendment) Regulations 2002* (S.I. No. 378 of 2002), and as amended (11.07.2003) by *Local Authority Members (Gratuity) (Amendment) Regulations 2003* (S.I. No. 302 of 2003), and as amended (19.12.2006) by *Local Authority Members (Gratuity) (Amendment) Regulations 2006* (S.I. No. 674 of 2006).

E52 Power pursuant to section exercised (1.01.2002) by *Local Government (Representational Payment For Members) Regulations 2001* (S.I. No. 552 of 2001) as amended (6.06.2002) by *Local Authority Members (Gratuity) Regulations 2002* (S.I. No. 281 of 2002), reg. 10.

Allowance for Cathaoirleach and Leas-Chathaoirleach.

143.—(1) (*a*) A local authority may pay an allowance for reasonable expenses to its Cathaoirleach.

(*b*) A local authority may pay an allowance for reasonable expenses to its Leas-Chathaoirleach.

(2) A decision to pay an allowance under *subsection (1)* and the determination of the amount of the allowance is a reserved function.

(3) (*a*) After consultation with the Minister for Finance, the Minister may issue directions to local authorities or specified classes of local authorities for the purposes of this section.

(*b*) Without prejudice to *paragraph (a)*, directions may specify—

(i) particular considerations to which the local authority shall have regard, and

(ii) the maximum amounts of the allowances payable under this section, including different amounts for different classes of local authorities.

Chapter 2

Position of Manager

Position of manager.

144.—F53**[**(1) For every county and city there shall be a manager to be known as 'the ..... County Manager' or 'the ..... City Manager', as appropriate (with the name of the county or city prefixed), who shall, subject to subsections (1A) and (1B), hold employment under that county council or city council, as the case may be.**]**

F54**[**(1A) (*a*) In the case of Limerick County and Limerick City, in this Chapter referred to as a 'group of authorities', the same person shall be manager for the county and city concerned.

(*b*) ...

(1B) The manager for a county or city in a group of authorities shall hold employment under the council of whichever county or city in that group the Minister shall, by order, specify.**]**

(2) Any function which immediately before the commencement of this provision is, by virtue of any enactment a function of the town clerk of a city shall, on and from such commencement, vest in and be a function of the manager of the local authority concerned.

(3) A county manager shall by virtue of his or her position be the manager—

(*a*) for every town council the administrative area of which is situated within the county concerned, and

(*b*) for every joint body whose functional area is wholly situated within such county.

(4) Where the functional area of a joint body extends into 2 or more counties or into a city and one or more counties, then such county or city manager as the Minister shall by order appoint shall also be the manager for such joint body.

(5) Where immediately before the commencement of this provision an order is in force under section 8(1) of the County Management Act, 1940, appointing a manager for a joint body, such order shall be deemed to have been made under *subsection (4)*.

(6) Any person who immediately before the commencement of this provision held either in a temporary or permanent capacity the office of county or city manager or whose tenure as manager is governed by *section 147* shall, on and from such commencement, continue to be a temporary manager or a manager, as the case may be, within the meaning and for the purposes of this Part.

(7) The Minister may prescribe by regulations any body to be a joint body and any body so prescribed shall be a joint body for the purposes of this section.

(8) The position of manager is, subject to *section 145*, an office to which the Local Authorities (Officers and Employees) Act, 1926, applies.

(9) A reference in any enactment to a manager for a local authority or to any cognate expression shall be read as a reference to a manager for a local authority for the purposes of this section.

Annotations

Amendments:

F53 Substituted (15.08.2012) by *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), s. 16(a), S.I. No. 292 of 2012.

F54 Inserted (15.08.2012) by *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), s. 16(b), S.I. No. 292 of 2012 other than subs. (1A)(b), not commenced as of 9.08.2012.

Modifications (not altering text):

C20 Prospective amending provision: insertion of subs. (1A)(b) not commenced as of 9.08.2012.

F54**[**(*b*) In the case of North Tipperary County and South Tipperary County, in this Chapter referred to as a 'group of authorities', the same person shall be manager for each of the counties concerned.**]**

Editorial Notes:

E53 Power pursuant to section exercised (15.08.2012) by *Local Government Act 2001 (Specified Council) (Limerick) Order 2012* (S.I. No. 271 of 2012).

Appointment of manager.

145.— (1) Subject to *subsection (3)*, the following are reserved functions—

(*a*) the appointment by a county council or city council of a manager under section 6 of the Local Authorities (Officers and Employees) Act, 1926 (in this section referred to as the "Act of 1926") by virtue of a recommendation of the F55**[**Chief Executive of the Public Appointments Service**]**, and

(*b*) the suspension or removal from employment of a manager in accordance with *section 146*.

(2) For the purposes of section 6 of the Act of 1926 a request shall be deemed to have been submitted in respect of the employment of a manager—

(*a*) in the case of a manager to whom *section 147* applies,

(i) 6 months in advance of the expiration of the tenure period referred to in *section 147(1)*, or

(ii) on the date that manager ceases to hold employment,

whichever is the earlier, and

(*b*) in any other case,

(i) 6 months in advance of the date that manager would attain the age-limit for his or her employment, or

(ii) on the date that manager ceases to hold employment,

whichever is the earlier.

F56**[**(3) Where, as respects a county council or city council, including a county council or city council in a group of authorities—**]**

(*a*) a recommendation is made under section 6 of the Act of 1926 of a person for appointment as the manager, and

(*b*) on the expiration of 3 months after the date of the recommendation, the person has not become appointed, under *subsection (1)*, then, notwithstanding any other provision of this or any other enactment, the person shall thereupon, if still available for appointment, become and be appointed by virtue of this subsection as the manager.

F57**[**(3A) In relation to the first appointment, after the commencement of *Part 4* of the *Local Government (Miscellaneous Provisions) Act 2012*, of a manager for a county or city in each group of authorities, the Minister may, by order, appoint to that position a person who, at such commencement, is the manager for a county or city included in the group of authorities concerned, other than a person appointed under subsection (4), and in such case subsections (1)(*a*), (2) and (3) shall not apply.**]**

(4) Where a position of manager becomes vacant the Minister shall appoint a person to be the manager temporarily until a permanent appointment to the position is made but such temporary appointment may be terminated by the Minister at any time.

(5) Section 5 of the Act of 1926 does not apply to the position of manager.

Annotations

Amendments:

F55 Substituted (6.10.2004) by *Public Service Management (Recruitment and Appointments)* Act 2004 (33/2004), s. 61(1) and sch. 2 part 1, commenced on enactment.

F56 Substituted (15.08.2012) by *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), s. 17(a), S.I. No. 292 of 2012.

F57 Inserted (15.08.2012) by *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), s. 17(b), S.I. No. 292 of 2012.

Suspension and removal of manager.

146.—(1) (*a*) Subject to this section, the elected council of a county council or city council may by resolution suspend or remove from employment the manager for such county council or city council, as the case may be, for stated misbehaviour or if his or her suspension or removal appears to them to be necessary for the effective performance by the county council or city council, as the case may be, of its functions.

(*b*) A copy of any resolution passed under this section shall be sent without delay to the Minister.

(2) Notice of the intention to propose a resolution under this section shall—

(*a*) be signed by at least one-third of the total number of members of the county council or city council concerned,

(*b*) contain a statement of the reasons for the proposed suspension or removal,

(*c*) in the case of a suspension, specify a period not exceeding 2 months for the proposed suspension,

(*d*) specify a day for the holding of a special meeting to consider the proposed suspension or removal being a day which is not less than 21 days after the day on which the notice is delivered under *paragraph (e)*,

(*e*) be delivered to the meetings administrator, and

(*f*) be delivered or sent to the manager concerned.

(3) The meetings administrator shall on receipt of a notice and without delay send a copy of it to every member of the local authority and convene a special meeting for the date so specified to consider the proposed suspension or removal.

(4) The manager may prepare a statement of response in relation to the proposed suspension or removal and such statement shall be sent to each member of the local authority concerned.

(5) It is necessary for the passing of a resolution under this section that—

(*a*) at least three-quarters of the total number of members of the county council or city council concerned vote in favour of the resolution, and

(*b*) the members of the council concerned shall have considered any statement prepared by the manager under *subsection (4)*.

(6) A person who is suspended under this section may subsequently be removed from office in accordance with this section.

(7) (*a*) A manager shall not be removed under this section without the sanction of the Minister given under this subsection.

(*b*) The Minister may appoint a panel of 3 persons—

(i) to consider the removal of a manager the subject of a resolution under this section and the manager's statement of response,

(ii) to recommend whether the Minister should give sanction to such removal, and

(iii) to make such other recommendations (if any) as the panel may consider appropriate in all the circumstances.

(*c*) A panel shall be independent in the performance of its functions.

(*d*) A panel shall include a chairperson and 2 other persons having knowledge of or experience in local government, human resources or management.

(*e*) A sanction shall not be given under this subsection except by virtue of a recommendation under *paragraph (b)*.

(8) The Minister may by regulations prescribe any matter of procedure for the purposes of this section.

Tenure of manager.

147.— (1) Notwithstanding any other enactment, a person appointed to a position of manager holds the employment unless he or she earlier dies, resigns or is removed, during whichever of the following tenure periods is the shorter—

(*a*) a period of such length as the Minister specifies by order,

(*b*) the period from the date of the appointment to the date on which he or she attains such age as the Minister specifies by order,

and on the expiration of that period he or she ceases to hold the employment.

(2) Notwithstanding any enactment (including *subsection (1)*) or instrument made under such enactment, the tenure period of a manager referred to in *subsection (1)(a)* shall, subject to and in accordance with this section and with regulations made by the Minister for the purposes of this subsection, be extended where notification (in this section referred to as the "prescribed notification")—

(*a*) is given by the manager to the Cathaoirleach of the local authority concerned, and

(*b*) is in the form prescribed by regulations made under this section,

but in no case shall the tenure period as so extended exceed 10 years.

(3) On receipt of a prescribed notification the Cathaoirleach of the local authority concerned shall—

(*a*) inform the members of the local authority of it at the next meeting of that local authority, and

(*b*) transmit a copy of it to the Minister and to the F58**[**Chief Executive of the Public Appointments Service**]**.

(4) The Minister may make regulations for the purposes of *subsection (2)* and such regulations may provide for:

(*a*) the form of the prescribed notification;

(*b*) the period (in this section referred to as the "notification period") within which a prescribed notification shall be given;

(*c*) subject to *subsection (2)*, the period by which the tenure period shall be extended;

(*d*) the positions of manager to which *subsection (5)* does not apply;

(*e*) the application of different periods for the purposes of *paragraphs (b)* and *(c)* to specified classes of manager.

(5) Subject to regulations made under *subsection (4)(d)*:

(*a*) a manager whose tenure period is extended under *subsection (2)* shall not apply for appointment to any position of manager during the period commencing on the date the manager gives a prescribed notification and ending on a date which is 6 months prior to the expiration of the extended tenure period (in this subsection referred to as the "exclusion period"), and

(*b*) notwithstanding section 6 of the Local Authorities (Officers and Employees) Act, 1926, a manager who has given a prescribed notification shall not be considered by the F58**[**Public Appointments Service**]** for selection for any position of manager during the exclusion period.

(6) (*a*) A notification period referred to in *subsection (4)(b)* shall be wholly within the tenure period.

(*b*) A prescribed notification for the purposes of this section which is given outside of the notification period is invalid.

(7) Where the tenure period of a manager stands extended in accordance with this section, such extended tenure period shall be the tenure period for the purposes of *subsection (2)* of *section 145* and that section shall apply accordingly.

(8) The Local Government (Tenure of Office) Order, 2000 (S.I. No. 221 of 2000), and the Local Government (Tenure of Office of Managers) Regulations, 2000 (S.I. No. 219 of 2000), shall be deemed to have been made under *subsections (1)* and *(4)*, respectively, and shall continue to have effect and may be amended or revoked accordingly.

(9) Nothing in this section operates to interfere with or alter the tenure of a manager—

(*a*) appointed before the commencement of section 47 of the Local Government Act, 1991 (in this subsection referred to as the "Act of 1991"), or

(*b*) whose tenure is governed by an order under section 47 of the Act of 1991, or

(*c*) whose tenure is governed by such an order and section 47A (inserted by section 1 of the Local Government Act, 2000) of the Act of 1991,

notwithstanding the repeal by this Act of the Act of 1991 and of the Local Government Act, 2000.

Annotations

Amendments:

F58 Substituted (6.10.2004) by *Public Service Management (Recruitment and Appointments)* Act 2004 (33/2004), s. 61(1) and sch. 2 part 1, commenced on enactment.

Modifications (not altering text):

C21 Application of subs. (5) restricted (11.11.2011) by *Local Government (Tenure of Office of Managers) Regulations 2011* (S.I. No. 573 of 2011), reg. 3(4).

(4) Section 147(5) of the Act shall not apply to the following positions:

(a) the position of Dublin City Manager;

(b) the position of Cork County Manager;

(c) the position of Cork City Manager;

(d) the position of Dún Laoghaire-Rathdown County Manager;

(e) the position of Fingal County Manager;

(f) the position of South Dublin County Manager;

(g) the position of Meath County Manager, and;

(h) the position of Kildare County Manager.

Editorial Notes:

E54 Power pursuant to section exercised (15.05.2012) by *Local Government (Tenure of Office of Managers) (Amendment) Regulations 2012* (S.I. No. 157 of 2012).

E55 Power pursuant to section exercised (13.02.2012) by *Local Government (Tenure of Office of Managers) Regulations 2012* (S.I. No. 50 of 2012).

E56 Power pursuant to section exercised (11.11.2011) by *Local Government (Tenure of Office of Managers) Regulations 2011* (S.I. No. 573 of 2011).

E57 Previous affecting provision: power pursuant to section exercised and application of subs. (5) restricted (12.02.2003) by *Local Government (Tenure of Office of Managers) Regulations 2003* (S.I. No. 47 of 2003); revoked (11.11.2011) by by *Local Government (Tenure of Office of Managers) Regulations 2011* (S.I. No. 573 of 2011), reg. 4.

Deputy manager.

148.—(1)F59**[**(*a*) A manager, following consultation with the Cathaoirleach of the county or city council concerned, or, subject to subsection (3A), in the case of a manager for a county or city in a group of authorities, following consultation with the Cathaoirleach of each of the authorities in the group of authorities concerned, may by order appoint an employee of the authority or authorities concerned to be a deputy manager for the purposes of subsection (2) and may at any time terminate such appointment.**]**

(*b*) An order under *paragraph (a)* may provide that where an appointee specified in the order is not available such other employee as may be so specified shall stand appointed as deputy manager for so long as the first-mentioned appointee is unavailable.

(*c*) An appointment under this subsection may be made by reference to a particular individual or to the holder for the time being of a particular employment.

(2) A deputy manager shall by virtue of this section act as and be the manager for the duration of any period which may arise from time to time (whether by way of vacation, illness or other reason) during which the manager is temporarily unable to act.

(3) (*a*) Where a manager has for any reason become temporarily unable to act and—

(i) has not made an appointment under *subsection (1),*

(ii) there is no subsisting appointment, or

(iii) the appointee is incapacitated or otherwise unable to act,

F59**[**the Cathaoirleach of the county or city council concerned, or in the case of a group of authorities, the Cathaoirleach of such county or city council as the Minister shall direct, may appoint an employee of the local authority or local authorities concerned**]** to be deputy manager for the remainder of the duration of the inability of the manager to act and may at any time terminate such appointment.

(*b*) Notification of an appointment under *subsection (1)* or *(3)* shall be sent to the Minister and every member of every local authority concerned as soon as may be after the appointment is made.

F60**[**(3A) Where a deputy manager is appointed for a county or city in a group of authorities, the same person shall be appointed to be the deputy manager for each of the counties or the county and city in the group of authorities concerned.**]**

(4) (*a*) The Minister may appoint an employee of a local authority to be deputy manager if a manager is for any reason temporarily unable to act and an appointment under *subsection (1)* or *(3)* is not for the time being in force.

(*b*) The Minister may at any time terminate an appointment to which *paragraph (a)* applies.

(5) A deputy manager shall act as and be the manager during the continuance of the inability of the manager to act or until—

(*a*) the appointment is sooner terminated under *subsection (1), (3)* or *(4)*, or

(*b*) on account of the death, retirement, resignation or inability otherwise to act, of the deputy manager.

(6) A reference in any enactment including this Act to a manager shall be read as including a deputy manager acting as manager in accordance with this section.

Annotations

Amendments:

F59 Substituted (15.08.2012) by *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), s. 18(a) and (b), S.I. No. 292 of 2012.

F60 Inserted (15.08.2012) by *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), s. 18(c), S.I. No. 292 of 2012.

Executive functions.

149.—(1) In this section—

"elected council" includes the members of a joint body;

"local authority" includes a joint body.

(2) In respect of each local authority for which he or she is manager, a manager is responsible for—

(*a*) the efficient and effective operation of each such local authority, and

(*b*) for ensuring under *section 132* the implementation without undue delay of the decisions of the elected council.

(3) For the purposes of discharging the responsibilities set out under *subsection (2),* the manager shall—

(*a*) exercise and perform in respect of each local authority for which he or she is the manager the executive functions of such local authority (including all functions in relation to the employees of each such local authority), and

(*b*) for that purpose carry on and manage and control generally the administration and business of the authority.

(4) Every function of a local authority which is not a reserved function is, for the purposes of this Act, an executive function of such local authority.

(5) All such matters and things, including the making of contracts and the affixing of the official seal, as are necessary for or incidental to the exercise or performance of the executive functions of a local authority shall, subject to this Act or any regulations made under it, be done by the manager for such local authority.

(6) Subject to law, the functions of a manager shall be performed in accordance with the policy of the local authority as determined by the elected council in accordance with *Chapter 1* of this Part.

Chapter 3

Procedural Matters

Definitions.

150.—In this Chapter—

"elected council" includes the members of a joint body;

"local authority" includes a joint body.

Manager acting by signed order.

151.—(1) The manager shall in carrying out the executive functions for each local authority for which he or she is manager act by a written order signed and dated by him or her in respect of the functions to which this section applies.

(2) This section applies to every executive function which—

(*a*) is required by this or any other enactment to be done by order of a manager,

(*b*) is mentioned in *Schedule 15,*

(*c*) is designated by order made by the Minister under *subsection (9),* or

(*d*) is considered by the manager to be of sufficient importance to be done by order.

(3) Every manager shall keep, in respect of each local authority for which he or she is manager, a register in which is entered a copy of every order made by him or her in accordance with this section for such local authority.

(4) At every meeting of a local authority, there shall be available for inspection by the elected council so much of the register referred to in *subsection (3)* as contains any orders made by the manager since the last previous meeting of the local authority.

(5) Any member of a local authority is entitled on request to be furnished by the manager for the local authority with a copy of a particular order made by the manager.

(6) Every document claiming to be an order made and signed by a manager shall—

(*a*) be received in evidence without proof of the signature of the person claiming to sign such document or that such person was such manager, and

(*b*) until the contrary is proved, be deemed to be an order duly made and signed by such manager in accordance with this section and to have been so signed on the date stated in that document.

(7) Every document claiming to be certified in writing by a manager to be a true copy of an order made by a manager in accordance with this section shall—

(*a*) be received in evidence without proof of the signature of the person claiming so to certify or that such person was such manager, and

(*b*) until the contrary is proved, be deemed to be evidence of the contents of the order of which it claims to be a copy and of the fact that such order was duly made and signed by such manager in accordance with this section on the date stated in the certified copy.

(8) The failure or omission to act by signed order in accordance with this section does not of itself operate to invalidate any action or decision taken by a manager or a local authority.

(9) The Minister may by order designate an executive function to be a function to which this section applies.

(10) Subject to the provisions of any other enactment, nothing in this section shall be read as precluding the revocation or amendment of an order made by a manager by a subsequent such order.

(11) Nothing in *Schedule 15* shall be read as prejudicing the functions conferred on an elected council by this Act.

Attendance of manager at local authority meetings.

152.—(1) Every manager has the right—

(*a*) to attend and speak at meetings of a local authority for which he or she is manager, and

(*b*) to take part in its discussions,

but shall not be entitled to vote on any question which is decided by a vote of the members of such local authority.

(2) In so far as it is not inconsistent with the due performance of functions by a manager in relation to the local authorities for which he or she is manager, a manager shall attend—

(*a*) any meeting of a local authority for which he or she is manager where he or she is requested by the elected council of that local authority to attend, and

(*b*) any meeting of a committee of a local authority where he or she is requested by the elected council of that local authority to attend.

(3) Whenever a manager attends a meeting of a local authority or of a committee of the local authority in accordance with *subsection (2)*—

(*a*) he or she shall give to the elected council of such local authority or committee (as the case may be) such advice and assistance as shall reasonably be required of him or her by the council or committee (and the members of the council or committee shall have regard to that advice or assistance), and

(*b*) he or she shall arrange for the attendance at such meeting of such of the employees of the local authorities for which he or she is manager as may be appropriate having regard to the business to be transacted at that meeting.

(4) Without prejudice to *section 154,* in this section "manager" includes an employee to whom the functions of the manager stand delegated in accordance with that section in respect of the local authority in question.

Legal proceedings.

153.—(1) The manager for a local authority—

(*a*) shall act for and on behalf of the local authority in every action or other legal proceeding whether civil or criminal, instituted by or against the local authority, and

(*b*) may do all such acts, matters, and things as he or she may consider necessary for the preparation and prosecution or defence of such action or other proceeding in the same manner in all respects as if (as the case may require) he or she were the plaintiff, prosecutor, defendant or other party to that action or other proceeding.

(2) Where an action or other proceeding relates to the exercise or performance by the local authority of a reserved function, the manager for that authority shall, in the doing of any such act, matter, or thing referred to in *subsection (1),* act with the express authorisation of the elected council of such local authority, and in any proceedings such authorisation shall be deemed to have been given unless or until the contrary is shown.

Delegation of functions.

154.—(1) This section does not apply for the purposes of the appointment of a deputy manager, in respect of which *section 148* applies.

(2) A manager for a local authority may by order delegate such of his or her functions as he or she thinks proper to an employee of any local authority for which he or she is manager and such person shall perform such duties as are appropriate to the functions so delegated and shall for that purpose and subject to this section act in place of the manager.

(3) Where a delegation is made under this section—

(*a*) the employee shall perform the delegated function under the general direction and control of the manager,

(*b*) the employee shall perform the delegated function in accordance with such (if any) limitations as may be specified in the delegation as to the area or period in which or the extent to which he or she is to perform that function,

(*c*) a provision of or under this or any other enactment which vests functions in the manager or regulates the manner in which any function is to be performed (including the making of an order under *section 151*) shall, if and in so far as it is applicable to the delegated function, have effect, for the purposes of the performance of that function by the employee, with the substitution of the employee for the manager and every such provision shall be read accordingly.

(4) Where a function is delegated under this section the function shall continue to be vested in the manager but shall be so vested concurrently with the employee to whom it is delegated and so as to be capable of being performed by either such manager or such employee.

(5) The manager may by order amend or revoke a delegation made under this section or made under any other provision repealed by this Act.

(6) Where a function is performed by an employee pursuant to a delegation under this section and any surcharge or charge subsequently falls to be made consequent on such performance in case the payment was made or authorised to be made or the loss or deficiency was caused, by the employee, the manager shall be treated as if he or she also had made or authorised the making of the payment or had caused the loss or deficiency.

(7) A delegation under this section may be made to a particular employee of a local authority or to the holder for the time being of a specified class, description or grade of employment under a local authority.

(8) Notification of a delegation under this section or of its subsequent amendment or revocation shall be given to the members of the local authority concerned.

(9) Any defect in a delegation or the absence of a delegation in respect of a function performed by an employee acting in good faith on behalf of the local authority does not of itself operate to invalidate any action or decision of the local authority.

Chapter 4

Local Authority Personnel

Definitions (*Chapter 4*).

155.—In this Chapter, except where the context otherwise requires—

"appropriate Minister" has the meaning given by *section 156*;

"Board" means the body established under article 4 of the Local Government Management Services Board (Establishment) Order, 1996 (S.I. No. 410 of 1996), or any other body established by the Minister under section 3 of the Local Government Services (Corporate Bodies) Act, 1971, or otherwise, to provide services similar to those of the Board;

F61**[**...**]**

"local authority" includes a joint body.

Annotations

Amendments:

F61 Deleted (6.10.2004) by *Public Service Management (Recruitment and Appointments)* Act 2004 (33/2004), s. 61(1) and sch. 2 part 1, commenced on enactment.

Appropriate Minister.

156.—(1) In this Chapter "appropriate Minister" means—

(*a*) where the duties of a particular employment or employments of a particular class, description or grade relate wholly or mainly to the functions of a Minister of the Government other than the Minister, such Minister of the Government,

(*b*) in all other cases, the Minister.

(2) If any question or dispute arises as to whether the duties of a particular employment or employments of a particular class, description or grade relate wholly or mainly to the functions of a Minister of the Government other than the Minister, the matter shall be referred to the Minister for determination and the decision of the Minister shall be final.

(3) The appropriate Minister, may amend or revoke any declaration made or deemed to have been made or any direction given by him or her under this Chapter.

Application (*Chapter 4*).

157.—(1) Subject to the provisions of *subsections (2)* and *(3)*, this Chapter applies to every employment under a local authority and to every employee of a local authority.

(2) (*a*) For the purposes of this Part, an employee of a local authority includes every person who is, immediately prior to the commencement of this section, a holder of an office under a local authority.

(*b*) The fact that a person is employed by a local authority on the commencement of any provision of this Chapter is not a ground for contending that such provision does not apply in relation to him or her.

(3) For the purposes of this Chapter, the following offices are deemed not to be employments under a local authority and every holder, as such, of any of those offices is deemed not to be the holder of an employment under a local authority—

(*a*) the office of coroner or deputy coroner under the Coroners Act, 1962,

(*b*) the offices under the Courthouses (Provision and Maintenance) Act, 1935, of caretaker and assistant to the caretaker of courthouse accommodation,

(*c*) the offices under the Pounds (Provision and Maintenance) Act, 1935, of poundkeeper and assistant to a poundkeeper.

(4) For the purpose of this Chapter, a payment to a person by virtue of *section 142(2)* is not a ground for contending that the person is an employee of a local authority.

Provisions relating to the employment of persons by local authorities.

158.—(1) (*a*) Subject to this Chapter, *Chapter 2* of this Part and the Local Authorities (Officers and Employees) Acts, 1926 to 1983, a local authority may employ such and so many persons as the local authority may, from time to time, think proper.

(*b*) A local authority shall determine the remuneration and conditions of employment of its employees and may, from time to time, alter the remuneration and conditions of employment of such employees.

(*c*) The appropriate Minister may, in relation to—

(i) any employment for which he or she is the appropriate Minister, or

(ii) such employments for which he or she is the appropriate Minister as belong to a particular class, description or grade of employments,

declare any specified age to be the age at which an employee is to cease to hold employment under a local authority.

(*d*) The appropriate Minister may at any time direct that any of the functions conferred on a local authority by this Chapter shall, in relation to an employment or employments for which he or she is the appropriate Minister, be exercisable either generally or in relation to a particular local authority or to specified local authorities, only with his or her consent, or subject to such other conditions or requirements as may be so directed.

(2) A local authority in exercising any function referred to in *subsection (1)* in relation to an employment for which the Minister is the appropriate Minister, shall, subject to *paragraphs (c)* and *(d)* of that subsection, have regard to any guidelines, codes of practice or other guidance issued by the Board in relation to such function.

(3) The functions conferred on an elected council or a Cathaoirleach by this Part, other than those referred to in *sections 145(1)* and *148*, do not apply or extend to employees of a local authority or to the performance of any executive function in relation to such employees or their direction, supervision, service, remuneration or discipline and any resolution which claims to so apply or extend is invalid.

Staffing and organisational arrangements.

159.—(1) The manager shall for the purposes of discharging the responsibilities set out under *section 149* make such staffing and organisational arrangements as may be necessary for the purposes of carrying out the functions of the local authorities for which he or she is responsible.

(2) Subject to this Part the functions of a local authority may be discharged through or by the employees of that authority or any other local authority for which the manager is responsible.

(3) An employee of a local authority shall—

(*a*) perform such duties as may from time to time be assigned to him or her in relation to his or her employment and as may be appropriate to any particular function of any local authority for which the manager is responsible, and

(*b*) carry out such instructions as may be duly given in relation to the performance of his or her duties.

(4) Where by an agreement or arrangement under *Part 10* or otherwise a local authority exercises or performs a function of another body or provides a service to another body,

(*a*) it is the duty of every employee of the local authority to perform such duties appropriate to the nature of that function or service as the local authority may decide, and

(*b*) in case the other body is a local authority, it is the duty of every employee of that local authority to refrain from performing such duties appropriate to the nature of that function or service as that local authority may decide.

(5) (*a*) An employee of a local authority shall not engage—

(i) in any gainful occupation, other than as an employee of the local authority, to such an extent as to impair the performance of his or her duties as an employee of the local authority, or

(ii) in any occupation which might—

(I) conflict with the interests of the local authority, or

(II) be inconsistent with the discharge of his or her duties as a local authority employee.

(*b*) Without prejudice to the generality of *paragraph (a)*, an employee of a local authority, the qualifications for whose post are wholly or in part professional, shall not engage in private practice in the profession in which he or she is employed by the local authority or local authorities or in any cognate profession.

(*c*) Where an employee of a local authority is in breach of *paragraph (a)* or *(b)*, the local authority shall determine the appropriate disciplinary action to be taken, which action may include suspension with or without pay or termination of employment or such other action as the local authority considers appropriate.

(*d*) In considering the action to be taken under *paragraph (c)* a local authority may have regard to the need to uphold public confidence in the integrity of the discharge of its functions.

Qualifications for employment.

160.—(1) (*a*) The appropriate Minister may declare qualifications of such classes and descriptions as he or she thinks fit for a specified employment under a local authority or for such of the employments as belong to a specified class, description or grade.

(*b*) Before declaring under this section qualifications for any employment under a local authority to which the Local Authorities (Officers and Employees) Acts, 1926 to 1983, apply, the appropriate Minister shall consult with the F62**[**Commission for Public Service Appointments**]**.

(*c*) A person is not to be appointed to any employment under a local authority for which qualifications are for the time being declared under this section unless he or she possesses those qualifications.

(*d*) For the purposes of this section, the fact that a person F62**[**has been recommended for appointment by the Chief Executive of the Public Appointments Service**]** to any employment shall be conclusive evidence, in the absence of fraud, that he or she possessed at the time of such recommendation the qualifications for the time being declared under this section for such employment.

(*e*) Where the appropriate Minister declares under this section qualifications for a specified employment, additional qualifications for that employment are not to be fixed by a local authority without the consent of the appropriate Minister.

(2) (*a*) The Minister may, by order (in this section referred to as a "transfer order"), provide that declarations of qualification which would otherwise properly be made by him or her under this section for employments specified in the transfer order shall be made by the Board.

(*b*) Whenever a transfer order is in operation, the Board has the power to amend any qualifications previously declared by the Minister in relation to any employment to which the order relates.

(*c*) A transfer order shall not prejudice the right of the Minister to make or amend any qualifications declared under this section.

(*d*) Where the Board declares qualifications by virtue of a transfer order, such declaration has effect as if it had been made by the Minister.

(*e*) The revocation of a transfer order by the Minister does not affect any existing qualifications declared by the Board unless otherwise expressly provided for in the order.

(3) (*a*) Notwithstanding *subsections (1)* and *(2)*, a local authority may, from time to time, fix qualifications for any employment provided a declaration under *subsection (1)* in relation to such employment is not in force.

(*b*) Whenever qualifications are declared under this section by the appropriate Minister, or by the Board by virtue of a transfer order, in relation to a particular employment, any qualifications previously fixed by a local authority in relation to such employment shall cease to have effect.

(4) (*a*) Any qualifications declared by the Board under this section may be amended or revoked by the Minister or the Board.

(*b*) A local authority may amend the qualifications for any employment fixed by it under *subsection (3)*.

(5) A declaration made under section 21 of the Local Government Act, 1941, before the commencement of this provision shall, on and from such commencement, be deemed to have been made under this section.

Annotations

Amendments:

F62 Substituted (6.10.2004) by *Public Service Management (Recruitment and Appointments)* Act 2004 (33/2004), s. 61(1) and sch. 2 part 1, commenced on enactment.

Restrictions on local authority employment and membership of a local authority.

161.—(1) (*a*) Subject to *paragraph (b),* a member of a local authority is not to be employed by a local authority.

(*b*) The Minister may by order—

(i) designate such class, description or grade of employments to which *paragraph (a)* does not apply,

(ii) specify such conditions under which *paragraph (a)* does not apply.

(2) This section comes into operation and has effect on and from the ordinary day of retirement of members next after the enactment of this F63**[**Act, subject to the proviso that an order under subsection (1)(*b*) may be made before or after that day**]**.

(3) F63**[**Where, after the said ordinary day of retirement,**]** an order under this section is proposed to be made, a draft of it shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each House of the Oireachtas.

(4) F64**[**...**]**

Annotations

Amendments:

F63 Substituted (19.05.2004) by *Electoral (Amendment) Act 2004* (15/2004), s. 34(a) and (b), S.I. No. 215 of 2004.

F64 Deleted (19.05.2004) by *Electoral (Amendment) Act 2004* (15/2004), s. 34(c), S.I. No. 215 of 2004.

Editorial Notes:

E58 Power pursuant to section exercised (19.05.2004) by *Local Government Act 2001 (Section 161) Order 2004* (S.I. No. 216 of 2004).

Modification of restriction on being employed under certain related bodies.

162.—(1) (*a*) In this section, "section 70(1) as applied" means section 70(1) of the Local Government Act, 1925, as applied by section 26 of the Vocational Education Act, 1930, as continued in operation for the purposes of such application by section 21(5) of the Local Government Act, 1955, and as read in accordance with—

(i) section 25(6) of the Local Elections (Petitions and Disqualifications) Act, 1974, and

(ii) section 12 of the Regional Technical Colleges (Amendment) Act, 1999.

(*b*) Without prejudice to *section 6,* and notwithstanding the repeal of section 70(1) of the Local Government Act, 1925, and section 21(5) of the Local Government Act, 1955, by this Act, section 70(1) as applied continues to have full force and effect.

(2) (*a*) After consultation with the Minister for the purpose of *paragraph (b),* the Minister for Education and Science may be order designate a class, description or grade of employments.

(*b*) For so long as an order under this subsection is in force, section 70(1) as applied shall not apply as regards an employment which is of a class, description or grade designated by the order.

(*c*) Any order made by the Minister for Education and Science under section 25(2) of the Local Elections (Petitions and Disqualifications) Act, 1974, and in force immediately before the commencement of this subsection shall be deemed to have been made by that Minister under this subsection.

(*d*) After consultation with the Minister, an order under this subsection (including an order under this paragraph) may by order be amended or revoked by the Minister for Education and Science.

(3) Where an order under *subsection (2)* is proposed to be made, a draft of it shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each House of the Oireachtas.

Amendment of Local Authorities (Officers and Employees) Act, 1926.

163.—Section 6 of the Local Authorities (Officers and Employees) Act, 1926, is amended by the substitution of the following for subsection (5):

"(5) Subsection (4) of this section shall have effect subject to the proviso that where the local authority specifies a period (not less than one month) within which the person who is recommended by the Commissioners is to take up duty and notify the person of the period so specified, the local authority shall not appoint that person unless such duty is taken up within that period.".

Amendment of Unfair Dismissals Act, 1977.

164.—Section 2(1) of the Unfair Dismissals Act, 1977, is amended by the substitution of the following for paragraph (*i*):

"(*i*) a manager for a local authority for the purposes of *section 144* of the *Local Government Act, 2001*,".

Savers (*Chapter 4*).

165.—(1) The Local Offices (Irish Language) Regulations, 1966 (S.I. No. 221 of 1966), made under sections 13 and 19 of the Local Government Act, 1941, shall remain in force after the commencement of the provisions repealing those sections and, by regulations made by the appropriate Minister by virtue of this subsection, may be amended to the same extent as provided for by those sections or may be revoked.

(2) Every declaration made under section 23 of the Local Government Act, 1941, which is in force in relation to a person on the commencement of the provision repealing that section remains in force in relation to him or her after such commencement and, by declaration made by the appropriate Minister by virtue of this subsection, may be amended to the same extent as provided for by that section or may be revoked.

(3) (*a*) Notwithstanding the repeal of section 10 (as amended by section 12 of the Local Government Act, 1955) of the Local Government Act, 1941, where an appeal under that section has been made to the appropriate Minister before such repeal, that appeal shall continue to be considered and may be determined under that section.

(*b*) Notwithstanding the repeal of section 26 (as amended by section 41 of the Local Government Act, 1946) of the Local Government Act, 1941, where a request under that section for the consent of the appropriate Minister has been made before such repeal, that request shall continue to be considered and may be determined under those sections.

(*c*) In this subsection, "appropriate Minister" has the same meaning that it has in Part II of the Local Government Act, 1941.

PART 15

Ethical Framework for the Local Government Service

Annotations

Modifications etc. (not altering text):

C22 Definition of "return period" construed (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004), reg. 6.

6. *Return Period*

(1) Subject to sub-article (2), the return period for the purposes of Part 15 of the Act shall be the period ending on the last day of February of each year.

(2) (*a*) In a local election year the return period for incoming members to a local authority, who were not members of that local authority immediately prior to the local election in question, shall be the period of 6 weeks from the ordinary day of retirement in that year.

(*b*) In the case of a person referred to in section 174(3) of the Act, the return period shall be the period of 6 weeks from the date such person becomes a person to whom section 167(1) of the Act applies.

(*c*) In these Regulations "local election year" and "ordinary day of retirement" shall be construed in accordance with the Act.

Interpretation (*Part 15*).

166.—(1) In this Part, except where the context otherwise requires—

"actual knowledge" means actual, direct and personal knowledge as distinct from constructive, implied or imputed knowledge and includes, in relation to a fact, belief in its existence the grounds for which are such that a reasonable person who is aware of them could not doubt or disbelieve that the fact exists;

"appropriate period" means—

(*a*) in the case of a first declaration of a person to whom *section 167(1)* applies, the period which ended 12 months up to and including the date of his or her first declaration, and

(*b*) in the case of subsequent declarations, the period between the date of his or her last previous declaration and the date of the next subsequent declaration;

"Commission" means the Public Offices Commission established by section 21 of the Ethics in Public Office Act, 1995, or any body established in place of such Commission;

"connected person" means a brother, sister, parent or F65**[**spouse or civil partner within the meaning of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* of the person**]** or a child of the person or of the spouse;

"declarable interest" has the meaning set out in *section 175*;

"employee", in relation to a local authority, means an employee to whom this Part applies and, subject to *subsection (2)*, includes a manager for a local authority unless otherwise specified;

"ethics registrar" has the meaning given by *section 173(1)*;

"gift" includes a gift of money or other property;

"property" means real or personal property;

"relevant code of conduct" means the National Code of Conduct for Local Authority Members or the National Code of Conduct for Local Authority Employees, which are referred to in *section 169*;

"return period" means a period not exceeding 28 days from the commencement date specified in the relevant notice issued by the ethics registrar under *section 174* or such other period as may be prescribed by regulations made by the Minister under *section 171(4)*;

"spouse", in relation to a person, includes a person with whom the first-mentioned person is cohabiting.

(2) For the purposes of this Part—

(*a*) a manager shall be deemed to be an employee of every local authority for which he or she is manager,

(*b*) an employee of a local authority who, by virtue of an arrangement or agreement entered into under this Act or any other enactment, is performing duties

under or in respect of another local authority, shall be deemed to be also an employee of the other authority.

(3) Where any body which is a company within the meaning of section 155 of the Companies Act, 1963, is deemed under that section to be a subsidiary of another or to be another such company's holding company, a person who is a member of the first-mentioned such company shall, for the purposes of *section 171* and *sections 175* to *179* be deemed also to be a member of the other company.

Annotations

Amendments:

F65 Substituted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 97 and sch. part 1, item 28, S.I. No. 648 of 2010.

Modifications etc. (not altering text):

C23 Definition of "Commission" amended (10.12.2001) by *Ethics in Public Office Act 1995* (22/1995), s. 21, as substituted (10.12.2001) by *Standards in Public Office Act 2001* (31/2001), s. 2, S.I. No. 576 of 2001 and resolutions of both Houses of the Oireachtas.

Establishment, membership and functions of Commission.

21.—**[**(1) There is hereby established, in place of the Public Offices Commission, a commission (which shall be known as the Standards in Public Office Commission and is referred to in this Act as 'the Commission').**]**

Editorial Notes:

E59 Previous affecting provision: power pursuant to section exercised (1.01.2003) *Local Government Act, 2001 (Part 15) Regulations 2002* (S.I. No. 582 of 2002) regs. 4 and 5; revoked (1.01.2005) by *Local Government Act, 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004) reg. 3.

Application (*Part 15*).

167.—(1) This Part applies to—

(*a*) a member of a local authority,

(*b*) an employee of a local authority who is of a class, description or grade prescribed by regulations made by the Minister for the purposes of this Part, and

(*c*) any other employee or other person who is the holder of a position designated by an order made by the manager for a local authority for the purposes of this Part.

F66**[**(1A) In addition to those employees to whom this Part applies by virtue of subsection (1), sections 168, 169 and 170 also apply to every other employee of a local authority and those sections shall be read accordingly.**]**

(2) This Part, other than *sections 171, 175* and *178* also applies, where relevant, to any person to whom *subsection (1)* does not apply and—

(*a*) who is a member of a committee of a local authority, or

(*b*) whose services are being availed of by the local authority,

and a code of conduct under *section 169* may contain provisions in relation to such persons.

(3) Where a person to whom this Part applies has an interest in land or an interest relating to land or any business of dealing in or developing land by reason only of the

beneficial ownership of shares in a company or other body by him or her or by his or her nominee or by a connected person or a nominee of a connected person and the total nominal value of those shares does not exceed the lesser of—

(*a*) £10,000, or

(*b*) one-hundredth part of the total nominal value of either the issued share capital of the company or body or, where that capital is issued in shares of more than one class, the issued share capital of the class or classes of shares in which he or she has an interest,

the requirements of *section 171* and *sections 175* to *179* shall not have effect in relation to that interest or interests.

(4) Notwithstanding *subsection (2),* the Minister may prescribe by regulations some or all of the provisions of *sections 171* and *175*, as provisions which apply to a person to whom *subsection (2)* applies, subject to such modifications or adaptations as are necessary.

(5) (*a*) Part VII of the Act of 2000 shall cease to apply to—

(i) a member of a planning authority,

(ii) a member of a committee of a planning authority, and

(iii) an officer of a planning authority.

(*b*) A declaration given in accordance with section 147 of the Act of 2000 by—

(i) a member of a planning authority, or

(ii) an officer of a planning authority,

shall continue to apply and have effect until replaced by a declaration furnished to the ethics registrar under *section 171* of this Act.

Annotations

Amendments:

F66 Inserted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Editorial Notes:

E60 Power pursuant to section exercised (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004).

E61 Previous affecting provision: power pursuant to section exercised (28.02.2003) by *Local Government Act 2001 (Part 15) Regulations 2003* (S.I. No. 73 of 2003); revoked (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004), reg. 3.

E62 Previous affecting provision: power pursuant to section exercised (1.01.2003) by *Local Government Act 2001 (Part 15) Regulations 2002* (S.I. No. 582 of 2002); revoked (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004), reg. 3.

Standards of integrity.

168.—In carrying out their functions under this or any other enactment, it is the duty of every member and every employee of a local authority and of every member of every committee to maintain proper standards of integrity, conduct and concern for the public interest.

Codes of conduct for Local Government Service.

169.—(1) (*a*) After consultation with the Commission and the Minister for Finance, the Minister, may issue codes of conduct for the guidance of members of local authorities and of employees of local authorities.

(*b*) A code of conduct shall deal with the conduct and standards of integrity of members and employees in performing their functions or in relation to any other matter connected with this Part.

(*c*) In addition to the matters provided for by *paragraph (b),* a code of conduct shall also deal with matters which, in the opinion of the Minister, will help to uphold public confidence in the integrity of the discharge of local authority functions.

(*d*) Codes to which this section relate shall be known as the National Code of Conduct for Local Authority Members and the National Code of Conduct for Local Authority Employees or by such other name as the Minister may decide from time to time.

(2) The Minister may at any time review a code of conduct and may amend the code of conduct or withdraw it and issue a new code of conduct.

(3) (*a*) Each member shall have regard to and be guided by the relevant code of conduct in the exercise of his or her functions.

(*b*) Each employee shall, in so far as the code of conduct applies to that employee, have regard to and be guided by the code of conduct in the exercise of his or her functions.

(*c*) There shall be deemed to be included in the terms and conditions of employment of an employee an undertaking by him or her to have regard to and be guided by the code of conduct in the exercise of his or her functions.

(4) (*a*) (i) As soon as practicable after the election or co-option of a person as a member of a local authority, the ethics registrar shall supply to each such member a copy of the National Code of Conduct for Local Authority Members.

(ii) The notice issued by the ethics registrar under *section 174* shall draw the member's attention to the code of conduct and to *subsection (3)(a)*.

(*b*) (i) The ethics registrar shall supply to each employee, as soon as practicable, a copy of the National Code of Conduct for Local Authority Employees.

(ii) The notice issued by the ethics registrar under *section 174* shall draw the employee's attention to the code of conduct and to *subsection (3)(b)* and *(c)*.

(5) (*a*) A court may have regard to a code of conduct issued under this section in any proceedings for an offence under this Part.

(*b*) The Commission may have regard to a code of conduct issued under this section in the carrying out of its functions in relation to a local authority.

(6) A code of conduct adopted by a planning authority under section 150 of the Act of 2000 shall continue to apply and have effect until replaced by a code of conduct issued under this section.

Annotations

Modifications (not altering text):

C24 Functions transferred and references to "Department of Finance" and "Minister for Finance" in subs. (1)(a) construed (29.07.2011) by *Finance (Transfer of Departmental Administration and*

Ministerial Functions) Order 2011 (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 37 of 2001	Local Government Act 2001	Sections 66(7), 81(6), 92(2), 109(8), 169(1)(a), 212(3) and 231(1)
...	...	...

Prohibition of favours, rewards, etc.

170.—(1) An employee or a member of a local authority or of a committee of a local authority shall not seek, exact or accept from any person, other than from the local authority concerned, any remuneration, fee, reward or other favour for anything done or not done by virtue of his or her employment or office, and a code of conduct under *section 169* may include guidance for the purposes of this subsection.

(2) *Subsection (1)* shall not be read so as to exclude the persons to whom that subsection relates from the application of the Prevention of Corruption Acts, 1889 to 1995, and any Act which is to be construed together as one with those Acts.

Annual declaration.

171.—(1) It is the duty of a person to whom *section 167(1)* applies to prepare and furnish to the ethics registrar in accordance with *subsection (2)* or *(3)*, as the case may be, an annual written declaration (in this Part referred to as an "annual declaration" or "declaration", as the case may be), in the form prescribed by regulations made by the Minister, signed and dated by him or her and containing—

(*a*) particulars of his or her declarable interests (within the meaning of *section 175*), and

(*b*) an undertaking by him or her to have regard to and be guided by the relevant code of conduct in the exercise of his or her functions.

(2) Each member of a local authority shall prepare and furnish to the ethics registrar within the return period each year, an annual declaration and a statement that none of the grounds for disqualification referred to in *section 13* or *182*, or under section 20 of the Local Elections (Disclosure of Donations and Expenditure) Act, 1999, apply.

(3) Each employee of a local authority shall prepare and furnish to the ethics registrar within the return period each year an annual declaration.

(4) The Minister may notwithstanding the definition of return period in *section 166* prescribe by regulations a different commencement date or a different return period to the commencement dates or periods referred to in the definition of return period as the commencement date or period from or within which a declaration shall be furnished.

(5) It shall not be necessary to specify in an annual declaration under this section the amount or monetary value of any declarable interest within the meaning of *section 175*.

Annotations

Editorial Notes:

E63 Power pursuant to section exercised (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004).

E64 Previous affecting provision: power pursuant to section exercised (28.02.2003) by *Local Government Act 2001 (Part 15) Regulations 2003* (S.I. No. 73 of 2003); revoked (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004), reg. 3.

E65 Previous affecting provision: power pursuant to section exercised (1.01.2003) by *Local Government Act 2001 (Part 15) Regulations 2002* (S.I. No. 582 of 2002); revoked (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004), reg. 3.

Public register of interests.

172.—(1) The ethics registrar shall for the purposes of this Part, keep on behalf of the local authority concerned a public register which comprises of 2 parts, one containing members' interests and the other the interests of employees and persons referred to in *section 167(2)* (which register of interests is in this section referred to as the "register of interests").

(2) There shall be entered in the register of interests the particulars contained in declarations under *section 171* or disclosures under *sections 177* to *179* furnished to the ethics registrar.

(3) (*a*) The register of interests shall be kept at the offices of the local authority concerned, and shall be available for public inspection during normal office hours and any person may apply for a copy of the register or any entry in the register.

(*b*) A copy of the register of interests, or any entry in the register may be obtained by any person on the payment to the local authority concerned of such fee (if any) as the local authority shall fix not exceeding the reasonable cost of making the copy.

(4) Where a person ceases to be a person to whom *section 167* applies, any particulars entered in the register of interests as a result of a declaration or disclosure being furnished to the relevant ethics registrar under this Part shall be removed from that register by the relevant ethics registrar as soon as may be after the expiration of the period of 15 years beginning on the day on which the person ceases to be such a person.

Annotations

Modifications etc. (not altering text):

C25 Application of section restricted (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004), reg. 9.

9. Register of interests

In respect of a relevant employee, the particulars to be included in the register of interests kept by a local authority pursuant to section 172 of the Act shall not include the address of that employee's home as entered on the prescribed form by him or her pursuant to the requirements of section 171 of the Act.

Editorial Notes:

E66 Previous affecting provision: (28.02.2003) *Local Government Act 2001 (Part 15) Regulations 2003* (S.I. No. 73 of 2003), reg. 4, revoked (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004).

Ethics registrar.

173.—(1) In this Part "ethics registrar" means a person or persons assigned by order of the manager for a local authority to perform the duties of an ethics registrar in accordance with this Part in respect of such authority or authorities as are specified in the order.

(2) No person shall perform the functions of an ethics registrar for a continuous period exceeding 2 years.

Duty of ethics registrar, etc.

174.—(1) (*a*) It is the duty of the ethics registrar to issue to each member of the local authority concerned before every annual meeting of the authority, or such other time as may be prescribed by regulations made by the Minister, a signed and dated notice in writing informing the member of the requirement imposed on him or her under *section 171* to prepare and furnish an annual declaration and such notice shall enclose the form so prescribed for that purpose.

(*b*) The fact of the issue of a notice under *paragraph (a)* shall be brought to the attention of the members of the local authority at the next meeting of the authority after such issue.

(2) In respect of and to each employee referred to in *section 167(1)* it is the duty of the ethics registrar to issue every year in the month of January, or such other time as may be prescribed by regulations made by the Minister, a signed and dated notice in writing informing the employee of the requirement imposed on him or her under *section 171* to prepare and furnish an annual declaration and such notice shall enclose the form so prescribed for that purpose.

(3) It is the duty of the ethics registrar to issue, as soon as practicable, to a person who becomes a person to whom *section 167(1)* applies subsequent to the issue of a notice under *subsection (1)* or *(2)* a signed and dated notice in writing informing such member or employee, as the case may be, of the requirement imposed on him or her under *section 171* to prepare and furnish an annual declaration in the form prescribed by regulations made by the Minister and such notice shall enclose the form prescribed for that purpose.

(4) Nothing in this section, including the non-receipt, for any reason, of a notice or form affects the requirement imposed on a person under *section 171* to complete and furnish an annual declaration.

(5) Where the ethics registrar finds a minor error or omission in a declaration, he or she shall furnish to the person concerned particulars in writing of the error or

omission, as the case may be, and the ethics registrar shall inform such person that he or she may correct the error or make good the omission within the period of 21 days from the date on which the notification issued to such person.

(6) Notwithstanding *section 169(4)* the ethics registrar may at any time where he or she considers it necessary issue a notice or otherwise bring to the attention of any person referred to in *section 167* the appropriate requirements of this Part, including of a relevant code of conduct issued under *section 169*.

(7) Where the ethics registrar, or the manager in relation to *paragraph (c)*, becomes aware of a possible contravention of this Part it is his or her duty to bring the matter to the attention of—

(*a*) the manager for the local authority, in case the matter relates to any other employee,

(*b*) the Cathaoirleach of the local authority, in case the matter relates to the manager,

(*c*) the Cathaoirleach of the local authority, in case the matter relates to the ethics registrar,

(*d*) the manager for the local authority, in case the matter relates to the Cathaoirleach,

(*e*) the Cathaoirleach and the manager for the local authority in case the matter relates to a member of the local authority other than the Cathaoirleach, and

(*f*) in any other case, the manager for the local authority.

(8) (*a*) The person or persons to whom the matter is brought to attention under *subsection (7)* shall consider what action should be taken and, without prejudice to the generality of the foregoing, the action may include—

(i) any investigative or disciplinary procedures which may be exercised in relation to the person concerned, whether under any other provision of this or any other enactment or otherwise,

(ii) referral of the matter to the Director of Public Prosecutions in accordance with *subsection (1)(b)* or *(4)(b)* of *section 181* as the case may be,

(iii) any other course of action considered appropriate in the circumstances.

(*b*) The person or persons to whom the matter is brought to attention under *subsection (7)* shall—

(i) cause a report to be prepared of his or her or their joint consideration of the matter, as the case may be, and

(ii) cause such report to be sent to and be retained by the ethics registrar unless *subsection (7)(c)* applies, in which case such report shall be retained by the manager but only until the person concerned ceases to be the ethics registrar.

Annotations

Editorial Notes:

E67 Power pursuant to section exercised (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004).

E68 Previous affecting provision: power pursuant to section exercised (1.01.2003) *Local Government Act 2001 (Part 15) Regulations 2002* (S.I. No. 582 of 2002), regs. 5, 6 and 8; revoked (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004), reg. 3.

Declarable interests.

175.— Each of the following interests is a declarable interest for the purposes of this Part:

(*a*) any profession, business or occupation in which the person concerned is engaged or employed, whether on his or her own behalf or otherwise, and which relates to dealing in or developing land during the appropriate period;

(*b*) any other remunerated trade, profession, employment, vocation, or other occupation of the person concerned held by that person during the appropriate period;

(*c*) any estate or interest the person concerned has (subject to *section 167(3)*) in land including the case where the person concerned, or any nominee of his or her, is a member of a company or other body which has an estate or interest in land and without prejudice to the foregoing an interest in land shall be deemed to include—

(i) the interest of the person in any contract entered into by him or her for the purchase or sale of land, whether or not a deposit or part payment has been made under the contract, and

(ii) the interest of the person in—

(I) any option held by him or her to purchase or sell land, whether or not any consideration has been paid for it, or

(II) land in respect of which such an option has been exercised by the person but which has not yet been conveyed to the person;

(*d*) any business of dealing in or developing land carried on during the appropriate period by a company or other body of which the person concerned, or any nominee of the person, is a member;

(*e*) a holding by the person concerned of shares in, or bonds or debentures of, or other like investments in, a particular company or other enterprise or undertaking (which does not relate to land or any business of dealing in or developing land) if the aggregate value of the holding exceeded £10,000 at any time during the appropriate period but holding does not include money in a current, deposit or other similar account with a financial institution;

(*f*) a directorship or shadow directorship of any company held by the person concerned at any time during the appropriate period, and in this paragraph "shadow directorship" means the position held by a person who is a shadow director for the purposes of the Companies Acts, 1963 to 1999;

(*g*) a gift, including foreign travel facilities, given to the person concerned during the appropriate period, but excluding—

(i) a gift given to the person by a F67**[**relative or friend of the person or of his or her spouse or civil partner within the meaning of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* or of a child of the person or his or her spouse for purely personal reasons only**]**,

(ii) a gift given to the person, or gifts given to the person by the same person, during the appropriate period, as respects which the value, or the aggregate value, of the property the subject of the gift or gifts did not exceed £500 at any time during the appropriate period;

(*h*) property supplied or lent or a service supplied to the person concerned, once or more than once by the same person during the appropriate period, for a consideration or considerations or at a price or prices less than the commercial consideration or considerations or the commercial price or prices by more than £500 or which in the aggregate exceeded £500, other than property supplied or lent or a service supplied to the person concerned by a relative or friend of the person or of his or her spouse where such supply or loan was in the nature of a gift to the person and for personal reasons only;

(*i*) property supplied or lent or a service supplied to the person concerned, once or more than once by the same person during the appropriate period, free of charge if the commercial consideration or considerations or the commercial price or prices was or were more than £500, or which in the aggregate exceeded £500, other than property supplied or lent or a service supplied to the person concerned by a relative or friend of the person or of his or her spouse where such supply or loan was in the nature of a gift to the person and for personal reasons only;

(*j*) any contract to which the person concerned was a party or was in any other way, directly or indirectly, interested for the supply of goods or services to a local authority during the appropriate period if the value of the goods or services supplied during that period exceeded £5,000 or, in case other goods or services were supplied under such a contract to a local authority during that period, if the aggregate of their value exceeded £5,000;

(*k*) a remunerated position held by the person concerned as a political or public affairs lobbyist, consultant or adviser during the appropriate period;

(*l*) any other additional interest which may be prescribed by regulations made by the Minister;

(*m*) any other additional interest which is not specified in *paragraphs (a)* to *(k)* or in regulations made by the Minister under *paragraph (l)* which the person concerned wishes to volunteer.

Annotations

Amendments:

F67 Substituted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 97 and sch. part 1, item 29, S.I. No. 648 of 2010.

Beneficial interests.

176.—(1) In respect of a resolution, motion, question or other matter which is proposed, or otherwise arises from or as regards the performance by the local authority of any of its functions under this or any other enactment, "beneficial interest" for the purposes of this Part, in relation to a person, includes an interest in respect of which—

(*a*) he or she or a connected person, or any nominee of his or her or of a connected person, is a member of a company or any other body which has a beneficial interest in, or which is material to, any such matter,

(*b*) he or she or a connected person is in a partnership with or is in the employment of a person who has a beneficial interest in, or which is material to, any such matter,

(*c*) he or she or a connected person is a party to any arrangement or agreement (whether or not enforceable) concerning land which relates to any such matter,

(*d*) he or she or a connected person in the capacity as a trustee or as a beneficiary of a trust has a beneficial interest in, or which is material to, any such matter,

(*e*) he or she or a connected person is acting with another person to secure or exercise control of a company which has a beneficial interest in, or which is material to any such matter.

(2) A person shall also be deemed to have a beneficial interest which has to be disclosed under this Part if he or she has actual knowledge that he or she or a connected person has a declarable interest (within the meaning of *section 175*) in, or which is material to, a resolution, motion, question or other matter which is proposed, or otherwise arises from or as regards the performance by the authority of any of its functions under this or any other enactment.

(3) A person shall not be regarded as having a beneficial interest which has to be disclosed under this Part where *section 167(3)* is applicable or because of—

(*a*) an interest which is so remote or insignificant that it cannot be reasonably regarded as likely to influence a person in considering or discussing, or in voting on, any question with respect to the matter or in performing any function in relation to that matter,

(*b*) being a ratepayer or a local authority tenant and in common with other ratepayers or tenants, or

(*c*) any other circumstances which may be prescribed by regulations made by the Minister.

Annotations

Editorial Notes:

E69 Power pursuant to section exercised (1.01.2005) by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004).

E70 Previous affecting provision: (1.01.2003) *Local Government Act 2001 (Part 15) Regulations 2002* (S.I. No. 582 of 2002), reg. 7, revoked by *Local Government Act 2001 (Part 15) Regulations 2004* (S.I. No. 770 of 2004).

Disclosure by member of local authority of pecuniary or other beneficial interests.

177.—(1) Where at a meeting of a local authority or of any committee, joint committee or joint body of a local authority, a resolution, motion, question or other matter is proposed or otherwise arises either—

(*a*) as a result of any of its functions under this or any other enactment, or

(*b*) as regards the performance by the authority, committee, joint committee or joint body of any of its functions under this or any other enactment,

then, a member of the authority, committee, joint committee or joint body present at such meeting shall, where he or she has actual knowledge that he or she or a connected person has a pecuniary or other beneficial interest in, or which is material to, the matter—

(i) disclose the nature of his or her interest, or the fact of a connected person's interest at the meeting, and before discussion or consideration of the matter commences, and

(ii) withdraw from the meeting for so long as the matter is being discussed or considered,

and, accordingly, he or she shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.

(2) Where a member of a local authority, committee, joint committee or joint body of the local authority has actual knowledge that a matter is likely to arise at a meeting at which that member will not be present and which, if he or she were present, a disclosure would be required to be made under *subsection (1)*, then that person shall in advance of such meeting make such disclosure in writing and furnish it to the ethics registrar.

(3) There shall be recorded in the minutes of any meeting referred to in *subsection (1)* or *(2)* a reference to any disclosure made for the purposes of either of those subsections and of any subsequent withdrawal from the meeting and such disclosure shall be recorded in the register of interests.

(4) A member of a local authority or of any committee, joint committee or joint body of a local authority shall neither influence nor seek to influence a decision of the authority in respect of any matter which he or she has actual knowledge that he or she or a connected person has a pecuniary or other beneficial interest in, or which is material to, any matter which is proposed, or otherwise arises from or as regards the performance by the authority of any of its functions under this or any other enactment.

Disclosure by manager for local authority of pecuniary or other beneficial interests.

178.—(1) This section applies where the manager for a local authority has actual knowledge that he or she or a connected person has a pecuniary or other beneficial interest in, or which is material to, any matter which is proposed or otherwise arises from or as regards the performance by the authority of any of its functions under this or any other enactment.

(2) The manager to whom *subsection (1)* relates shall comply with the following requirements:

(*a*) he or she shall neither influence nor seek to influence a decision of the local authority as regards the matter;

(*b*) he or she shall, as soon as may be, disclose in writing to the Cathaoirleach of the local authority the nature of his or her interest or the fact of a connected person's interest, and the Cathaoirleach shall furnish such written disclosure to the ethics registrar without delay.

(3) A disclosure furnished under *subsection (2)* shall be recorded by the ethics registrar in the register of interests.

(4) Where a function would normally be dealt with by the manager, the function shall be delegated by him or her in accordance with *section 154*, after disclosure under *subsection (2)*, to an employee.

(5) The manager shall inform the Cathaoirleach of any delegation under *subsection (4)*.

Disclosure by employee, etc. of local authority of pecuniary or other beneficial interests.

179.—(1) This section applies where—

(*a*) an employee of a local authority other than the manager, or

(*b*) any other person whose services are being availed of by the local authority,

has actual knowledge that he or she or a connected person, has a pecuniary or other beneficial interest in, or which is material to, any matter, which is proposed or otherwise arises from or as regards the performance by the authority of any of its functions under this or any other enactment.

(2) The employee or other person to whom *subsection (1)* relates shall comply with the following requirements:

(*a*) he or she shall neither influence nor seek to influence a decision of the local authority as regards the matter;

(*b*) where he or she as an employee is concerned with the matter in the course of his or her duties, he or she shall disclose in writing to the manager of the local authority the nature of his or her interest or the fact of a connected person's interest and comply with any directions (including the reassignment of the matter in question to another employee) the manager may give him or her in relation to the matter;

(*c*) where he or she as a person whose services are being availed of by the local authority is concerned with the matter in the course of his or her duties, he or she shall disclose in writing to the manager the nature of his or her interest or the fact of a connected person's interest and comply with any directions, the manager may give him or her in relation to the matter.

(3) A disclosure to which *subsection (2)(b)* or *(2)(c)* relates shall be forwarded by the manager to the ethics registrar and recorded by him or her in the register of interests.

Application of Ethics in Public Office Act, 1995, etc.

180.—(1) In this section "the Acts" means the Ethics in Public Office Act, 1995, and any other Act which is to be construed together as one with that Act.

(2) The Acts shall apply in relation to a local authority subject to the provisions of this section and with such other modifications as may be necessary and for that purpose—

(*a*) the powers of investigation and report conferred on the Commission apply in relation to a person to whom *subsection (1)* or *(2)* of *section 167* relates,

(*b*) *subsection (3)* shall apply as regards a report prepared by the Commission,

(*c*) *subsection (4)* shall apply as regards the consideration of such report by a local authority.

(3) (*a*) Where a report prepared by the Commission relates to—

(i) a manager, it shall be furnished to the Cathaoirleach of the county council or city council concerned,

(ii) the Cathaoirleach of a local authority, it shall be furnished to the Leas-Chathaoirleach of the authority and to its manager,

(iii) any other member of a local authority, it shall be furnished to the Cathaoirleach of the authority and to its manager,

(iv) any employee of a local authority other than the manager, it shall be furnished to the manager of the local authority concerned, and

(v) any other person to whom *subsection (1)* or *(2)* of *section 167* relates, it shall be furnished to the manager of the local authority concerned.

(*b*) Nothing in this subsection shall be read so as to prevent the furnishing of a report referred to in *paragraph (a)* to any other person in accordance with the Acts.

(4) (*a*) Where a report referred to in *subparagraph (i), (ii)* or *(iii)* of *subsection (3)(a)* is furnished to a local authority, it shall be considered by the elected council. The elected council shall decide on such action to be taken as may be considered appropriate in all the circumstances including, in the case of *subparagraph (i)* of *subsection (3)(a)*, the exercise of powers of suspension or removal pursuant to *section 146*.

(*b*) Where a report referred to in *subparagraph (iv)* or *(v)* of *subsection (3)(a)* is furnished to a local authority it shall be considered by its manager. The manager shall decide on such action to be taken as may be considered appropriate in all the circumstances including, in the case of an employee, suspension with or without pay or termination of employment.

(*c*) The manager shall inform the elected council of the result of a consideration under *paragraph (b)*.

(5) Nothing in this section shall be read as prejudicing the Commission in carrying out the functions conferred on it by the Acts.

Offences (*Part 15*).

181.—(1) (*a*) Subject to *subsection (3)*, a person is guilty of an offence where he or she fails to comply with the requirements of *section 171* or who, when claiming to comply with those requirements, gives particulars which are false or which to his or her knowledge are misleading in a material respect.

(*b*) Proceedings for an offence under this subsection shall not be instituted except by or with the consent of the Director of Public Prosecutions.

(2) A person guilty of an offence under *subsection (1)* is liable—

(*a*) on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both,

(*b*) on conviction on indictment, to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 2 years or to both.

(3) In any proceedings for an offence under *subsection (1)* it is a good defence for the defendant to prove that at the relevant time he or she believed in good faith, and upon reasonable grounds, that—

(*a*) the relevant particulars were true,

(*b*) there was no matter as regards which he or she was then required to make a declaration under *section 171*, or

(*c*) the matter in relation to which the offence is alleged was not one as regards which he or she was so required to make such declaration.

(4) (*a*) Subject to *subsection (6)*, a person is guilty of an offence where he or she fails to comply with any of the requirements of *section 177, 178* or *179* or who, when claiming to comply with those requirements, gives particulars which are false or which to his or her knowledge are misleading in a material respect.

(*b*) Proceedings for an offence under this subsection shall not be instituted except by or with the consent of the Director of Public Prosecutions.

(5) A person guilty of an offence under *subsection (4)* is liable—

(*a*) on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both,

(*b*) on conviction on indictment, to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 2 years or to both.

(6) In any proceedings for an offence under *subsection (4)* it is a good defence for the defendant to prove that at the time of the alleged offence he or she did not have actual knowledge and had no reason to believe that a matter in which, or in relation to which, he or she or a connected person had a beneficial interest had arisen or had

come before the local authority concerned, or was being considered by it or by a committee or joint body of the local authority, as may be appropriate, or that the beneficial interest to which the alleged offence relates was one in relation to which a requirement of *section 177, 178* or *179* applied.

(7) Summary proceedings for an offence under this Part may be brought by the local authority concerned, subject to *subsection (1)(b)* or *(4)(b)*.

(8) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Part may be commenced—

(*a*) at any time within 12 months from the date on which the offence was committed,

(*b*) at any time within 6 months from the date on which evidence sufficient, in the opinion of the local authority by whom the proceedings are initiated, to justify the proceedings, comes to such authority's knowledge,

whichever is the later, but no such proceedings shall be initiated later than 5 years from the date on which the offence concerned was committed.

Consequences of failure to comply with *sections 171, 177, 178* and *179*.

182.—(1) (*a*) Where a person is convicted of an offence under *section 181* (which relates to *section 171, 177, 178* or *179*) that person is disqualified from being elected or co-opted to or from being a member of a local authority.

(*b*) A disqualification arising under *paragraph (a)* commences—

(i) where no appeal is taken against the conviction, when the time limit for taking an appeal has passed, or

(ii) where an appeal is taken against the conviction and the appeal is disallowed, from the determination of the appeal,

and the disqualification shall be for 5 years from the date of conviction or determination of the appeal, as the case may be.

(2) Where a person contravenes or fails to comply with a requirement of *section 171, 177, 178* or *179* or acts as a member of a local authority, committee, joint committee or joint body of a local authority while disqualified for membership by virtue of this section, the fact of such contravention or failure or of his or her so acting, as the case may be, does not invalidate any act or proceeding of the authority, committee, joint committee or joint body concerned.

PART 16

Land

Land disposals, notification of members.

183.—(1) The following provisions have effect in relation to any proposed disposal (not being by demise for a term not exceeding one year) of land which is held by a local authority:

(*a*) notices shall be sent or delivered to the members of the local authority giving particulars of—

(i) the land,

(ii) the name of the person from whom such land was acquired, if this can be ascertained by reasonable inquiries,

(iii) the person to whom the land is to be disposed of,

(iv) the consideration proposed in respect of the disposal,

(v) any covenants, conditions or agreements to have effect in connection with the disposal;

(*b*) at the first meeting of the local authority held after the expiration of 10 days after the day on which such notices are sent or delivered, the local authority may resolve that the disposal shall not be carried out or that it shall be carried out in accordance with terms specified in the resolution;

(*c*) if the local authority resolves by virtue of *paragraph (b)* that the disposal shall not be carried out, it shall not be carried out;

(*d*) if the local authority does not pass a resolution pursuant to *paragraph (b)*, the disposal may be carried out;

(*e*) if the local authority resolves by virtue of *paragraph (b)* that the disposal shall be carried out in accordance with terms specified in the resolution, the disposal may be carried out in accordance with those terms;

(*f*) the disposal shall not be carried out otherwise than in accordance with *paragraph (d)* or *(e)* and subject to the consent of the Minister where consent is required under section 211(2) of the Act of 2000.

(2) Section 90 (inserted by section 26 of the Housing (Miscellaneous Provisions) Act, 1992) of the Housing Act, 1966, is amended by the substitution of the following for subsection (4):

"(4) (*a*) Subject to any regulations made under this section, *section 183* of the *Local Government Act, 2001*, shall apply in relation to the sale of a dwelling under subparagraph (ii) or (iii) of paragraph (*a*), or paragraph (*b*), of subsection (1) of this section but shall not otherwise apply to the sale of a dwelling under this section.

(*b*) This subsection is without prejudice to the application of *section 183* of the *Local Government Act, 2001*, to the disposal of land by a housing authority under section 211 of the Planning and Development Act, 2000, and for the purposes of this paragraph 'land' does not include a dwelling.".

Annotations

Modifications (not altering text):

C26 Application of section restricted by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 83(5), not commenced as of 9.08.2012.

Affordable dwelling purchase arrangements.

83.— ...

(5) Section 211 (2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of a dwelling to an eligible household under an affordable dwelling purchase arrangement.

C27 Application of section restricted by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 27, not commenced as of 9.08.2012.

Non-application of certain provisions to disposals for purposes of this Chapter.

27.— Section 211 (2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the disposal, for any of the purposes of this Chapter, of land or a dwelling by a housing authority.

C28 Application of section restricted (1.01.2012) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 64(10), S.I. No. 680 of 2011.

Sale by housing authority of apartments to tenants.

64.— ...

(10) Section 211 (2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of an apartment to a tenant in accordance with this Part.

C29 Application of section restricted (1.01.2010) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 45(5), S.I. No. 540 of 2009.

Sale of dwelling by incremental purchase arrangement.

45.— ...

(5) Section 211 (2) of the Planning and Development Act 2000 and section 183 of the Local Government Act 2001 shall not apply to the sale of a dwelling to an eligible household under this section.

Exercise of certain land functions.

184.—(1) Without prejudice to the generality or application of section 210, 211 or 213 of the Act of 2000, the functions conferred on a local authority by *section 11(7)(a)* shall—

(*a*) as regards the acquisition of land be construed in accordance with section 213 of the Act of 2000,

(*b*) as regards the disposal of land be construed in accordance with section 211 of the Act of 2000,

and section 210 of the Act of 2000 shall apply as regards the appropriation of land.

(2) For the avoidance of doubt it is hereby declared that the functions conferred on a local authority by section 213(2)(*a*) of the Act of 2000 may be performed in relation to any easement, way-leave, water right or other right to which that paragraph applies granted by or held from the local authority acquiring the land and "acquisition of land" shall be construed accordingly for the purposes of that Act.

(3) In this section "local authority" includes a joint body.

PART 17

Establishment of New Town Councils, etc.

Establishment of town council.

185.—(1) For the purposes of this section—

"qualified electors" means a person who in relation to the town in question—

(*a*) is registered as a local government elector in the register of electors for the time being in force, or

(*b*) not being so registered, is the rated occupier of a hereditament other than a hereditament the valuation of which attracts an allowance equal to full abatement of rates under section 3 of the Local Government (Financial Provisions) Act, 1978.

(2) (*a*) Qualified electors of a town having a population of at least 7,500 as ascertained at the last preceding census or such other figure as the Minister may from time to time prescribe by regulations, and not having a town council, may make a proposal in accordance with *paragraph (b)* for the establishment of such a council.

(*b*) A proposal under this subsection shall—

(i) be made in writing and submitted to the county council in whose county the town is situated,

(ii) be signed by at least 100 qualified electors for the town or 10 per cent of the total number of such electors, whichever is greater (in this section referred to as the "applicants"),

(iii) include a map showing the built-up area and the boundaries proposed for the town,

(iv) set out an indication of the likely costs of the proposed town council and the likely implications, financial, organisational and other, for both the town and the county council,

(v) comply with such other requirements as may be prescribed by regulations made by the Minister.

(3) At the time of the submission of the proposal, the applicants or one or more of them shall lodge in a single sum £1,000 with the county council or such other sum as the Minister may from time to time prescribe by regulations.

(4) (*a*) The county council shall publish a public notice indicating that it has received a proposal for the establishment of a town council.

(*b*) A notice under this subsection is to state—

(i) that a copy of the proposal may be inspected at a stated place and at stated times during a stated period of not less than one month,

(ii) that submissions or observations with respect to the proposal made to the county council within the said stated period will be considered,

(iii) that any person who makes submissions or observations may include in it a request to be given an opportunity to state his or her case before a person or persons appointed by the council.

(*c*) The county council shall take all such steps as are necessary for *paragraph (b)* to have full effect.

(5) Following consideration of the proposal and of any written and oral submissions or observations made under this section the council shall decide—

(*a*) to accept the proposal,

(*b*) to accept it subject to specified modifications, including alteration of the proposed boundaries,

(*c*) not to accept it, or

(*d*) to put forward proposals other than the establishment of a town council to provide improved local government for the town.

(6) A decision under *subsection (5)* is a reserved function and the record of the decision shall set out the reasons for the decision.

(7) Where a county council has made a decision under *subsection (5)* it shall submit the proposal, any submissions or observations made to the county council and the council's decision to the Local Government Commission.

(8) (*a*) The Local Government Commission shall consider the material submitted to it under *subsection (7)* and such other matters as it may consider relevant and shall prepare a report on the proposal with its recommendation and furnish such report to the Minister.

(*b*) The Local Government Commission may recommend—

(i) that a town council be established subject to such conditions (including alteration of proposed boundaries) as it may specify,

(ii) that it not be established, or

(iii) that such other steps as it may specify be taken by the county council in relation to the town.

(9) Where the Local Government Commission have recommended that a town council be established the Minister may by order provide for the establishment of the town council and such order may, subject to *subsection (11)*, include provision for—

(*a*) any matter or thing for which provision may be made by order under *section 62*,

(*b*) the holding of the first election of town councillors in accordance with *section 186* and with the *Local Elections Acts, 1974*, to *2001*, subject to any necessary modifications or adaptations,

(*c*) such other matters as may be necessary arising from or related to such establishment.

(10) Where by virtue of *subsection (8)* the Local Government Commission recommend that specified steps be taken by a county council in relation to a town the Minister may direct that such steps be taken by the county council concerned as he or she may consider appropriate and specify in writing to that council and that council shall comply with any such direction.

(11) This Act applies to a town council established by order under this section as if such town were a town included in *part 2* of *Schedule 6*.

(12) (*a*) Where a town council is established, the sum referred to in or prescribed under *subsection (3)* is to be paid to the town council by the county council concerned.

(*b*) Where a town council is not established, the sum referred to in or prescribed under *subsection (3)* is to be applied by the county council concerned in respect of the town for the purposes of *section 66* or *67*.

First election to town council.

186.—(1) The county council in whose county a town council is established by order under *section 185* shall conduct the election referred to in *subsection (9)* of that section in accordance with the requirements of the order.

(2) The town councillors elected at the election referred to in *subsection (1)* hold office until the next following ordinary day of retirement.

Dissolution of town council.

187.—(1) In this section—

"applicant" means a town council which makes an application under *subsection (2)*;

"successor", in relation to an applicant, shall be read in accordance with *subsection (4)(b)*.

(2) A town council may by resolution apply to the Minister to make an order under *subsection (4)* in respect of the town council.

(3) The Minister may request the Local Government Commission to prepare a report in relation to any application under *subsection (2)*.

(4) The Minister may, having considered any report under *subsection (3)*, by order provide for the dissolution of the applicant from a date specified in the order and on and from that date (in this section referred to as the "transfer day")—

(*a*) the area of the town concerned shall, for the purposes of all functions of the county council (under this or any other enactment) in whose country the town is situated, be included in and form part of that country;

(*b*) the applicant is dissolved and ceases to exist and the relevant country council shall for all purposes become and be the successor of the applicant.

(5) With effect from the transfer day the following are transferred to the successor—

(*a*) all land and other property (and all rights relating to such land and other property) held or enjoyed immediately before that day by the applicant,

(*b*) all liabilities incurred before that day by the applicant which had not been discharged before that day,

and, accordingly as and from that day without any further conveyance, transfer or assignment—

(i) that property, real and personal vests in the successor for all the estate, term or interest for which, immediately before that day, it was vested in the applicant, but subject to all trusts and equities affecting the property and capable of being performed,

(ii) those rights are to be enjoyed by the successor, and

(iii) those liabilities are liabilities of the successor.

(6) All moneys and securities transferred to the successor by this section that immediately before the transfer day are standing in the name of the applicant are to be transferred into the name of the successor upon its request.

(7) On or after the transfer day every right and liability transferred to the successor by this section may be sued on, recovered or enforced by or against the successor in its own name and it is not necessary for it to give notice of the transfer to the person whose right or liability is transferred by this section.

(8) Every contract or agreement made between an applicant and any other person, which is in force immediately before the transfer day continues in force on and after that day and shall—

(*a*) be read and have effect as if its successor were substituted in the contract or agreement for the applicant, and

(*b*) be enforceable against that successor.

(9) Where, immediately before the transfer day, any legal proceedings are pending in any court or tribunal and the applicant is a party to the proceedings, the name of its successor shall be substituted in the proceedings for that of the applicant, and the proceedings shall not abate by reason of such substitution.

(10) An order under *subsection (4)* may include provision for any matter or thing for which provision is made in the Second Schedule to the Local Government (Dublin) Act, 1993, or for which provision may be made by order under *section 62(2)* or which the Minister considers otherwise necessary to give effect to the dissolution or which is related to it.

[F69[PART 18

Placenames

Interpretation.

188. — In this Part—

'functional area' means as respects—

(*a*) a city council, the city,

(*b*) a county council, the county exclusive of any town to which paragraph (*c*) applies,

(*c*) a town council, the town;

'locality' means a part (other than a town, townland, non-municipal town or street) of a county, city or town in respect of which a name (other than the name of the county, city or town concerned) is in common use;

'non-municipal town' means a place (other than a city or town) that is designated a town in the most recent census report published by the Central Statistics Office setting out the final result of a census of population of the State (whether or not that is the most recent such census of population);

'placename' includes the name of a county, city, town, non-municipal town, village, barony, parish, townland, street or locality, or of any feature (whether natural or artificial), district, region or place, as described in a map produced by Ordnance Survey Ireland;

'qualified elector' means a person who, in relation to a place (including a street) to which a placename applies, is registered as a local government elector in the register of electors for the time being in force;

'street' includes—

(*a*) part of a street, and

(*b*) a road, square, lane or any other public place or part thereof.**]**

Annotations

Amendments:

F69 Substituted (7.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, S.I. No. 446 of 2011.

Changing of name of town.

189.—(1) A town council may by resolution, for which at least one-half of the total number of members of the council vote in favour, adopt a proposal to change the name of the town to a proposed new name.

(2) Where a town council adopts a proposal under *subsection (1)* it shall—

(*a*) notify such persons as may be prescribed by regulations made by the Minister of the proposal and such persons shall be entitled to make submissions in writing to the council within a period of 2 months from the date of the notification, and

(*b*) publish a public notice of the proposal inviting submissions with regard to it from any person concerned within a period of 2 months from the date of the public notice, and

(*c*) consider any submissions received.

(3) Following compliance with *subsection (2)*, the town council may by resolution, for which at least one-half of the total number of members of the council vote in favour, decide—

(*a*) to proceed with the proposal (in this section referred to as the "original proposal") in accordance with the resolution under *subsection (1)*, or

(*b*) to proceed with a proposal (in this section referred to as the "amended proposal") to change the name of the town to such other name as it considers appropriate, or

(*c*) not to proceed with the original proposal.

(4) Where the town council has made a decision under *paragraph (a)* or *(b)* of *subsection (3)*, the town council shall seek, in accordance with regulations made by the Minister under *section 196*, the consent of the majority of the qualified electors in the town concerned to the proposed new name as set out in the original proposal or amended proposal as the case may be.

(5) (*a*) Where a majority of the qualified electors consent to the proposed new name the Cathaoirleach of the town council concerned shall make a declaration, in a form prescribed by regulations made by the Minister under *section 196*, confirming such consent and specifying the proposed new name and the date on which, in accordance with *paragraph (b)*, it comes into operation.

(*b*) A proposal confirmed by declaration under this subsection shall come into operation—

(i) on the 1st day of January next following the date of such declaration where the interval between the date of the declaration concerned and the 1st day of January is not less than 3 months, or

(ii) in any other case, on the first anniversary of the said 1st day of January.

(*c*) Every declaration made under this subsection shall be published in the manner prescribed by regulations made by the Minister under *section 196* and shall be notified to such persons as may be so prescribed.

(*d*) Every declaration under this subsection shall be published in the *Iris Oifigiúil*, as soon as possible after its making.

(6) *Section 196* applies to this section, as appropriate.

Annotations

Amendments:

F70 Substituted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

Modifications (not altering text):

C30 Prospective amending provision: section substituted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

F70**[Changing of placename.**

189.— (1) A local authority may, in relation to a place situated within its functional area, by resolution passed by not less than half of the members standing elected or coopted for the time being to that local authority adopt a proposal to substitute a new placename (in this section referred to as the 'proposed new placename') for the then existing placename in respect of that place.

(2) The boundary of the place to which a proposal adopted under subsection (1) applies shall be described in that proposal whether by reference to a map or otherwise.

(3) A proposal adopted under subsection (1) shall specify the proposed new placename in the Irish language only or in both the Irish language and the English language.

(4) Where a local authority adopts a proposal under subsection (1) it shall—

(*a*) notify such persons, or persons belonging to such class of person, as may be prescribed by regulations made by the Minister of the adoption of the proposal, and

(*b*) publish a public notice of the proposal inviting submissions in writing from members of the public in relation thereto not later than 2 months from the date of the publication of the notice.

(5) A person who receives a notification under paragraph (*a*) of subsection (4) shall be entitled to make submissions in writing to the local authority that gave the notification in relation to the proposal concerned not later than 2 months from the date of the notification.

(6) A local authority shall consider any submissions received by it in accordance with a notification under paragraph (*a*) of subsection (4) or a notice under paragraph (*b*) of that subsection.

(7) After considering any submissions referred to in subsection (6), a local authority may, by resolution passed by not less than half of the members standing elected or coopted for the time being to that local authority decide—

(*a*) to hold a ballot of the qualified electors registered in the place to which the proposed new placename applies in respect of the proposed new placename or such alternative to the proposed new placename as it considers appropriate, or

(*b*) not to proceed with the proposal to change the placename of the place concerned.

(8) A ballot to which subsection (7) applies shall be in secret and shall be conducted in accordance with regulations made by the Minister.

(9) (*a*) Subject to subsection (3) of section 192, if a majority of the votes cast at a ballot held pursuant to a decision under subsection (7) is in favour of the proposed new placename concerned the Cathaoirleach of the local authority concerned shall make a declaration stating that, from such date (determined in accordance with paragraph (*b*)) as is specified in the declaration, that proposed new placename shall become and be the placename in respect of the place concerned.

(*b*) Where the Cathaoirleach of a local authority makes a declaration under this subsection, the placename specified in the declaration shall—

(i) if the declaration is made not less than 3 months before the 1st day of January next following the declaration, become and be the placename in respect of the place concerned from the said 1st day of January, or

(ii) in any other case, become and be the placename in respect of the place concerned from the first anniversary of the said 1st day of January.

(*c*) Every declaration under this subsection shall be published in such manner as may be prescribed by regulations made by the Minister and shall be notified in writing to such persons, or persons belonging to such class of person, as may be so prescribed.

(*d*) Every declaration under this subsection shall be published in *Iris Oifigiúil*, as soon as may be after its making.

(10) This section shall not apply to the townland, civil parish, non-municipal town or electoral division referred to in section 191.**]**

Changing of name of townland or non-municipal town situated wholly within one county or city.

190.—(1) In this section "non-municipal town" means an area, not being a city or town, which is designated a town in the report of the census of population which is for the time being the latest census of population.

(2) Where a townland is situated wholly within one county or city, or a non-municipal town is situated wholly within one county, the county council or city council concerned, as appropriate, may by resolution, for which at least one-half of the total number of members of the council vote in favour, adopt a proposal to change the name to a proposed new name of such townland or non-municipal town.

(3) The area of the non-municipal town to which the proposal referred to in *subsection (2)* relates shall be described in that proposal whether by reference to a map or otherwise.

(4) Where a country council or city council adopts a proposal under *subsection (2)* it shall—

(*a*) notify such persons as may be prescribed by regulations made by the Minister under *section 196* of the proposal and such persons shall be entitled to make submissions in writing to the council concerned within a period of 2 months from the date of the notification, and

(*b*) publish a public notice of the proposal inviting submissions with regard to it from any person concerned within a period of 2 months from the date of the public notice, and

(*c*) consider any submissions received.

(5) Following compliance with *subsection (4)* the county council or city council may by resolution, for which at least one-half of the total number of members of the council vote in favour, decide—

(*a*) to proceed with the proposal (in this section referred to as the "original proposal") in accordance with the resolution under *subsection (2)*, or

(*b*) to proceed with a proposal (in this section referred to as the "amended proposal") to change the name of the townland or non-municipal town to such other name as it considers appropriate, or

(*c*) not to proceed with the original proposal.

(6) Where the county council or city council has made a decision under *paragraph (a)* or *(b)* of *subsection (5)*, the county council or city council shall seek in accordance with regulations made by the Minister under *section 196*, the consent of the majority of the qualified electors in the townland or non-municipal town concerned to the proposed new name as set out in the original proposal or amended proposal as the case may be.

(7) Where a majority of the qualified electors consent to the proposed new name the Cathaoirleach of the local authority concerned shall make a declaration confirming such consent and specifying the proposed new name and the date on which, in accordance with *subsection (9)*, it comes into operation.

(8) A declaration made by the Cathaoirleach of a local authority under *subsection (7)* shall be in such form as may be prescribed by regulations made by the Minister under *section 196*.

(9) A proposal confirmed by declaration under *subsection (7)* comes into operation—

(*a*) on the 1st day of January next following the date of such declaration where the interval between the date of the declaration concerned and the 1st day of January is not less than 3 months, or

(*b*) in any other case, on the first anniversary of the said 1st day of January.

(10) Every declaration made under *subsection (7)* shall be published in the manner prescribed by regulations made by the Minister under *section 196* and shall be notified to such persons as may be so prescribed.

(11) Every declaration under *subsection (7)* shall be published in the *Iris Oifigiúil*, as soon as possible after its making.

(12) *Section 196* applies to this section, as appropriate.

Annotations

Amendments:

F71 Substituted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

Modifications (not altering text):

C31 Prospective amending provision: section substituted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

F71**[Change of placename of place situated in more than one local authority area.**

190.— (1) (*a*) A local authority may, in relation to a place that is situated—

(i) in its functional area, and

(ii) in the functional area of another local authority or the functional areas of other local authorities,

by resolution passed by not less than half of the members standing elected or coopted for the time being to the first-mentioned local authority, propose to substitute a new placename (in this section referred to as the 'proposed new placename') for the then existing placename in respect of that place.

(*b*) A proposal referred to in paragraph (*a*) shall stand adopted by the local authority first-mentioned in that paragraph upon the passing, in accordance with paragraph (*c*), of a resolution by each other local authority within whose functional area part of the place concerned is also situated consenting to the adoption of the proposal.

(*c*) A resolution referred to in paragraph (*b*) shall be passed by not less than half of the members standing elected or coopted for the time being to the local authority concerned.

(2) The boundary of the place to which a proposal adopted under subsection (1) applies shall be described in that proposal whether by reference to a map or otherwise.

(3) A proposal adopted under subsection (1) shall specify the proposed new placename in the Irish language only or in both the Irish language and the English language.

(4) Where a proposal stands adopted under subsection (1), each local authority shall, in respect of that part of the place situated in its functional area—

(*a*) notify such persons, or persons belonging to such class of person, as may be prescribed by regulations made by the Minister of the adoption of the proposal, and

(*b*) publish a public notice of the proposal inviting submissions in writing from members of the public in relation thereto not later than 2 months from the date of the publication of the notice.

(5) A person who receives a notification under paragraph (*a*) of subsection (4) shall be entitled to make submissions in writing to the local authority that gave the notification in relation to the proposal concerned not later than 2 months from the date of the notification.

(6) A local authority shall consider any submissions received by it in accordance with a notification under paragraph (*a*) of subsection (4) or a notice under paragraph (*b*) of that subsection.

(7) After considering any submissions referred to in subsection (6), each local authority concerned may, by resolution passed by not less than half of the members standing elected or coopted for the time being to that local authority decide—

(*a*) to hold a ballot of the qualified electors registered in the place to which the proposed new placename applies in respect of the proposed new placename or such alternative to the proposed new placename as the local authorities concerned consider appropriate, or

(*b*) not to proceed with the proposal to change the placename of the place concerned.

(8) A ballot to which subsection (7) applies shall be in secret and shall be conducted in accordance with regulations made by the Minister.

(9) (*a*) Subject to subsection (3) of section 192, if a majority of the votes cast at a ballot held pursuant to a decision under subsection (7) is in favour of the proposed new placename concerned the Cathaoirligh of the local authorities concerned shall jointly declare that, from such date (determined in accordance with paragraph (*b*)) as is specified in the declaration, that proposed new placename shall become and be the placename in respect of the place concerned.

(*b*) Where the Cathaoirligh of the local authorities concerned make a declaration under this subsection, the placename specified in the declaration shall—

(i) if the declaration is made not less than 3 months before the 1st day of January next following the declaration, become and be the placename in respect of the place concerned from the said 1st day of January, or

(ii) in any other case, become and be the placename in respect of the place concerned from the first anniversary of the said 1st day of January.

(*c*) Every declaration under this subsection shall be published in such manner as may be prescribed by regulations made by the Minister and shall be notified in writing to such persons, or persons belonging to such class of person, as may be so prescribed.

(*d*) Every declaration under this subsection shall be published in *Iris Oifigiúil*, as soon as may be after its making.**]**

F72**[**Daingean Uí Chúis.

191.— (1) The townland, civil parish, electoral division and non-municipal town that, immediately before the commencement of this section, was known (pursuant to the Order of 2004) as An Daingean shall, from such commencement, be known, in the Irish language, as Daingean Uí Chúis and, in the English language, as Dingle.

(2) The Order of 2004 is amended by the deletion—

(*a*) of the text in columns (1) and (2) of Caibidil 1 of Roinn A of Cuid 4 at reference number 171,

(*b*) of the text in columns (1) and (2) of Caibidil 2 of Roinn A of Cuid 4 at reference number 4, and

(*c*) of the text in columns (1) and (2) of Caibidil 4 of Roinn A of Cuid 4 at reference number 11.

(3) In this section 'Order of 2004' means the An t-Ordú Logainmneacha (Ceantair Ghaeltachta) 2004 (S.I. No. 872 of 2004).**]**

Annotations

Amendments:

F72 Substituted (7.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, S.I. No. 446 of 2011.

Changing of name of street situated in one local authority area.

192.—(1) A local authority may by resolution adopt a proposal to change the name of a street in its functional area to a proposed new name.

(2) The street to which the proposal referred to in *subsection (1)* relates shall be described in that proposal by reference to a map or otherwise.

(3) Where a local authority adopts a proposal under *subsection (1)*, it shall seek, in accordance with regulations made by the Minister under *section 196*, the consent of the majority of the qualified electors in the street to the proposed new name.

(4) Where a majority of the qualified electors consent to the proposed new name, the Cathaoirleach of the local authority concerned shall make a declaration confirming

such consent and specifying the proposed new name and the date on which it comes into operation.

(5) A declaration made by the Cathaoirleach of a local authority under *subsection (4)* shall be in such form, as may be prescribed by regulations made by the Minister under *section 196*.

(6) *Section 196* applies to this section, as appropriate.

Annotations

Amendments:

F73 Substituted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

Modifications (not altering text):

C32 Prospective amending provision: section substituted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

F73**[General provisions relating to change of names.**

192.— (1) The consideration of submissions received under this Part shall be a reserved function.

(2) A local authority shall, in adopting a proposal under section 189 or 190 have regard to local traditions.

(3) (*a*) If a majority of the votes cast at a ballot held pursuant to a decision under subsection (7) of section 189 or subsection (7) of section 190 in relation to a place in a Gaeltacht area is in favour of the proposed new placename concerned, the Minister for Arts, Heritage and Gaeltacht Affairs shall make an order declaring that, from such date (determined in accordance with paragraph (*b*)) as is specified in the order, that proposed new placename shall become and be the placename in respect of the place concerned.

(*b*) Where the Minister for Arts, Heritage and Gaeltacht Affairs makes an order under this subsection, the placename to which the declaration in the order relates shall—

(i) if the order is made not less than 3 months before the 1st day of January next following the order, become and be the placename of the place concerned from the said 1st day of January, or

(ii) in any other case, become and be the placename of the place concerned from the first anniversary of the said 1st day of January.

(*c*) Every order under this subsection shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(4) Where the Minister for Arts, Heritage and Gaeltacht Affairs makes an order under subsection (3), any provision of an order made under section 32 of the Official Languages Act 2003 in force immediately before the making of the first-mentioned order shall stand revoked in so far only as it conflicts with the first-mentioned order.

(5) (*a*) The Minister may make regulations for the purposes of this Part.

(*b*) Without prejudice to the generality of paragraph (*a*), regulations under that paragraph may make provision in relation to the bearing of the costs incurred by local authorities in the performance of their functions under section 190 or as a consequence of the substitution of a placename under that section.

(6) In this section 'Gaeltacht area' has the same meaning as it has in the Official Languages Act 2003.**]**

Changing of name of street situated in more than one local authority area.

193.—(1) Where a street is situated in the functional area of more than one local authority, one of the authorities concerned, may by resolution adopt a proposal to change the name of a street to a proposed new name.

(2) The street to which the proposal referred to in *subsection (1)* relates shall be described in that proposal, whether by reference to a map or otherwise.

(3) Before the local authority concerned adopts a proposal under *subsection (1)*, it shall have acquired the consent of the other relevant authority to that proposal by way of resolution.

(4) *Subsections (3)* to *(6)* of *section 192* apply to the adoption of a proposal to change the name of a street situated in the functional area of more than one authority, subject to such modifications or adaptations as are necessary.

Annotations

Amendments:

F74 Substituted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

Modifications (not altering text):

C33 Prospective amending provision: section substituted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

F74**[Display of name of street or place.**

193.— A local authority may cause the placename of a street or other place to be displayed on a conspicuous part of any building, structure or land located on that street or at that place.**]**

Changing of name of locality situated in one local authority area.

194.—(1) A local authority may by resolution, adopt a proposal to change the name of a locality in its functional area to a proposed new name.

(2) The area of the locality to which the proposal referred to in *subsection (1)* relates shall be described in that proposal, whether by reference to a map or otherwise.

F75**[**(3) (*a*) References in any enactment, instrument or other document to An Daingean shall, from the commencement of section 191, be construed as references to Daingean Uí Chúis.

(*b*) References in any proceedings (civil or criminal) pending immediately before the commencement of section 191 to An Daingean shall, from such commencement, be construed as references to Daingean Uí Chúis.**]**

(4) Where a majority of the qualified electors consent to the proposed new name the Cathaoirleach of the local authority concerned shall make a declaration confirming such consent and specifying the proposed new name and the date on which it comes into operation.

(5) A declaration made by the Cathaoirleach of a local authority under *subsection (4)* shall be in such form as may be prescribed by regulations made by the Minister under *section 196*.

(6) *Section 196* applies to this section, as appropriate.

Annotations

Amendments:

F75 Substituted (7.09.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, S.I. No. 446 of 2011.

F76 Substituted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

Modifications (not altering text):

C34 Prospective amending provisions: section substituted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

F76[**Construction of references.**

194.— (1) Where a declaration under section 189 or 190 is made in respect of a place—

(*a*) references in any enactment, instrument or other document to the placename of that place applicable immediately before the date specified in the declaration in accordance with subsection (9) of section 189 or subsection (9) of section 190, as the case may be, shall, from that date, be construed as references to the placename specified in that declaration, and

(*b*) references in any proceedings (civil or criminal) pending immediately before that date to the placename first-mentioned in paragraph (*a*) shall, from that date, be construed as references to the placename second-mentioned in that paragraph.

(2) Where an order under section 192 is made in respect of a place—

(*a*) references in any enactment, instrument or other document to the placename of that place applicable immediately before the date specified in the order in accordance with subsection (3) of that section shall, from that date, be construed as references to the placename specified in that order, and

(*b*) references in any proceedings (civil or criminal) pending immediately before that date to the placename first-mentioned in paragraph (*a*) shall, from that date, be construed as references to the placename second-mentioned in that paragraph.

(3) (*a*) References in any enactment, instrument or other document to An Daingean shall, from the commencement of section 191, be construed as references to Daingean Uí Chúis.

(*b*) References in any proceedings (civil or criminal) pending immediately before the commencement of section 191 to An Daingean shall, from such commencement, be construed as references to Daingean Uí Chúis.**]**

Changing of name of locality situated in more than one local authority area.

195.—(1) Where a locality is situated in the functional area of more than one local authority, one of the authorities concerned, may by resolution adopt a proposal to change the name of a locality to a proposed new name.

(2) The area of the locality to which the proposal referred to in *subsection (1)* relates shall be described in that proposal, whether by reference to a map or otherwise.

(3) Before the local authority concerned adopts a proposal under *subsection (1)*, it shall have acquired the consent of the other relevant authority to that proposal by way of resolution.

(4) *Subsections (3)* to *(6)* of *section 194* apply to the adoption of a proposal to change the name of a locality situated in the functional area of more than one authority, subject to such modifications or adaptations as are necessary.

Annotations

Amendments:

F77 Deleted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

Modifications (not altering text):

C35 Prospective amending provisions: section deleted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

Changing of name of locality situated in more than one local authority area.

195.—F77**[**...**]**

General provisions relating to change of names.

196.—(1) The consideration of submissions received under this Part is a reserved function.

(2) Where a change of name is made under this Part then, on and from the date on which the proposal comes into operation, every reference in any instrument, document or map to the existing name shall be read as a reference to the new name.

(3) A change of name under this Part does not affect any rights or obligations of any authority or person or make defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name.

(4) A local authority shall give due regard to local and indigenous traditions in the development of any proposal for the change of a name under this Part.

(5) (*a*) The Minister may by regulations make provision in respect of the change of name of a town, townland, non-municipal town, street or locality.

(*b*) Without prejudice to the generality of *paragraph (a)*, regulations under this section may, in particular include provision in respect of—

(i) the prescribed persons for the purposes of this Part,

(ii) the procedures to be followed in ascertaining for the purpose of *sections 189* to *195* whether the majority of the qualified electors concerned consent to the proposed new name,

(iii) the prescribed form for a declaration under this Part,

(iv) the publication of a notice of making of a declaration under this Part,

(v) the arrangements for sharing of costs between authorities in respect of *sections 191, 193* and *195*, and any other necessary joint arrangements as may be appropriate,

(vi) the publication of a public notice and the notification of specified persons of any proposal under *sections 192* to *195* and consideration of submissions received.

Annotations

Amendments:

F78 Deleted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

Modifications (not altering text):

C36 Prospective amending provision: section deleted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

General provisions relating to change of names.

196.—F78[...]

Display of name of street, etc.

197.—A local authority may cause the name of a street, place or area to be displayed on a conspicuous part of any convenient building, or other structure or land.

Annotations

Amendments:

F79 Deleted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

Modifications (not altering text):

C37 Prospective amending provision: section deleted by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 48, not commenced as of 9.08.2012.

Display of name of street, etc.

197.—F79[...]

PART 19

Bye-Laws

Interpretation (*Part 19*).

198.—(1) In this Part, except where the context otherwise requires—

"appropriate Minister", in relation to any matter, means the Minister of the Government on whom functions stand conferred or who has general responsibility in respect of or connected to the matter in question;

"functional area" means as respects—

(*a*) a city council, the city;

(*b*) a county council, the county exclusive of any town which has a town council situated in it;

(*c*) a town council, the town.

(2) In this Part, except where the context otherwise requires, a reference to a bye-law is a reference to a bye-law made, or deemed to have been made, under this Part.

Power to make bye-law.

199.—(1) Subject to *subsection (7)*, a local authority may make a bye-law for or in relation to the use, operation, protection, regulation or management of any land, services, or any other matter provided by or under the control or management of the local authority, whether within or without its functional area or in relation to any connected matter.

(2) (*a*) Subject to this subsection and *subsection (7)*, a local authority may make a bye-law where in its opinion it is desirable in the interests of the common good of the local community—

(i) that any activity or other matter should be regulated or controlled by bye-law, or

(ii) that any nuisance should be controlled or suppressed by bye-law.

(*b*) A bye-law may not be made under this subsection for a purpose as respects which provision for that particular purpose is made by or under any other enactment or may be made under such enactment.

(3) Any bye-law may include such provisions as the local authority considers appropriate for its effective application, operation and enforcement and generally to achieve the purposes for which it is made, including—

(*a*) its application at all times or at specified times;

(*b*) its application throughout the functional area of the local authority or in any specified part of that functional area;

(*c*) the prohibition of any activity, matter or thing;

(*d*) the prescription of specified standards or requirements for, or in relation to, specified activities, matters or things;

(*e*) the exception of classes of persons or things from the bye-law either subject to or without compliance with specified conditions;

(*f*) the conduct of persons at specified places or in specified circumstances;

(*g*) the issue of licences or other authorisations by the local authority subject to or without condition and to have effect permanently or for a specified period;

(*h*) the payment of a fee or charge at a specified time by any person in respect of any specified matter governed by a bye-law;

(*i*) the specification of a fine for a contravention of a specified provision of a bye-law as provided by *section 205*;

(*j*) the specification of a fixed payment as an alternative to a prosecution for a contravention of a specified provision of a bye-law as provided for by *section 206*.

(4) (*a*) A local authority may, subject to this Part, amend any bye-law made by it.

(*b*) A local authority may revoke any bye-law made by it with effect from such day as is specified in the resolution.

(5) The approval of a draft bye-law, the consideration of submissions in relation to such draft bye-law and the making, amendment or revocation of a bye-law, are each reserved functions.

(6) The power of a local authority to make a bye-law in respect of its functional area includes a power to make a bye-law in respect of the foreshore and of coastal waters adjoining that functional area and with the agreement of any other local authority, of the coastal waters adjoining the functional area of that other local authority.

(7) The appropriate Minister may by regulation prescribe matters or classes of matters in respect of which local authorities are not entitled to make a bye-law.

(8) (*a*) Where, for given reasons, the appropriate Minister considers that a bye-law or any provision of it is objectionable and so notifies the local authority in writing then, if the local authority does not revoke or amend the bye-law in conformity with the notice, that Minister may by order under this subsection do so with effect from a specified day.

(*b*) *Section 4(4)(c)* applies to an order made under *paragraph (a)*.

Procedure for making bye-law.

200.—(1) Not less than 2 months before a local authority makes a bye-law, the local authority shall publish a notice in one or more newspapers circulating in the area to which the proposal relates—

(*a*) indicating that it is proposed to make a bye-law and stating its general purpose and where appropriate, that provision is to be made for the imposition of fixed payments in accordance with *section 206*,

(*b*) indicating the times at which and the period, which shall be not less than one month, during which a copy of the draft bye-law will be available for public inspection, at such place as is specified in the notice,

(*c*) stating that a copy of the draft bye-law will be given to any person applying for it on payment of such specified sum, if any, as the local authority may have fixed,

(*d*) stating that the local authority will consider any submissions in relation to the draft which are submitted to the authority in writing by any person before such date as may be specified, not being less than 7 days after the end of the period for inspection of the draft bye-law, and

(*e*) where a bye-law is subject to the approval of the appropriate Minister the notice shall comply with *section 201(2)(b)*.

(2) (*a*) During the period indicated under *subsection (1)(b)*, the local authority shall keep a copy of the draft bye-law open for public inspection, during ordinary office hours at the place specified in the notice and any person may apply for a copy of it.

(*b*) A copy of the draft bye-law may be obtained by any person on the payment to the local authority concerned of such fee (if any) as the local authority fixes not exceeding the reasonable cost of copying it.

(3) A local authority shall on, or as soon as may be after, the publication by it of a notice under *subsection (1)*, send a copy of such notice together with a copy of the relevant draft bye-law to such persons as may be prescribed by regulations made by the Minister and different provisions may be prescribed for different classes of bye-law.

(4) The local authority shall consider any submissions made to it under *subsection (1)* and not withdrawn and may then—

(*a*) make the bye-law either in accordance with the draft or subject to such changes as the local authority may, at its discretion, determine, or

(*b*) not make the bye-law.

(5) (*a*) A bye-law made by a local authority, other than a bye-law to which *section 201* applies, shall come into force on such date as shall be specified in the bye-law, which is not less than 30 days after its making.

(*b*) A bye-law to which *section 201* applies shall not come into force unless approved by the appropriate Minister under that section.

Annotations

Editorial Notes:

E71 Power pursuant to section exercised (10.07.2006) by *Local Government Act, 2001 (Bye-Laws) Regulations 2006* (S.I. No. 362 of 2006).

Certain bye-laws to be submitted to appropriate Minister.

201.—(1) This section applies to a bye-law which by virtue of regulations under *subsection (2)* is required to be submitted to the appropriate Minister.

(2) (*a*) The appropriate Minister may make regulations under this section for the purpose of designating any matter or classes of matters in relation to which a bye-law requires the approval of that Minister and any such bye-law made subsequent to the commencement of such regulations shall not come into operation unless so approved.

(*b*) Subject to this section, *section 200* applies to a bye-law to which this section applies but a notice to be published by the local authority under *section 200(1)* shall state that the bye-law to be made by the local authority is subject to the approval of the appropriate Minister and that the authority is required to submit all submissions which it receives to that Minister together with its comments (if any) on them.

(3) A local authority shall, as soon as may be after the making under *section 200* of a bye-law to which this section applies, submit a copy to the appropriate Minister together with a copy of any submissions made to the authority under *section 200(1)* and not withdrawn and any comments which it may wish to make on those submissions.

(4) The appropriate Minister, having considered the documents submitted by the local authority under *subsection (3)*, may—

(*a*) approve the bye-law, or

(*b*) approve the bye-law subject to such amendments as that Minister may incorporate in it, or

(*c*) refuse to approve the bye-law.

(5) The appropriate Minister shall in approving a bye-law under this section endorse on it a statement that the bye-law has been so approved and shall specify the date on which it shall come into operation.

Publication of bye-law.

202.—(1) Notice of the making of a bye-law, or approval in the case of a bye-law to which *section 201* applies, and of the place where copies of the bye-law may be purchased or inspected shall be published in the *Iris Oifigiúil* and in one or more newspapers circulating in the area to which the bye-law relates.

(2) The notice referred to in *subsection (1)* shall include—

(*a*) a statement of the general purposes for which the bye-law was made,

(*b*) the date on which it comes into force,

(*c*) a statement that a copy of the bye-law may be inspected, during ordinary office hours, at the principal offices of the local authority, and

(*d*) a statement that a copy of the bye-law will be given to any person applying for it on payment of a specified fee, not exceeding the reasonable cost of making such copy.

(3) (*a*) The local authority shall keep a copy of the bye-law open for public inspection during ordinary office hours at the principal offices of the local authority and any person may apply for a copy of it.

(*b*) A copy of the bye-law may be obtained by any person on the payment to the local authority concerned of such fee (if any) as the local authority fixes not exceeding the reasonable cost of the making of a copy.

(4) Failure to publish notice of the making of, or as appropriate, the approval of, or to make available a copy of, any bye-law does not invalidate that bye-law.

(5) (*a*) Where a bye-law relates to the use, regulation or management of land provided by a local authority, a local authority shall endeavour to keep a notice displayed at or near such land that a bye-law applies to it.

(*b*) Failure to provide or to keep a notice under *paragraph (a)* is not a defence in any prosecution for contravention of a provision of a bye-law.

(6) A local authority shall maintain a register of bye-laws made by it under this Part and under Part VII of the Local Government Act, 1994, and the register shall—

(*a*) be available for public inspection at the principal offices of the local authority during normal office hours, and

(*b*) include the date of the coming into operation, the area of application, and an indication of the subject matter of all bye-laws made by the authority.

Proof of bye-law.

203.—Whenever required so to do by any court, it is the duty of a local authority, to produce to that court a true copy of any bye-law and to verify the copy to that court by having endorsed on the copy a certificate signed by an employee (whose official position it is not necessary to prove) of the local authority, by which the bye-law was made and that court shall receive the copy in evidence and, accordingly, the copy as so certified is evidence of the bye-law unless the contrary is shown.

Obstruction, etc. of authorised person.

204.—(1) In this section "authorised person" means a person authorised in writing by a local authority for the purpose of this section or, except in the case of *subsection (4)*, a member of the Garda Síochána.

(2) An authorised person may request any person who appears to be contravening or to have contravened a provision of a bye-law relating to any land, service or any other thing provided by or under the control or management of the local authority to leave such land or to refrain from any activity and may remove any person failing to comply with such request.

(3) (*a*) A person who obstructs or impedes or refuses to comply with a request of an authorised person acting in the exercise of the functions conferred on an authorised person by this Part is guilty of an offence.

(*b*) Where an authorised person is of the opinion that a person is committing or has committed an offence to which this section or *section 205* relates, the authorised person may demand the name and address of such person and if that demand is refused or the person gives a name or address which is false or misleading, that person is guilty of an offence.

(*c*) A person who is convicted of an offence under this subsection is liable on summary conviction to a fine not exceeding £1,500.

(*d*) Where a member of the Garda Síochána is of the opinion that a person is committing or has committed an offence to which this section or *section 205* relates, that member may arrest the person without warrant.

(4) A person is not bound to comply with a request of an authorised person under this section unless the authorised person produces, if requested by the person, evidence of appointment as an authorised person for the purpose of this Part.

Bye-law offences and penalties.

205.—(1) A person who contravenes a provision of any bye-law is guilty of an offence and is liable on summary conviction to a fine not exceeding £1,500 or such lesser amount as may be specified in the bye-law in respect of such contravention.

(2) If the contravention of a provision of a bye-law is continued after conviction, the person causing the contravention is guilty of an offence on each day on which that contravention continues and is liable on summary conviction for each such offence

to a fine not exceeding £100 or such lesser amount as may be specified in the bye-law in respect of such contravention.

Fixed payment notices.

206.—(1) A bye-law may provide for a person to be served with a notice, specifying a fixed payment, not exceeding such amount as may be prescribed by regulations made by the Minister, in respect of a contravention of a bye-law as an alternative to a prosecution for the contravention and where the bye-law so provides it shall specify—

(*a*) the amount of the fixed payment, and

(*b*) the period within which it must be paid in order to avoid prosecution.

(2) A notice referred to in *subsection (1)* shall specify—

(*a*) the name and address of the alleged offender,

(*b*) in general terms the nature of the contravention alleged to have been committed,

(*c*) the date and place of the alleged contravention,

(*d*) the amount of the payment,

(*e*) the period within which and the place where the fixed payment may be made, and

(*f*) that the alleged offender is entitled to disregard the notice and defend a prosecution of the alleged contravention in court.

(3) A fixed payment shall not exceed the maximum fine duly provided for in respect of the alleged contravention concerned.

(4) Where a fixed payment has been duly paid in respect of an alleged contravention by a person, no proceedings shall be instituted against the person in respect of the alleged contravention.

Annotations

Editorial Notes:

E72 Power pursuant to section exercised (10.07.2006) by *Local Government Act, 2001 (Bye-Laws) Regulations 2006* (S.I. No. 362 of 2006).

Prosecution of offences (*Part 19*).

207.—An offence under this Part may be prosecuted by the local authority which made the relevant bye-law, by any other local authority acting on its behalf or by a member of the Garda Síochána.

Payments of fines and fixed payments.

208.—All fines in respect of offences under this Part and all fixed payments to which *section 206* relates shall be paid to the local authority by which the relevant bye-law was made.

Continuation in force of existing bye-laws, etc.

209.—(1) Every bye-law made under Part VII of the Local Government Act, 1994, and subsisting at the commencement of this provision, shall continue in force as if made under this Part and may be amended or revoked as if made under this Part.

(2) Without prejudice to section 20 of the Interpretation Act, 1937, references in—

(*a*) section 35 of the Waste Management Act, 1996,

(*b*) section 89 of the Harbours Act, 1996,

(*c*) section 13 of the Control of Horses Act, 1996, and

(*d*) section 21(3) of the Litter Pollution Act, 1997,

to Part VII of the Local Government Act, 1994, or any section of that Part shall be read as a reference to *Part 19* of this Act or to the corresponding section of *Part 19*, as the case may be.

(3) Notwithstanding the repeal by this Act of the Towns Improvement (Ireland) Act, 1854, sections 78 to 88 of that Act shall continue to apply and have effect and for that purpose any reference to bye-laws in the said section 88 shall be read as reference to a bye-law made under this Part.

(4) Every bye-law made under section 30, 41 or 42(2) of the Local Government (Sanitary Services) Act, 1948, or under section 88 of the Towns Improvement (Ireland) Act, 1854, and subsisting at the commencement of this provision shall continue in force as if made under this Part and may be amended or revoked as if made under this Part.

(5) For the avoidance of doubt it is hereby declared that any matter capable of being governed by a bye-law referred to in *subsection (4)* may be the subject of a bye-law made under this Part.

(6) In so far as certain bye-laws continue to apply for certain purposes under section 22(2) of the Building Control Act, 1990, such bye-laws continue to so apply in accordance with that section.

Power to apply (*Part 19*).

210.—(1) Without prejudice to *section 3* or *4* the Minister may by regulations under this section in relation to any provision of any enactment which confers on a local authority a power to make bye-laws apply some or all of this Part and any such bye-law is subject to such provisions as are so applied and the provision of the relevant enactment shall be read accordingly.

(2) The Local Government Act, 1994 (Bye-Laws) Regulations, 1999 (S.I. No. 78 of 1999), shall continue in force as if made under the corresponding provisions of this Act and may be amended or revoked accordingly.

Amendment of Control of Dogs Act, 1986.

211.—(1) Section 17 of the Control of Dogs Act, 1986, as amended by the Control of Dogs (Amendment) Act, 1992, is hereby amended by the substitution for that section of the following—

"17.—(1) A local authority may make bye-laws relating to the control of dogs within its functional area.

(2) A bye-law under subsection (1) shall, subject to subsection (3), be made in accordance with, and read as if it was made under *Part 19* of the *Local Government Act, 2001*.

(3) Section 27(1)(*d*) and section 30 shall apply in respect of a bye-law under *subsection (1)* and *paragraphs (h)* and *(i)* of *section 199(3)* of the *Local Government Act, 2001*, and *sections 205* to *208* of that Act shall not apply in respect of such bye-law.

(4) Bye-laws under subsection (1) may, without prejudice to the generality of that subsection or of *section 199(3)* of the *Local Government Act, 2001*, make provision for all or any of the following matters:

(*a*) specify areas in such part of the functional area of the local authority as may be specified in the bye-laws in which the person in charge of a dog shall be required to keep the dog on a leash,

(*b*) specify areas in such part of the functional area of the local authority as may be specified in the bye-laws in which a dog, other than a dog being used by a blind person or by a person whose eyesight is so defective that the person is unable to find his or her way without guidance, shall not be allowed.

(5) Bye-laws made under this section shall not apply to a dog being used—

(*a*) in the execution of his or her duty by a member of the Garda Síochána, or

(*b*) for such other purpose as the Minister may prescribe.".

(2) Section 27 of the Control of Dogs Act, 1986, as substituted by section 9 of the Control of Dogs (Amendment) Act, 1992, is amended by the substitution in subsection (2) of that section of "£1,500" for "£1,000".

(3) Section 28 of the Control of Dogs Act, 1986, as amended by section 10 of the Control of Dogs Act, 1992, is amended by the substitution in subsections (1) and (3) of "paragraph (*a*), (*b*), (*c*) or (*d*) of section 27(1) of this Act" for "paragraph (*a*), (*b*) or (*c*) of section 27(1) of this Act".

(4) Section 30 of the Control of Dogs Act, 1986, is amended by the addition of the following subsection:

"(3) All fines in respect of offences under this Act shall be paid to the local authority in whose area the offence was committed.".

(5) Any bye-laws made under section 17 of the Control of Dogs Act, 1986, before the commencement of this provision shall continue in force and shall be deemed to have been made under section 17 of that Act as substituted by this section and may be amended or revoked accordingly.

F80[PART 19A

ENTRY YEAR PROPERTY LEVY

Definitions.

211A.— In this Part:

'entry date', in relation to qualifying property, means the date on which the first rateable valuation for that property is entered on the valuation list;

'entry year', in relation to qualifying property, means the financial year in which the property is first entered on a valuation list;

'levypayer', in relation to qualifying property, means the person liable to pay the levy in respect of that property under section 211B(6);

'post-entry year' means the financial year following the entry year for a qualifying property;

'qualifying property' means property that is subject to the levy under section 211B(1);

'rating authority area' has the same meaning as in the Valuation Act 2001;

'relevant property' has the same meaning as in the Valuation Act 2001.]

Annotations

Amendments:

F80 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

F81[Entry year property levy.

211B.— (1) When newly erected or newly constructed relevant property comes into being in a rating authority area and the property is first entered on the valuation list relating to that area, the rating authority concerned shall impose and collect a levy in respect of that property in accordance with this section.

(2) Property that is not rateable pursuant to section 15(2), (3) or (4) of the Valuation Act 2001 is not subject to the levy under subsection (1) of this section.

(3) Subject to subsection (4), the amount of the levy under subsection (1) is to be determined by the formula

$$(A \times B) \times (C/D)$$

where

A is the annual rate on valuation that was determined by the rating authority for the entry year pursuant to section 103(7)(*b*)(i),

B is the rateable valuation of the property,

C is the number of days remaining in the entry year, beginning with the entry date, and

D is the total number of days in the entry year.

(4) If qualifying property is unoccupied on the entry date, the amount of the levy is to be determined by applying the formula set out in subsection (3) and dividing that result by 2.

(5) Notice of the levy shall be sent by post or otherwise delivered to the person liable to pay the levy for the qualifying property under subsection (6) (the 'levypayer') and the notice shall include the following information:

(*a*) the amount of the levy;

(*b*) the date by which the levy is due and payable and the manner in which it is to be paid.

(6) The following are liable to pay the levy under this section:

(*a*) the person who is in occupation of the qualifying property on the entry date;

(*b*) if the qualifying property is unoccupied on the entry date, the person who owns the property on that date.

(7) The date specified under subsection (5)(*b*) may not be less than 14 days from the date that the notice is sent under that subsection.

(8) The levypayer shall pay the full amount of the levy to the rating authority by the date specified under subsection (5)(*b*).

(9) The levy for which a levypayer is liable under this section is recoverable as a simple contract debt in any court of competent jurisdiction and, if there is more than one levypayer in respect of the qualifying property, those levypayers are jointly and severally liable for that levy.

(10) A levy is not invalidated by any error or defect in the statement of the name of the levypayer in the notice under subsection (5) or by the use of the description 'the owner' or 'the occupier' without any name or addition, and the levy is recoverable from the levypayer notwithstanding any such error or defect or the use of any such description.

(11) For the purposes of this section and section 211E, qualifying property is 'unoccupied' if the person who owns the property on the entry date (the 'owner') satisfies the rating authority that—

(*a*) the owner was not occupying the property on that date,

(*b*) no other person was entitled to the use or enjoyment of the property on that date, and

(*c*) acting in good faith, the owner was genuinely unable to find a suitable tenant for the property at a reasonable rent.**]**

Annotations

Amendments:

F81 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

F82**[**Recalculation of levy in event of total destruction or demolition of property.

211C.— (1) If during the entry year qualifying property is demolished or destroyed to the extent that it is incapable of rateable occupation by the owner of the property, the levypayer may apply in writing to the rating authority concerned for a refund or credit on the amount of the levy paid or payable under section 211B.

(2) On receiving the application and being satisfied that the condition described in subsection (1) has been met, the rating authority shall prorate the amount of the levy that was paid or is payable for that portion of the entry year during which the property is incapable of rateable occupation and that prorated amount shall be—

(*a*) refunded to the applicant levypayer, in the case where the levy has already been paid in full,

(*b*) refunded to the applicant levypayer to the extent that any partial payment of the levy that has been made would result in an overpayment because of the application of this subsection, or

(*c*) if paragraphs (*a*) and (*b*) do not apply, credited to the account of the applicant levypayer.**]**

Annotations

Amendments:

F82 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

F83**[**Recalculation of entry year levy if rateable valuation amended.

211D.— (1) This section applies if—

(*a*) the levypayer has paid the levy payable in respect of qualifying property under section 211B,

(*b*) the rateable valuation of the property changes during the entry year because of amendment to the valuation list described in section 28 of the Valuation Act 2001, and

(*c*) the levypayer has not received a refund or credit under section 211C in respect of the property.

(2) As soon as reasonably practicable after amendment of the rateable valuation of the property described in subsection (1), the entry-year levy for that property shall be recalculated by the rating authority under section 211B(3) or (4), as the case may be, using the same annual rate on valuation but the amended rateable valuation for the property, and the recalculated amount shall be prorated based on the number of days remaining in the entry year, beginning with the date that the rateable valuation is amended.

(3) If, as a result of the recalculation under subsection (2), the payment of the levy described in subsection (1)(*a*) involved an overpayment, then the rating authority shall pay to the levypayer a refund in the amount of that overpayment.

(4) If, as a result of the recalculation under subsection (2), the payment of the levy described in subsection (1)(*a*) involved an underpayment, then—

(*a*) the levypayer is liable for the balance owing,

(*b*) the balance owing may be recovered from the levypayer by the same means provided under section 211B, and

(*c*) the provisions of section 211B(5) to (10) apply for the purposes of that recovery.

(5) If—

(*a*) the amended rateable valuation for the property referred to in subsection (2) is consequently the subject of an appeal under Part 7 of the Valuation Act 2001, and

(*b*) after all appeals under that Part have been exhausted, the final rateable valuation of the property for the entry year is different than it was for purposes of the recalculation under subsection (2),

the rating authority shall recalculate the entry-year levy for that property under section 211B(3) or (4), as the case may be, using the same formula applied in those provisions except where 'B' is now the final rateable valuation for the property referred to in paragraph (*b*) of this subsection.

(6) If, as a result of recalculation under subsection (5), the amount of money paid by the levypayer in respect of the entry-year levy involved an overpayment or an underpayment, then—

(*a*) in the case of an overpayment, subsection (3) applies, and

(*b*) in the case of an underpayment, subsection (4) applies.**]**

Annotations

Amendments:

F83 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

F84[Post-entry year property levy in specified circumstances.

211E.— (1) If qualifying property is first entered on the valuation list relating to a rating authority area after the rating authority concerned determines the annual rate on valuation for the post-entry year pursuant to section 107(3)(*b*)(i), the rating authority shall impose and collect an additional levy in respect of that property in accordance with this section.

(2) Subject to subsection (3), the amount of the levy under subsection (1) is to be determined by the formula

A x B

where

A is the annual rate on valuation that was determined by the rating authority for the post-entry year pursuant to section 103(7)(*b*)(i), and

B is the rateable valuation of the property.

(3) If the property referred to in subsection (1) is unoccupied on the entry date, the amount of the levy is to be determined by applying the formula set out in subsection (2) and dividing that result by 2.

(4) Notice of the levy shall be sent by post or otherwise delivered to the levypayer and the notice shall include the following information:

(*a*) the amount of the levy;

(*b*) the date by which the levy is due and payable and the manner in which it is to be paid.

(5) The date specified under subsection (4)(*b*) may not be less than 14 days from the date that the notice is sent under that subsection.

(6) The levypayer shall pay the full amount of the levy to the rating authority by the date specified under subsection (4)(*b*).

(7) The provisions of section 211B(9) and (10) apply for purposes of recovery of the levy under this section and any references in those provisions to section 211B shall be construed as references to this section.

(8) The provisions of section 211C apply in respect of a qualifying property that may be subject to the post-entry year levy under this section and, for that purpose, the following rules of construction apply:

(*a*) any references in those provisions to section 211B shall be construed as references to this section;

(*b*) any references in those provisions to 'entry year' shall be construed as references to 'post-entry year'.**]**

Annotations

Amendments:

F84 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

F85[Recalculation of post-entry year levy if rateable valuation amended.

211F.— (1) This section applies if—

(*a*) the levypayer has paid the levy payable in respect of qualifying property under section 211E,

(*b*) the rateable valuation of the property changes during the post-entry year because of amendment to the valuation list described in section 28 of the Valuation Act 2001, and

(*c*) the levypayer has not received a refund or credit in respect of the property pursuant to section 211E(8).

(2) As soon as reasonably practicable after amendment of the rateable valuation of the property described in subsection (1), the post-entry year levy for that property shall be recalculated by the rating authority under section 211E(2) or (3), as the case may be, using the same annual rate on valuation but the amended rateable valuation for the property, and the recalculated amount shall be prorated based on the number of days remaining in the post-entry year, beginning with the date that the rateable valuation is amended.

(3) If, as a result of the recalculation under subsection (2), the payment of the levy described in subsection (1)(*a*) involved an overpayment, then the rating authority shall pay to the levypayer a refund in the amount of that overpayment.

(4) If, as a result of the recalculation under subsection (2), the payment of the levy described in subsection (1)(*a*) involved an underpayment, then—

(*a*) the levypayer is liable for the balance owing,

(*b*) the balance owing may be recovered from the levypayer by the same means provided under section 211E, and

(*c*) the provisions of section 211E(4) to (7) apply for the purposes of that recovery.

(5) If—

(*a*) the amended rateable valuation for the property referred to in subsection (2) is consequently the subject of an appeal under Part 7 of the Valuation Act 2001, and

(*b*) after all appeals under that Part have been exhausted, the final rateable valuation of the property for the post-entry year is different than it was for purposes of the recalculation under subsection (2),

the rating authority shall recalculate the post-entry year levy for that property under section 211E(2) or (3), as the case may be, using the same formula applied in those provisions except where 'B' is now the final rateable valuation for the property referred to in paragraph (*b*) of this subsection.

(6) If, as a result of recalculation under subsection (5), the amount of money paid by the levypayer in respect of the post-entry year levy involved an overpayment or an underpayment, then—

(*a*) in the case of an overpayment, subsection (3) applies, and

(*b*) in the case of an underpayment, subsection (4) applies.**]**

Annotations

Amendments:

F85 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

PART 20

Public Local Inquiries

Power to hold public local inquiries.

212.—(1) The Minister may cause such public local inquiries to be held as he or she may consider necessary or desirable—

(*a*) for the purposes of *section 216(1)(a)* or the functions conferred on him or her or by any other enactment, or

(*b*) in relation to the performance of the functions of any local authority.

(2) A public local inquiry under *subsection (1)* shall be conducted by a person (in this Part referred to as an "inspector") appointed for that purpose by the Minister who shall, without prejudice to any specific requirements in the enactments referred to in *subsection (1)*, prepare a report of the inquiry and submit it to the Minister.

(3) For the purposes of a public local inquiry provided for by this section—

(*a*) the Minister may, with the approval of the Minister for Finance, engage one or more persons having qualifications which, in the opinion of the Minister are relevant to the conduct of the inquiry and for the purposes of this Part such person or persons is deemed to be an inspector or inspectors, as the case may be, and

(*b*) the Minister may pay to a person engaged under this subsection such remuneration and allowances as the Minister with the consent of the Minister for Finance, determines.

(4) The Minister may make regulations in relation to the conduct of a public local inquiry, the procedures at such an inquiry and the replacement of an inspector appointed to conduct an inquiry who dies, retires, resigns or is otherwise not available.

Annotations

Modifications (not altering text):

C38 Functions transferred and references to "Department of Finance" and "Minister for Finance" in subs. (3) construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 37 of 2001	Local Government Act 2001	Sections 66(7), 81(6), 92(2), 109(8), 169(1)(a), 212(3) and 231(1)
...	...	...

Power of inspector conducting a public local inquiry.

213.—(1) (*a*) An inspector appointed under *section 212(2)* to conduct a public local inquiry may take evidence on oath or on affirmation at the inquiry and, for that purpose, he or she may administer oaths and affirmations.

(*b*) A person giving evidence at an inquiry to which *paragraph (a)* relates is entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(*c*) A statement or admission made by a person before an inspector conducting a public local inquiry under this Part is not admissible in evidence against that person in any criminal proceedings other than proceedings in relation to an offence under *subsection (4)* or *(5)*.

(2) An inspector appointed to conduct a public local inquiry under this Part may require any employee or member of a local authority to give to him or her any information which he or she reasonably requires for the purposes of the inquiry, and it is the duty of such person to comply with such requirement.

(3) (*a*) Subject to this section the inspector conducting a public local inquiry under this Part may require any person by notice in writing to do either or both of the following:

(i) attend the inquiry at such place and time as is specified in the notice to give evidence in relation to any matter in question at such inquiry, and

(ii) produce any books, receipts, deeds, contracts, accounts, vouchers, maps, plans, documents, or other data, information, materials or things in his or her possession, custody or control which relate to any such matter.

(*b*) A notice under *paragraph (a)* may be served—

(i) by delivering it to the person to whom it relates, or

(ii) by sending it by post in a prepaid registered envelope addressed to that person at the address at which he or she ordinarily resides or, where an address for service has been furnished, at such address.

(4) Where a person on whom a notice has been served under *subsection (3)*—

(*a*) refuses or wilfully neglects to attend in accordance with such notice,

(*b*) wilfully alters, suppresses, conceals or destroys any document or other information to which such notice relates,

(*c*) or who, having so attended in accordance with such notice refuses to give evidence,

(*d*) refuses or wilfully fails to produce any document or other information to which such notice relates,

such person is guilty of an offence under this section and is liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

(5) Where a person on whom a notice has been served under *subsection (3)* or any other person—

(*a*) wilfully gives evidence which is material to the inquiry and which he or she knows to be false or does not believe to be true,

(*b*) by act or omission, obstructs or hinders the inspector conducting the inquiry in performance of his or her functions,

(*c*) refuses to take an oath or to make an affirmation when duly required by an inspector conducting the inquiry,

(*d*) refuses to answer any question to which the inspector conducting an inquiry may legally require an answer,

(*e*) does or omits to do any other thing and if such doing or omission would, if the inquiry had been the High Court, have been contempt of that Court,

such person is guilty of an offence under this section and is liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

(6) (*a*) For the purposes of an inquiry under this Part, an inspector at all reasonable times (subject to his or her producing, if so required, his or her authority in writing as such person)—

(i) may, in the case of a dwelling with the consent of the occupier or any person appearing to the inspector to be in charge of the dwelling, enter and inspect the dwelling and do there all things reasonably necessary for the purpose for which the entry is made, and

(ii) in the case of land which is not a dwelling, shall be entitled to enter and inspect, such land or any thing on, or under such land and do there all things reasonably necessary for the purpose for which the entry is made and, in particular may survey, make plans, borings or tests, take levels, make excavations, take samples and photographs and examine the depth and nature of the subsoil.

(*b*) An inspector may take into any dwelling or onto any land which is not a dwelling such person or equipment as he or she considers necessary to assist him or her for any of the purposes referred to in *paragraph (a)*.

(7) (*a*) Where an inspector is refused entry to a dwelling or land which is not a dwelling and such entry would be for the purposes of the exercise of his or her functions under this section, the Minister may apply to the District Court for a warrant authorising such entry.

(*b*) If on application being made to him or her under this subsection, a judge of the District Court is satisfied, on the sworn information of the applicant, that the inspector has been prevented from entering the dwelling or land concerned, the judge may issue a warrant under his or her hand authorising—

(i) the inspector at any time or times within one month from the date of the issue of the warrant, on production if so requested of the warrant, to enter, if need be by force, the dwelling or land concerned and exercise his or her functions under this section, and

(ii) if the judge considers it appropriate so to provide, the inspector to be accompanied by members of the Garda Síochána when entering the dwelling or land concerned.

(8) (*a*) If on a claim to the Minister it is shown that, as result of the exercise of any function under *subsection (6)*, any person has suffered damage, that person is entitled to be paid by the Minister compensation in respect of the damage and the amount of damage may, in default of agreement, be determined by any court of competent jurisdiction.

(*b*) A claim under this section shall be made within, but not after—

(i) 6 months after the damage is suffered, or

(ii) such longer period as the court may allow if it appears to the court that there are reasonable grounds for requiring a longer period and that it would be just and equitable to extend the period.

(9) A person who obstructs or impedes or assists a person to obstruct or impede—

(*a*) an inspector in performance of his or her functions under *subsection (6)* (other than a person to whom *paragraph (a)(i)* of that subsection relates unless *subsection (7)(b)* also applies), or

(*b*) an inspector or a member of the Garda Síochána in performance of his or her functions under *subsection (7)(b)*,

is guilty of an offence under this section and is liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

(10) Summary proceedings for an offence under this section may be brought by the Minister.

Power to direct payment of certain costs in relation to a public local inquiry, etc.

214.—(1) Where a public local inquiry is held under this Part, the Minister may in his or her absolute discretion direct the payment of such sum as he or she considers reasonable by—

(*a*) any local authority concerned in such inquiry to the Minister towards the costs incurred by the Minister in holding the inquiry including any payment made under *section 213(8)*,

(*b*) any local authority concerned in such inquiry to any person appearing at the inquiry towards the costs incurred by such person, other than costs of such nature as is provided for in *subsection (3)*,

(*c*) any person appearing at the inquiry to the Minister or to any local authority concerned in such inquiry towards the costs incurred by the Minister or by that authority.

(2) A reference to costs in *subsection (1)* shall be read as a reference to such costs as the Minister may in his or her absolute discretion determine to be the reasonable costs and irrespective of any amount claimed to have been incurred.

(3) (*a*) A local authority concerned in a local inquiry held by an inspector under this or any other enactment, shall, if so directed by the inspector, pay or tender to any person whose attendance at the inquiry such inspector requires by notice under *section 213(3)* reasonable subsistence and travelling expenses.

(*b*) The expenses referred to in *paragraph (a)* shall be determined by that local authority in accordance with the rates for the time being applicable to senior local authority employees.

(4) Where the Minister gives a direction under *subsection (1)* or an inspector under *subsection (3)* and a local authority or person the subject of the direction fails to pay such sum as may be specified in the direction to the Minister, to the local authority or other person, as the case may be, the Minister, local authority or that person (as may be appropriate) may recover such sum as a simple contract debt in any court of competent jurisdiction.

(5) Nothing in *section 153* shall operate to prejudice the separate appearance or representation, subject to the consent of the Minister, of a manager at a public local inquiry to which *section 212(1)(a)* applies in relation to a local authority for which he or she is manager and in such circumstances for the members of the local authority, subject to such consent, by resolution to engage and instruct representation on behalf of the local authority.

PART 21

Consequential Provisions on Failure to Perform Functions

Definitions (*Part 21*).

215.—(1) In this Part—

"commissioner" means a person appointed as such by the Minister under *section 218*;

"new election" has the meaning given by *section 217(1)(a)*;

"removal period" has the meaning given by *section 217(1)(e)*;

"section 10A" means section 10A (inserted by section 44 of the Local Government Act, 1994) of the City and County Management (Amendment) Act, 1955, as continued by *section 113(2)* of this Act.

(2) In this Part every reference to a removal from office shall be read as a reference to a removal from office under *section 216*.

Failure to perform functions, etc.

216.—(1) The Minister may be order remove from office the members of a local authority if and whenever—

(*a*) the Minister, after holding a public local inquiry into the performance by a local authority of its functions, is satisfied that such functions are not being duly and effectually performed, or

(*b*) a local authority refuses or neglects to comply with a judgement, order, or decree of any court, or

(*c*) a local authority fails to comply with a requirement made by notification under subsection (1) of section 10A, within 21 days after the date of notification, or

(*d*) a local authority in the circumstances set out in subsection (6) of section 10A, adopts a revised estimate of expenses which is, in accordance with that section, insufficient, or

(*e*) a local authority refuses or wilfully neglects to comply with any other express requirement which is imposed on it by or under any enactment including this Act, or

(*f*) the members of a local authority are less in number than the quorum for meetings of such local authority.

(2) (*a*) Where the members of a local authority are removed from office under this section, every person who immediately before the removal was a member of a linked body within the meaning of *section 220* or of any other body and

in either case by virtue of being nominated, elected or appointed by such local authority or by virtue of being the Cathaoirleach or by holding any other office or position relating to membership of such authority, shall cease also to be a member of the linked body or other body concerned.

(*b*) *Section 220* applies, as appropriate, to the linked body concerned.

(3) The removal from office of the members of a local authority does not affect or in any way prejudice the continuity of the existence of that local authority as a corporate body by the title appropriate to it under this Act.

(4) An order under *subsection (1)* may include all such things as the Minister considers necessary or expedient to enable a local authority whose members are removed from office to function duly and effectually and generally to enable this Part to have full force and effect.

(5) Without prejudice to section 20 of the Interpretation Act, 1937, the reference in sections 16 and 17 of the Local Elections (Petitions and Disqualifications) Act, 1974, to Part IV of the Local Government Act, 1941, shall be read as a reference to this Part.

Holding of new election after removal of members.

217.—(1) (*a*) The Minister may, by order, subject to *paragraph (b)*, fix a day for the holding of an election (in this Part referred to as a "new election") of members of any local authority of which the members have been removed from office and such election shall be held on that day.

(*b*) A new election shall not be fixed for a day which is within 12 months of the period within which the next local elections fall to be held in accordance with *section 26*.

(*c*) F86**[**...**]**

(*d*) Where a day for the holding of a new election is not fixed under this subsection, then an election of the members of the local authority concerned shall be held on the day of the next local elections and such election shall for the purposes of this Part be deemed to be a new election.

(*e*) The period between the removal of members from office and the day of coming into office of the members elected at a new election is referred to in this Part as the removal period.

(2) The Minister may by order make such provision as may be necessary to provide for the coming into office of persons elected at a new election to which *subsection (1)(d)* does not apply; including provision for the annual meeting to be held following their coming into office, the business of such meeting and related matters.

(3) Where a new election has been held in accordance with this Part the term of office of members elected at the new election shall expire to coincide with the next ordinary day of retirement of members of local authorities as referred to in *section 17*.

Annotations

Amendments:

F86 Repealed (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 7(c), commenced on enactment.

Appointment of commissioners, etc.

218.—(1) For the purposes of enabling a local authority whose members have been removed from office to function during the removal period, the Minister shall from

time to time appoint any one or more persons to be the commissioner or commissioners for any such local authority.

(2) For the purposes of *subsection (1)*, the Minister may—

(*a*) remove any commissioner for a local authority appointed under this section and appoint another person to be commissioner for such local authority in his or her place,

(*b*) where there are one or more commissioners appointed under this section for a local authority, appoint one or more persons to be additional commissioners for such local authority,

(*c*) where there are 2 or more commissioners appointed under this section for a local authority, reduce the number of such commissioners and for that purpose remove one or more of such commissioners,

(*d*) provide for a deputy to exercise the functions of a commissioners who by reason of ill-health or otherwise is absent, and

(*e*) where there are 2 or more commissioners for a local authority, provide generally or as regards particular matters for the acting of such commissioners individually, collectively or by a majority.

(3) The Minister may fix the tenure of office of any commissioner.

(4) The Minister may direct the payment of remuneration or allowances for expenses to any commissioner and may fix its amount, and such remuneration or allowances as so fixed shall be paid out of revenues of the relevant local authority as part of its general expenses.

Exercise of functions by commissioners.

219.—(1) (*a*) Subject to *subsection (3)*, during the removal period every function which is a reserved function of such local authority or a function to be exercised by the Cathaoirleach shall be exercised or performed by the commissioner or commissioners for such local authority.

(*b*) References in *paragraph (a)* to functions includes every permissive power to appoint a committee.

(2) During the removal period any enactment restricting the membership of a committee in whole or in part to members of the local authority concerned shall stand suspended.

(3) No commissioner or commissioners shall by virtue of being a commissioner or commissioners—

(*a*) nominate a candidate for election to the office of President,

(*b*) make nominations or vote in elections for Seanad Éireann,

(*c*) apply for an alteration of the number of members of the local authority under *section 22*, or

(*d*) exercise such other functions of a local authority as may be prescribed by regulations made by the Minister.

Linked bodies.

220.—(1) In this section—

"the appropriate Minister" means the Minister of the Government on whom functions stand conferred in relation to the linked body in question;

F87**[**"linked body" means F88**[**a Regional Health Forum established under the Health Act 2004,**]** a vocational education committee, a school attendance committee, a harbour board, a joint body and any other body—

(*a*) which is required by law to be composed wholly or partly of persons nominated, elected or appointed by a local authority or by 2 or more local authorities, or

(*b*) which is required by law to include one or more persons, who hold membership of such linked body by virtue of being Cathaoirleach or by holding any other office or position relating to membership of a local authority.**]**

(2) Where the members of a local authority are removed from office under this Part, the Minister may, after consultation with the appropriate Minister, make an order under this section in relation to any linked body affected by such removal in so far as the Minister thinks necessary or expedient for securing that the body concerned shall function notwithstanding such removal and, in particular, such order may provide—

(*a*) where the linked body concerned is required by law to be composed wholly of persons nominated, elected or appointed by the local authority concerned, either—

(i) for the transfer of the functions of that linked body to the commissioner or commissioners for that local authority and for the exercise and performance of such functions directly by that commissioners or those commissioners, or

(ii) for such provision as he or she thinks necessary or expedient for the appointment of the members of that linked body, including—

(I) the appointment of particular persons to be members, and

(II) reducing the number of the members and the quorum of that linked body,

and

(*b*) where the linked body concerned is required by law to be composed in part only of persons nominated, elected or appointed by the local authority concerned, for such provision as he or she thinks proper for filling all or any of those places in the membership of that linked body which are required by law to be filled by persons nominated, elected or appointed by such local authority, including—

(i) appointing a particular person or persons to fill such places, and

(ii) reducing the number of such places and, in consequence of such reduction, reducing the total number of members and the quorum of such body.

(3) During the removal period any enactment restricting the membership of a linked body in whole or in part to members of the local authority concerned shall stand suspended.

(4) The continuity of the existence of a linked body as a corporate body shall not be affected by the exercise of the power conferred on the Minister under this Part.

Annotations

Amendments:

F87 Inserted (15.06.2004) by *Health (Amendment) Act 2004* (19/2004), s. 26, S.I. No. 378 of 2004.

F88 Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 pt. 21 item 4, S.I. No. 887 of 2004, art. 2(i).

Editorial Notes:

E73 Previous affecting provision: insertion of definition of linked body (15.06.2004) by *Health (Amendment) Act 2004* (19/2004), s. 26, S.I. No. 378 of 2004, superseded as per F-note above.

PART 22

Miscellaneous

Annual report.

221.—(1) (*a*) Not later than the 30th day of June in each year, every county council and city council shall each prepare and adopt a report (to be known as the annual report) in relation to the performance of its functions during the preceding year and shall as soon as may be furnish a copy of the annual report to each member of the county council or city council, as the case may be, and to such other persons as it may consider appropriate.

(*b*) A draft of the annual report shall be submitted to the members of the county council or city council concerned not later than the 30th day of April in each year.

(2) An annual report of a county council or city council shall include the following:

(*a*) particulars of the policies, programmes, services and other activities undertaken by the county council or city council;

(*b*) such particulars as are required by sections *48, 66, 75, 76, 134* and *228*;

(*c*) such particulars as may be required by a provision of any other enactment;

(*d*) particulars in relation to any acts adopted or orders, byelaws, rules or other instruments made under statute by resolution of the members of the county council or city council during the year to which the annual report relates; and

(*e*) such other particulars (including financial statements) as the county council or city council may determine or as may be directed by the Minister.

(3) The adoption by a county council or city council of its annual report is a reserved function.

(4) (*a*) Copies of the annual report of a county council or city council shall be made available—

(i) at its principal offices during normal office hours for inspection or purchase by members of the public, and

(ii) in public libraries within the county or city concerned.

(*b*) The purchase price for the annual report of a county council or city council may be determined by the county council or city council concerned.

(*c*) A county council or city council shall give public notice of the date from which an annual report will be so made available in accordance with *paragraph (a)*.

(5) (*a*) An annual report prepared by a county council may for the convenience of the public include information in relation to the performance of the functions of any town council situated within its county.

(*b*) A town council may adopt an annual report or a report for such other period, as it may determine, in relation to the performance of its functions during such period.

(*c*) *Subsections (1)* to *(4)* apply to any report referred to in *paragraph (b)* as if references to a county council or city council were references to a town council, and subject to such other modifications as may be necessary.

Returns, information to Minister.

222.—A local authority shall provide the Minister with such periodic or other returns or other information regarding the performance of its functions as he or she may from time to time require.

Electoral divisions.

223.—(1) The Minister may by regulations divide the area of any county, city or town into areas to be known as electoral divisions and may vary the name of any such division or make adjustments to the boundaries of any such division or divisions.

(2) Any reference in any enactment to a district electoral division or a ward shall be read as a reference to an electoral division.

Report by authorised person.

224.—(1) In this section "authorised person" means a person authorised in writing for the purposes of this section by the Minister.

(2) (*a*) The Minister may request an authorised person to prepare a report for the Minister in relation to any matter arising from or relating to any of the functions for the time being conferred on the Minister or in relation to the performance of any of the functions of one or more local authorities.

(*b*) An authorised person for the purposes of this section is entitled at all reasonable times to enter and inspect any land or premises or structure (other than a dwelling) which is owned, used, controlled or managed by a local authority and shall be afforded every facility and co-operation by the local authority (its members and employees) including the giving of information which he or she reasonably requires and shall have access to all documents, materials, things, or other information which he or she may reasonably require.

(3) Any person who obstructs or impedes or refuses to comply with a request of an authorised person acting in the exercise of the functions conferred on him or her by *subsection (2)(b)* is guilty of an offence and is liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both.

(4) Summary proceedings for an offence under this section may be brought by the Minister.

Local authority associations.

225.—(1) In this section "association of local authorities" means, the General Council of County Councils and the Association of Municipal Authorities of Ireland or any other body which may be established in place of either or both of those bodies, the membership of such association being constituted by local authorities and the general function of such association being to represent the collective interests of the local authorities which constitute its membership (in this section referred to as "constituent authorities").

(2) A local authority may hold membership of an association of local authorities.

(3) An association of local authorities may carry out such activities as are necessary to represent the collective interests of the local authorities which constitute its membership, including—

(*a*) the undertaking of research and other studies,

(*b*) the promotion of education and training,

(*c*) the provision of policy support and other assistance to its constituent authorities as regards any matter relating to local government, or

(*d*) the making of submissions to the Minister or other public authorities as regards such matters.

(4) An association of local authorities shall operate in accordance with its constitution or other procedural rules (by whatever name called).

(5) Without prejudice to any other provisions which may be included in the procedural rules of an association of local authorities, such rules shall set out the general functions and objectives of the association and provide for—

(*a*) the adoption by the association of annual estimates of expenditure and income,

(*b*) the keeping of all proper and sufficient accounts of all moneys received or spent by it and of its assets and liabilities,

(*c*) the audit of such accounts,

(*d*) the adoption of an annual report on the performance of its functions, and

(*e*) such other matters as are necessary to give effect to its function of representing the collective interests of its constituent authorities and to give effect to the matters set out in *subsection (6)*.

(6) Where a local authority holds membership of an association of local authorities, the following provisions apply:

(*a*) the local authority may elect such number of delegates to the association as may be specified in the procedural rules of that association;

(*b*) the local authority may make annual contributions to the funds of the association;

(*c*) the association may make payments to its delegates for expenses incurred in respect of travel and subsistence related to the business of the association on the basis set out in its procedural rules;

(*d*) the association shall provide the local authority with a copy of its procedural rules and shall consult the local authority regarding any proposed changes to those rules;

(*e*) the association shall provide the local authority and the Minister with—

(i) a copy of its draft estimates,

(ii) a copy of the estimates when adopted,

(iii) a copy of the audited accounts, annual report, and

(iv) such other reports or statements of the association as it may consider appropriate;

(*f*) the annual estimates shall set out the principal categories of expenditure and income and shall indicate how these relate to the association's estimated financial requirements for the relevant period;

(*g*) the local authority and the association shall comply with such general directions as may be issued by the Minister in relation to—

(i) the form and categories in which income and expenditure under this section is shown in estimates and accounts, and

(ii) such other matters as the Minister may consider appropriate for the purposes of this section.

(7) For the purposes of this section, an association of local authorities shall, in the course of its activities, have regard to—

(*a*) its general function of representing the collective interests of its constituent authorities,

(*b*) the promotion of the interests generally of local government and of democratic representation of local communities,

(*c*) the likely costs and benefits of its activities to its constituent local authorities,

(*d*) the need for effectiveness, efficiency and economy in the discharge of its business and to minimise demands on the resources of its constituent authorities, and

(*e*) any submissions made to it by a constituent authority on foot of *subsection (6)(d)* or *(e)* or otherwise, or by the Minister.

(8) The decision to hold or to cease to hold membership of an association of local authorities is a reserved function.

(9) A reference in any enactment to "the association of county councils of Ireland", "the Irish County Councils General Council" or "the County Councils' General Council" or to any analogous expression shall be read as a reference to the General Council of County Councils as referred to in *subsection (1)* or as a reference to that body by whatever name known for the time being.

Local Authority Members' Association.

226.—(1) A member of a local authority may in his or her own right hold membership of the association known as the Local Authority Members' Association and the members of a local authority may appoint a person to represent them on that association.

(2) *Subsections (3)* to *(8)* of *section 225* apply with any necessary modifications for the purposes of this section.

(3) Nothing in *subsections (1)* and *(2)* or *section 225* shall be read as preventing the establishment of a unified body to replace the bodies mentioned in those provisions and to represent local government and its elected members.

Reclaimed land and structures to form part of local authority area.

227.—(1) The maritime boundary of a county, city or town shall on the establishment day by virtue of this subsection be deemed to coincide with the ordinary high water mark for the time being, except where in accordance with *section 10(4)*, such boundary already extends beyond that high water mark.

(2) (*a*) For the avoidance of doubt and without prejudice to *subsection (1)* it is hereby declared that all land which is above the ordinary high water mark for the time being and which is formed by reclamation or other construction works or by natural accretion or otherwise shall, notwithstanding the provisions of any other enactment, for all purposes, including all functions conferred on a local authority by this or any other enactment, be included in and form part of the county or city to which it is contiguous or connected or where it adjoins or is connected to more than one such county or city in proportion to the extent of the common boundary and the boundary of that county or city shall stand altered accordingly.

(*b*) Where land referred to in *paragraph (a)* forms part of a county or city it shall by virtue of this paragraph also for all purposes be included in and form part of any town or any other administrative, electoral or geographical district which it adjoins and which is situated within such county or city or where it

adjoins more than one such district in proportion to the extent of the common boundary of such districts.

(*c*) In this section and for purposes of illustration only and without restriction of the definition of land in *section 2* as including a structure, land shall be read as including piers, wharves, jetties, breakwaters, walkways, bridges, pylons, tanks or other installations, equipment or apparatus.

(3) Where a local authority becomes aware that land referred to in *subsection (2)(a)* has by virtue of this section become part of its administrative area, the authority shall notify the Chief Boundary Surveyor of that fact.

Acceptance of gifts by a local authority.

228.—(1) In this section "local authority" includes a joint library committee.

(2) A local authority may accept gifts of money, land or other property on the trusts or conditions (if any) as may be specified by the donor.

(3) A local authority shall not accept a gift if the trusts or conditions attached to it would be inconsistent with, or prejudice, the effective performance of its functions.

(4) A local authority shall, as appropriate, publish in its annual report details of all gifts accepted by it during the period of the report.

(5) Nothing in this section shall be read as restricting the right of any local authority to continue to hold and administer gifts of property which it has accepted before the establishment day under the Local Authorities (Acceptance of Gifts) Act, 1945.

Power of local authorities to enter into contracts, etc.

229.—(1) A local authority may enter into a contract with any person in respect of any matter arising in relation to the functions of the local authority.

(2) A local authority shall comply with guidelines issued by the Minister or other Minister of the Government in regard to contracts or the seeking, reception and examination of tenders.

(3) Any contract or instrument which, if entered into or executed by an individual, is not required to be under seal may be entered into or executed on behalf of the local authority by the manager in accordance with *section 149(5)* or by an employee generally or specially nominated by order of the manager for that purpose.

(4) A local authority may from time to time engage such consultants, advisers or other persons as it considers necessary for the discharge of its functions.

(5) This section shall not be read so as to limit the scope of *section 65* in relation to the ancillary functions of local authorities.

(6) This section shall not be read so as to permit the exercise of a reserved function of a local authority other than by a local authority.

Joint burial boards.

230.—(1) In this section—

"relevant local authority" means—

(*a*) where 2 county councils contribute to the funding of the specified body, the county council in whose county the burial ground is situated,

(*b*) where a county council and any other local authority so contribute, subject to *paragraph (c)*, the county council in whose county the burial ground is situated,

(*c*) where the county council and the other local authority concerned each declare by resolution passed within 6 months of the making of an order referred to in *subsection (2)* but before the transfer day that the said other local

authority shall be the relevant local authority, such other local authority as is so declared;

"specified body" means a joint burial board or a cemetery joint committee specified in an order made under this section.

(2) (*a*) The Minister may by order fix a day (in this section referred to as the "transfer day") in respect of a specified body upon which the body is dissolved and ceases to exist and the relevant local authority shall for all purposes become and be the successor of that specified body.

(*b*) The transfer day fixed by order shall not be less than 6 months after the order is made.

(3) With effect from the transfer day the following are transferred to the relevant local authority—

(*a*) all land and other property (and all rights relating to such land and other property) held or enjoyed immediately before that day by the specified body,

(*b*) all liabilities incurred before that day by the specified body which had not been discharged before that day,

and, accordingly as and from that day without any further conveyance, transfer or assignment—

(i) that property, real and personal, vests in the relevant local authority for all the estate, term or interest for which, immediately before that day, it was vested in the specified body, but subject to all trusts and equities affecting the property and capable of being performed,

(ii) those rights are to be enjoyed by the relevant local authority, and

(iii) those liabilities are liabilities of that authority.

(4) All moneys and securities transferred to the relevant local authority by this section that, immediately before the transfer day are standing in the name of the specified body are to be transferred into its name upon request of the relevant local authority.

(5) On or after the transfer day every right and liability transferred to the relevant local authority by this section may be sued on, recovered or enforced by or against the relevant local authority in its own name and it is not necessary for the authority to give notice of the transfer to the person whose right or liability is transferred by this section.

(6) Every contract or agreement made between a specified body or any trustee or agent of the body acting on its behalf, and any other person, which is in force immediately before the transfer day continues in force on and after that day and shall—

(*a*) be read and have effect as if the relevant local authority were substituted in the contract or agreement for the specified body or, as the case may be, its trustee or agent acting on its behalf, and

(*b*) be enforceable against that relevant local authority.

(7) Where, immediately before the transfer day, any legal proceedings are pending in any court or tribunal and the specified body or any trustee or agent of a specified body acting on its behalf, is a party to the proceedings, the name of the relevant authority shall be substituted in the proceedings for that of the specified body, or as the case may be, such trustee or agent of the specified body, and the proceedings shall not abate by reason of such substitution.

Joint drainage committees.

231.—(1) After consultation with the Minister for Finance, the Minister may by order provide that this section is to have effect in respect of a joint drainage committee specified in the order from a date so specified.

(2) (*a*) In this subsection "the relevant local authorities" means the county councils or city councils which are liable to provide funds to the joint drainage committee concerned.

(*b*) Where an order is made under *subsection (1)*, then from the date specified in the order the joint drainage committee so specified is dissolved and ceases to exist and the functions of that committee shall become and be functions of and vest in each of the relevant local authorities for so much of the drainage district as is within each of their administrative areas.

(*c*) The relevant local authorities may make such joint arrangements as may be necessary for the carrying out of the functions of the dissolved joint drainage committee.

(3) (*a*) The manager for a joint drainage committee to which an order under *subsection (1)* applies shall take all such steps as may be necessary—

(i) in preparation for and arising from the dissolution of the committee, and the winding-up of its affairs generally, and

(ii) for the making of such joint or other arrangements as may be necessary for the carrying out of its functions.

(*b*) It is the duty of the local authorities concerned to co-operate as regards the operation of any arrangements under *paragraph (a)(ii)*.

Annotations

Modifications (not altering text):

C39 Functions transferred and references to "Department of Finance" and "Minister for Finance" in subs. (1) construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 37 of 2001	Local Government Act 2001	Sections 66(7), 81(6), 92(2), 109(8), 169(1)(a), 212(3) and 231(1)
...	...	...

Editorial Notes:

E74 Power pursuant to section exercised (1.01.2003) by *Local Government Act, 2001 (Section 231) Order 2002* (S.I. No. 531 of 2002).

Regulations to remove difficulties.

232.—If, in any respect, any difficulty arises in bringing any provision of this Act into operation or in relation to the operation of any such provision, the Minister may be regulations do anything which appears to the Minister to be necessary or expedient for the purposes of removing that difficulty, for bringing that provision into operation or for securing or facilitating its operation and any such regulations may modify any provision of this Act or any other enactment so far as may be necessary or expedient for those purposes, but no regulations shall be made under this section in relation to a provision of this Act after the expiration of 3 years from the commencement of that provision.

Reduction of grants etc. in certain circumstances.

233.—(1) Subject to *subsection (2)*, where in the opinion of the Minister a local authority has failed or substantially failed to comply with a statutory duty under any enactment, the Minister may reduce or withhold payment of any grant or any other money due or otherwise payable to the local authority.

(2) The Minister shall notify the local authority concerned in writing of his or her intention to exercise the functions conferred by *subsection (1)* and shall state the reasons for it and that local authority may within the period of 3 weeks of such notification make a submission in writing to the Minister as regards the matter and the Minister shall have regard to any such submission so received.

Offence by body corporate.

234.—(1) Where an offence under this Act is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body or any person who was claiming to act in any such capacity, that officer or person, as well as the body, is guilty of an offence and is liable to be proceeded against and punished as if he or she had committed the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

Commencement of summary proceedings.

235.—Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings in relation to an offence under this Act may, subject to *section 181(8)* in respect of such proceedings for an offence under *Part 15*, be commenced at any time within 12 months from the date on which the offence was committed.

Discharge of certain functions by Minister.

236.—(1) In this section "officer" means an officer of the Minister who is an established civil servant for the purposes of the Civil Service Regulation Act, 1956.

(2) The Minister may delegate any of his or her functions under—

(*a*) this Act,

(*b*) any enactment mentioned in *Part 1* of *Schedule 12*, or

(*c*) any other enactment, in so far as it relates to local authorities or related matters,

which are specified in the delegation.

(3) Every delegation under this section shall be in writing to a named officer or to an officer of a specified grade, position or description.

(4) A delegation under this section may be revoked by the Minister.

(5) A delegation under this section is without prejudice to the right of the Minister to exercise the function concerned.

(6) Every function delegated under this section shall be exercised and performed by the delegated officer subject to the general supervision and control of the Minister and to such limitations (if any) as may be specified in the delegation or which may be specified in writing by the Minister at any time thereafter.

(7) A delegation made under section 61 of the Local Government Act, 1994, is deemed to be a delegation under this section and continues to have effect accordingly and any reference in such delegation to a function of the Minister under any enactment repealed by this Act shall be read as a reference to the corresponding provision of this Act.

Regional authorities, functions.

237.—A regional authority established by the Local Government Act, 1991 (Regional Authorities) (Establishment) Order, 1999 (S.I. No. 226 of 1999), made under section 43 of the Local Government Act, 1991, shall have and be deemed always to have had such functions in connection with assistance from the European Communities as are specified in that order.

F89[Regulations relating to members of House of Oireachtas.

237A.—(1) In this section 'dealing' in relation to a member of either House of the Oireachtas means a dealing with such a member in his or her capacity as such a member.

(2) Local authorities shall conduct their dealings with members of either House of the Oireachtas in accordance with regulations under subsection (3).

(3) The Minister shall make regulations for the purposes of subsection (2) and those regulations shall include provisions in relation to—

(*a*) the supply, without charge, of notice, agenda and minutes of local authority meetings to members of either such House,

(*b*) the supply by local authorities of other specified documentation or other specified information.

(*c*) correspondence with such members by local authorities,

(*d*) arrangements to facilitate access by such members to information, and communication generally by local authorities with such members, and

(*e*) such other matters as the Minister may consider appropriate for the purposes of subsection (2).

(4) Nothing in this section derogates from—

(*a*) section 4,

(*b*) the functions of a local authority as specified in section 63(1)(*a*), or

(*c*) the role of local authority members as locally elected public representatives.**]**

Annotations

Amendments:

F89 Inserted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 3, commenced on enactment.

Editorial Notes:

E75 Power pursuant to section exercised (1.08.2003) by *Local Government Act, 2001 (Section 237A) Regulations 2003* (S.I. No. 274 of 2003).

PART 23

Transfer of Temple Bar Properties Limited to Dublin City Council

Definition (*Part 23*).

238.—In this Part "Act of 1991" means the Temple Bar Area Renewal and Development Act, 1991.

Transfer of Temple Bar Properties Limited to Dublin City Council.

239.—The Minister for the Environment and Local Government shall transfer his or her shareholding in Temple Bar Properties Limited to Dublin City Council.

Shareholder in Temple Bar Properties Limited.

240.—The Act of 1991 is amended by the substitution of the following for section 10—

"10.—Notwithstanding any provision of the Companies Acts, 1963 to 1999, Dublin City Council, through its nominees, shall be the sole shareholder of Temple Bar Properties Limited.".

Transitional (*Part 23*).

241.—If *section 239* or the amendment provided for by *section 240* comes into operation before the establishment day provided for by *section 9*, references to Dublin City Council in those provisions shall, until their coming into operation, be read as references to the Lord Mayor, Aldermen and Burgesses of the city of Dublin.

Repeals (*Part 23*).

242.—Sections 12, 13, 14 and 16 of the Act of 1991 are repealed.

PART 24

Miscellaneous Amendments

Amendment of Electoral Act, 1992.

243.—F90**[**...**]** the Electoral Act, 1992, is further amended in section 165(8)(*b*) by the substitution of "the *Local Government Act, 2001*" for "Part VI of the Electoral Act, 1963".

Annotations

Amendments:

F90 Deleted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

Amendment of Housing (Traveller Accommodation) Act, 1998.

244.—Section 31 of the Housing (Traveller Accommodation) Act, 1998, is amended by the substitution of the following for section 31:

"Annual report and activities of a local consultative committee.

31.—An annual report of a local authority prepared in accordance with *section 221* of the *Local Government Act, 2001*, shall record particulars of the activities of the local consultative committee and the steps taken to secure the implementation of an accommodation programme for the functional area concerned during the period to which the annual report relates.".

Amendment of Roads Act, 1993.

245.—The Roads Act, 1993, is amended by the insertion of the following after section 15 of that Act:

"Requirements as regards railways, canals, etc.

15A.—A road authority shall not construct or reconstruct a bridge or viaduct over, or a tunnel under—

(*a*) a railway, save with the consent of the Minister for Public Enterprise, or

(*b*) any inland waterway within the meaning of the Minister for Arts, Heritage, Gaeltacht and the Islands (Powers and Functions) Act, 1998, or any navigable water, save with the consent of the Minister for Arts, Heritage, Gaeltacht and the Islands.".

Amendment of Abattoirs Act, 1988.

246.—Section 35 of the Abattoirs Act, 1988, is amended—

(*a*) by the insertion in subsection (1)(*a*) of "or part-time" after "whole-time";

(*b*) by the substitution of the following for subsection (4):

"(4) The provisions of *section 85* of the *Local Government Act, 2001*, shall apply to the appointment of a whole-time or part-time veterinary inspector pursuant to this section subject to the modification that a local authority shall not enter into the agreement referred to in the said *section 85* unless the consent of the Minister has been first obtained.";

(*c*) by the substitution in subsections (5) and (6) of "*section 85* (as modified by subsection (4) of this section) of the *Local Government Act, 2001*," for "section 59 (as modified by subsection (4) of this section) of the Local Government Act, 1955,".

Additional amendments to Planning and Development Act, 2000.

247.—In addition to amendments to the Act of 2000 provided for in Schedule 4 (which relate to amendments that are minor and consequential to this Act), the Act of 2000 is further amended—

(*a*) by the deletion in paragraph (*a*) of section 12(1) of "any town commissioners and city and county development boards within the area,",

(*b*) in section 106(3)—

(i) by the substitution in paragraph (*a*) of "6 additional members" for "5 additional members", and

(ii) by the substitution in paragraph (*b*) of "more than 6 but not more than 12 additional members" for "more than 5 but not more than 10 additional members",

(*c*) in section 134, by the insertion of the following after subsection (4):

"(5) (*a*) Subject to section 218, where the Board considers it necessary or expedient for the purposes of making a determination in respect of any of its functions under this Act or any other enactment, it may, in its absolute discretion, hold an oral hearing and shall, in addition to any other requirements under this Act or other enactment, as appropriate, consider the report and any recommendations of the person holding the oral hearing before making such determination.

(*b*) Section 135 shall apply to any oral hearing held in accordance with paragraph (*a*) and that section shall be construed accordingly.",

(*d*) by the substitution in section 141 of "Organisation of Working Time Act, 1997" for "Holidays (Employees) Act, 1973" in each place where it occurs,

(*e*) in section 156(1)—

(i) by the substitution of "section" for "sections", and

(ii) by the substitution of "239 or 247" for "239 and 247",

(*f*) by the substitution in section 162(3) of "application for permission for retention of unauthorised development" for "application for retention of permission",

(*g*) by the substitution in section 175(10)(*e*) of "the Environmental Protection Agency Act, 1992" for "this Act",

(*h*) by the deletion of paragraph (*c*) of section 179(1),

(*i*) by the insertion in section 211(4) after "properly applied" of ", or for such purposes as may be approved by the Minister whether generally or in relation to specified cases or circumstances",

(*j*) in section 214(2)(*f*)—

(i) by the substitution in subparagraph (i) of "and 80" for ",80 and 85", and

(ii) by the deletion of subparagraph (ii),

(*k*) in section 221, by the insertion of the following after subsection (8):

"(9) The Minister may by regulations provide for such additional, incidental, consequential or supplemental matters as regards procedure in respect of the functions transferred to the Board under section 214 or 215 as appear to the Minister to be necessary or expedient.",

(*l*) by the substitution of the following for section 249(2)—

"(2) Where any provision of this Act, or of any regulations made thereunder, requires notice to be given to any person who has made representations, submissions or observations to a planning authority or the Board, the planning authority or the Board may dispense with that requirement where—

(*a*) a large number of representations, submissions or observations are made as part of an organised campaign, or

(*b*) it is not possible to readily ascertain the full name and address of those persons who made the representations, submissions or observations,

provided that the authority or the Board uses some other means of giving notice to the public that the authority or the Board is satisfied can adequately draw the attention of the public to that notice including, in the case of an organised campaign referred to in paragraph (a), giving notice to any person who, in the opinion of the planning authority or the Board, organised the campaign.",

and

(*m*) by the insertion of the following paragraph after paragraph 20 of the Fourth Schedule:

"20A. The proposed development would not be consistent with a planning scheme in force in respect of a strategic development zone.".

Section 1(2).

SCHEDULE 1

Acts included in collective citation — *Local Government Acts, 1925* to *2001*

Number and Year	Short Title
No. 5 of 1925	Local Government Act, 1925
No. 3 of 1927	Local Government Act, 1927
No. 23 of 1941	Local Government Act, 1941
No. 24 of 1946	Local Government Act, 1946
No. 9 of 1955	Local Government Act, 1955
No. 40 of 1960	Local Government (No. 2) Act, 1960
No. 2 of 1968	Local Government (Buncrana) Act, 1968
No. 15 of 1971	Local Government (Rateability of Rents) (Abolition) Act, 1971
No. 35 of 1978	Local Government (Financial Provisions) Act, 1978
No. 10 of 1983	Local Government (Financial Provisions) Act, 1983
No. 21 of 1983	Local Government (Financial Provisions) (No. 2) Act, 1983
No. 7 of 1985	Local Government (Reorganisation) Act, 1985
No. 11 of 1991	Local Government Act, 1991
No. 8 of 1994	Local Government Act, 1994
No. 29 of 1997	Local Government (Financial Provisions) Act, 1997
No. 16 of 1998	Local Government Act, 1998
No. 6 of 2000	Local Government (Financial Provisions) Act, 2000

Section 3(2).

SCHEDULE 2

Construction of Certain Terms in Other Enactments

Expression used in other enactment	Construction by reference to *Local Government Act, 2001*
1	2
"county borough"	City.
"administrative county"	County and where the other enactment concerned so requires, also includes a reference to a city.
"borough" (not being a county borough)	Borough mentioned in *Chapter 1* of *Part 1* of *Schedule 6*.
"urban district"	Town mentioned in *Chapter 2* of *Part 1* of *Schedule 6*.
"town having town commissioners"	Town mentioned in *Part 2* of *Schedule 6*.

Expression used in other enactment	Construction by reference to *Local Government Act, 2001*
"county health district"	County exclusive of any towns mentioned in *Part 1* of *Schedule 6*; but subject to *section 83*.
"local authority for the purposes of the Local Government Act, 1941"	A county council, city council, town council, and where the context so requires includes a joint body.
"county council" or "council of a county"	County council.
"county borough corporation"	City council.
"borough corporation" (not being a county borough corporation)	Borough council of a borough mentioned in *Chapter 1* of *Part 1* of *Schedule 6*.
"urban district council" or "council of an urban district"	Town council of a town mentioned in *Chapter 2* of *Part 1* of *Schedule 6*.
"town commissioners" or "commissioners of a town"	Town council of a town mentioned in *Part 2* of *Schedule 6*.

Section 5(1).

SCHEDULE 3

ENACTMENTS REPEALED AND REVOKED

PART 1

Acts Repealed

Session and Chapter or Number and Year	Short Title	Extent of Repeal
1	2	3
6 & 7 Will. 4 c. 116	Grand Jury (Ireland) Act, 1836	Sections 35, 43, 44, 46, 54, 58, 66 to 68, 78, 82, 86, 108, 126 and 178 to 180 and Schedule (R).
3 & 4 Vict. c. 108	Municipal Corporations (Ireland) Act, 1840	The whole Act.
3 & 4 Vict. c. 109	Counties and Boroughs (Ireland) Act, 1840	The whole Act.
6 & 7 Vict. c. 93	Municipal Corporations (Ireland) Act, 1843	The whole Act.
7 & 8 Vict. c. 106	County Dublin Grand Jury Act, 1844	Sections 40 and 110.
10 & 11 Vict. c. 16	Commissioners Clauses Act, 1847	The whole Act.
10 & 11 Vict. c. 34	Towns Improvement Clauses Act, 1847	The whole Act.
16 & 17 Vict. c. 136	Grand Jury (Ireland) Act, 1853	Section 9.
17 & 18 Vict. c. 103	Towns Improvement (Ireland) Act, 1854	The whole Act.

Session and Chapter or Number and Year	Short Title	Extent of Repeal
23 & 24 Vict. c. 16	Municipal Corporations Mortgages etc. Act, 1860	The whole Act.
30 & 31 Vict. c. 46	County Treasurers (Ireland) Act, 1867	The whole Act.
34 & 35 Vict. c. 109	Local Government (Ireland) Act, 1871	Sections 18, 24, 25 and 30.
35 & 36 Vict. c. 69	Local Government Board (Ireland) Act, 1872	Section 12.
41 & 42 Vict. c. 52	Public Health (Ireland) Act, 1878	Sections 7, 200, 201 and 277.
45 & 46 Vict. c. 50	Municipal Corporations Act, 1882	The whole Act.
47 & 48 Vict. c. 70	Municipal Elections (Corrupt and Illegal Practices) Act, 1884	The whole Act.
53 & 54 Vict. c. 59	Public Health Acts Amendment Act, 1890	Section 38.
61 & 62 Vict. c. 37	Local Government (Ireland) Act, 1898	Sections 1, 4, 6(b), 10, 11, 12, 14, 18, 21 to 23, 27, 31, 33, 35, 40, 41, 48 to 50, 58, 59, 68, 72, 77, 78, 81 to 84, 86, 100 and 108 and the Second and Third Schedules.
63 & 64 Vict. c. 63	Local Government (Ireland) Act, 1900	Section 9.
2 Edw. 7. c. 38	Local Government (Ireland) Act, 1902	Sections 6, 8, 14, 15, 21 and 22.
9 Edw. 7. c. 47	Development and Road Improvement Funds Act, 1909	The whole Act.
No. 13 of 1924	Local Government (Temporary Provisions) (Amendment) Act, 1924	The whole Act.
No. 5 of 1925	Local Government Act, 1925	Sections 2, 3, 5, 6, 9, 16, 58, 64, 70, 73, 74, 81, 86 and 87 and the First Schedule.
No. 1 of 1929	Cork City Management Act, 1929	The whole Act.
No. 27 of 1930	Local Government (Dublin) Act, 1930	Sections 7, 17 to 19, 30, 31, 37 to 41, 45, 51, 53 to 57, 59 to 62, 67, 80, 95 and 103 and the First Schedule.
No. 35 of 1934	Limerick City Management Act, 1934	Sections 2 to 5, 9, 11 to 14, 16 to 19, 21 to 24, 31 to 34, 39, 40 and the First Schedule.
No. 44 of 1934	Local Government (Amendment) (No. 2) Act, 1934	The whole Act.
No. 55 of 1936	Local Authorities (Miscellaneous Provisions) Act, 1936	Sections 2, 3 and 6.
No. 3 (Private) 1937	Local Government (Galway) Act, 1937	The whole Act.
No. 13 of 1937	Local Authorities (Electrical Employees) Act, 1937	The whole Act.
No. 36 of 1937	Local Government (Nomination of Presidential Candidates) Act, 1937	The whole Act.

Session and Chapter or Number and Year	Short Title	Extent of Repeal
No. 25 of 1939	Waterford City Management Act, 1939	Sections 2 to 4, 8, 10 to 13, 15 to 18, 20 to 23, 30 to 32 and 37 to 39.
No. 12 of 1940	County Management Act, 1940	The whole Act.
No. 22 of 1940	Local Authorities (Cost of Living) Act, 1940	The whole Act.
No. 34 of 1940	Unemployment (Relief Works) Act, 1940	The whole Act.
No. 5 of 1941	Cork City Management (Amendment) Act, 1941	Sections 7, 8, 10 to 12, 14, 15, 22, 23 and 26.
No. 15 of 1941	Local Officers and Servants (Dublin) Act, 1941	The whole Act.
No. 23 of 1941	Local Government Act, 1941	Parts II, III and IV (in so far as they are not already repealed), sections 67 to 69, Part VIII (in so far as it is not already repealed) and sections 76 to 78, 83 to 86 and 90.
No. 13 of 1942	County Management (Amendment) Act, 1942	The whole Act.
No. 8 of 1945	Local Government (Dublin) Act, 1945	The whole Act.
No. 13 of 1945	Local Authorities (Cost of Living) (Amendment) Act, 1945	The whole Act.
No. 13 of 1945	Local Authorities (Acceptance of Gifts) Act, 1945	The whole Act.
No. 24 of 1946	Local Government Act, 1946	Sections 7 to 9, 15 to 17, 22, 25 to 27, 34, Part III (in so far as it is not already repealed) and Part IV and sections 62 to 66, 70, 71, 73, 76 to 79, 80 to 83, 88 to 93, 95 and 98.
No. 3 of 1948	Local Government (Sanitary Services) Act, 1948	Sections 30, 41 and 42(2) and the Second, Third and Fourth Schedules.
No. 24 of 1950	Limerick City Management Act, 1950	The whole Act.
No. 9 of 1955	Local Government Act, 1955	Chapter 1 of Part II other than section 24(2), sections 31 to 33, 40, 41, 48, 51, 53, 54, 58 to 65 and Part 1 of the Second Schedule.
No. 12 of 1955	City and County Management (Amendment) Act, 1955	The whole Act.
No. 9 of 1958	Local Government Act, 1958	The whole Act.
No. 10 of 1959	Local Government Act, 1959	The whole Act.
No. 40 of 1960	Local Government (No. 2) Act, 1960	Part II and sections 11 and 12.
No. 3 of 1962	Road Fund (Grants) (Temporary Provisions) Act, 1962	The whole Act.
No. 8 of 1965	Cork City Management (Amendment) Act, 1965	The whole Act.

Session and Chapter or Number and Year	Short Title	Extent of Repeal
No. 21 of 1966	Housing Act, 1966	Sections 85, 87, 88 and 108.
No. 6 of 1968	Local Government (Roads and Drainage) Act, 1968	The whole Act.
No. 32 of 1972	County Management (Amendment) Act, 1972	The whole Act.
No. 8 of 1974	Local Elections (Petitions and Disqualifications) Act, 1974	Section 25.
No. 35 of 1978	Local Government (Financial Provisions) Act, 1978	Sections 11 to 13 and 14.
No. 21 of 1983	Local Government (Financial Provisions) (No. 2) Act, 1983	Section 9.
No. 7 of 1985	Local Government (Reorganisation) Act, 1985	Sections 5 to 7, Part III (in so far as it is not already repealed) and sections 19 to 23, 25 and 27 and the First, Second, Third, Fourth and Fifth Schedules.
No. 3 of 1986	Canals Act, 1986	Section 15.
No. 28 of 1988	Housing Act, 1988	Section 27.
No. 11 of 1991	Local Government Act, 1991	Parts II to VI and sections 41, 42 and 46 to 54.
No. 31 of 1993	Local Government (Dublin) Act, 1993	Part II and sections 39 and 40.
No. 8 of 1994	Local Government Act, 1994	Parts II to VII, sections 44, 46 and Parts IX and X, sections 61 and 63 to 67 and the Third, Fourth and Fifth Schedules.
No. 12 of 1997	Litter Pollution Act, 1997	Subsections (1) and (2) of section 35.
No. 29 of 1997	Local Government (Financial Provisions) Act, 1997	Sections 8, 13 and 16.
No. 16 of 1998	Local Government Act, 1998.	Sections 9 and 10.
No. 25 of 2000	Local Government Act, 2000	The whole Act.

PART 2

Orders Revoked

Section 5(2).

Year and Number	Short Title	Extent of Revocation
1	2	3
1898 No. 1120	Local Government (Application of Enactments) Order, 1898	The whole Order.
1899 No. 44	Local Government (Adaptation of Irish Enactments) Order, 1899	Articles 4 to 7, 13, 15 to 17, 19 to 36 and 42 to 45.

Section 5(3).

SCHEDULE 4

Minor and Consequential Amendments to Acts

Session and Chapter or Number and Year	Short Title	Nature of Amendment
1	2	3
61 & 62 Vict. c. 37	Local Government (Ireland) Act, 1898	In subsection (10) of section 54, in the final sentence, delete the words "and the said secretary shall be entitled to such payment for each certificate".
No. 35 of 1978	LocalGovernment(Financial Provisions) Act, 1978	In subsection (1) of section 10, substitute "required in accordance with *section 102(3)* of the *Local Government Act, 2001*," for "required by section 9(1) of the Act of 1955". In subsections (2)(*a*) and (3)(*b*)(ii) of section 10, substitute "*section 103(7)(b)(i)* of the *Local Government Act, 2001*," for "section 10(4)(*c*) of the Act of 1955". In subsection (3)(*b*)(i) of section 10, substitute "*section 101(1)* of the *Local Government Act, 2001*" for "section 26(1) of the Local Government Act, 1946".
No. 29 of 1997	LocalGovernment(Financial Provisions) Act, 1997	In subsection (1) of section 1, in the definition of "localgovernmentauditor" substitute "referred to in *section 116* of the *Local Government Act, 2001*;" for "referred to in section 68(2) of the Local Government Act, 1941;".

Session and Chapter or Number and Year	Short Title	Nature of Amendment
No. 33 of 1998	Housing (Traveller Accommodation) Act, 1998	In section 24, substitute "under *subsections (4)* and *(5)* of *section 138* of the *Local Government Act, 2001*," for "under section 2(9) of the City and County Management (Amendment) Act, 1955, (as amended by section 27 of the Act of 1988)".
No. 30 of 2000	Planning and Development Act, 2000	In subsection (6)(*c*) and (7) of section 34, substitute "*section 140* of the *Local Government Act, 2001*" for "section 4 of the City and County Management (Amendment) Act, 1955" and in paragraph (*a*) of the said subsection (7), substitute "*subsection (3)*" for "subsection (2)". In section 179(5), substitute "*Sections 138, 139* and *140* of the *Local Government Act, 2001*," for "Sections 2, 3 and 4 of the City and County Management (Amendment) Act, 1955".

Section 10(2).

SCHEDULE 5

LOCAL GOVERNMENT AREAS (COUNTIES AND CITIES)

PART 1

Counties

Carlow
Cavan
Clare
Cork
Donegal
Dun Laoghaire-Rathdown
Mayo
Meath
Monaghan
North Tipperary
Offaly
Roscommon

Fingal
Galway
Kerry
Kildare
Kilkenny
Laois
Leitrim
Limerick
Longford
Louth
Sligo
South Dublin
South Tipperary
Waterford
Westmeath
Wexford
Wicklow

PART 2

Cities

Cork
Dublin
Galway
Limerick
Waterford

Section 10(3).

SCHEDULE 6

LOCAL GOVERNMENT AREAS (TOWNS)

PART 1

CHAPTER 1

Boroughs

Clonmel
Drogheda
Kilkenny
Sligo
Wexford

CHAPTER 2

Former Urban Districts

Arklow
Athlone
Athy
Ballina
Ballinasloe
Birr
Bray
Buncrana
Bundoran
Carlow
Carrickmacross
Carrick-on-Suir
Cashel
Castlebar
Castleblayney
Cavan
Clonakilty
Clones
Cobh
Dundalk
Dungarvan
Ennis
Enniscorthy
Fermoy
Kells
Killarney
Kilrush
Kinsale
Letterkenny
Listowel
Longford
Macroom
Mallow
Midleton
Monaghan
Naas
Navan
Nenagh
New Ross
Skibbereen
Templemore
Thurles
Tipperary
Tralee
Trim
Tullamore
Westport
Wicklow
Youghal

PART 2

Former Town Commissioners

Ardee
Balbriggan
Ballybay
Ballyshannon
Bandon
Bantry
Belturbet
Boyle
Cootehill
Droichead Nua
Kilkee
Leixlip
Lismore
Loughrea
Mountmellick
Muinebheag
Mullingar
Passage West
Portlaoise
Shannon

Edenderry	Tramore
Gorey	Tuam
Granard	
Greystones	

Annotations

Editorial Notes:

E76 Functions transferred as respects *Housing (Miscellaneous Provisions) Act 2009* (22/2009), ss. 20 and 21 from"council" of each town mentioned in Part 2 of sch. 6 to the "county council" (1.04.2011) by *Housing (Transfer of Functions) Order 2011* (S.I. No. 85 of 2011), art. 3, in effect as per art. 2.

Section 21.

SCHEDULE 7

NUMBER OF MEMBERS OF LOCAL AUTHORITIES

PART 1

County Councils

County Council	*Number of Members*
Carlow	21
Cavan	25
Clare	32
Cork	48
Donegal	29
Dun Laoghaire-Rathdown	28
Fingal	24
Galway	30
Kerry	27
Kildare	25
Kilkenny	26
Laois	25
Leitrim	22
Limerick	28
Longford	21
Louth	26
Mayo	31
Meath	29
Monaghan	20

North Tipperary	21
Offaly	21
Roscommon	26
Sligo	25
South Dublin	26
South Tipperary	26
Waterford	23
Westmeath	23
Wexford	21
Wicklow	24

PART 2

City Councils

City Council	*Number of Members*
Cork	31
Dublin	52
Galway	15
Limerick	17
Waterford	15

PART 3

Town/Borough Councils with 12 members

Bray
Clonmel
Drogheda
Dundalk
Kilkenny
Sligo
Tralee
Wexford

Section 32(4).

SCHEDULE 8

Alternative Titles to Cathaoirleach and Leas-Chathaoirleach, etc.

(1) A local authority which is a county council, or a town council referred to in *Chapter 2* of *Part 1* of *Schedule 6* or in *Part 2* of *Schedule 6* may by resolution give to the office of its Cathaoirleach or Leas-Chathaoirleach the following titles:

(*a*) in the Irish language the title of "Méara" or "Leas-Mhéara", respectively, and

(*b*) in the English language, the title of "Mayor" or "Deputy Mayor", respectively.

(2) Where titles are given in accordance with *paragraph (1)*, the holders of the offices shall, as appropriate, be styled—

(*a*) in the case of a county council, in the Irish language "Méara Chontae ....." and "Leas-Mhéara Chontae ....." followed by the name of the county in Irish, and in the English language "Mayor of the County of ....." and "Deputy Mayor of the County of ....." followed by the name of the county in English,

(*b*) in the case of a town council referred to in *paragraph (1)*, in the Irish language, "Méara Bhaile ....." and "Leas-Mhéara Bhaile ....." followed by the name of the town in Irish, and in the English language "Mayor of the Town of ....." and "Deputy Mayor of the Town of ....." followed by the name of the town in English.

(3) A local authority which has by resolution under *paragraph (1)* given the titles provided in that paragraph may revert by resolution to the titles of Cathaoirleach or Leas-Chathaoirleach provided for in *section 31* and which shall be styled in accordance with that section.

Section 42.

SCHEDULE 9

Minor and Consequential Amendments relating to Direct Elections, etc.

F91**[**...**]**

Annotations

Amendments:

F91 Repealed (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 7(d), commenced on enactment.

Section 44.

SCHEDULE 10

Meetings and Proceedings of Local Authorities

Local authority meetings.

1.—(1) In every year a local authority shall hold—

(*a*) an annual meeting as provided for in *paragraph 3*,

(*b*) a local authority budget meeting as referred to in *paragraph 5*,

(*c*) such other meetings as are necessary for the transaction of its business, which meetings are in this Act referred to as ordinary meetings.

(2) In addition, a local authority may hold such special meetings as may be requisitioned by virtue of *paragraph 6* or *section 140* or as may be decided by resolution.

(3) This Schedule shall as regards a special meeting convened for the purposes of *section 34* or *146* be read subject to and in accordance with the requirements of the relevant section.

Place, date and time of meetings.

2.—(1) A local authority shall provide or arrange for the provision of accommodation for the holding of meetings.

(2) In so far as practicable, the place for holding of meetings is the principal offices of the authority and meetings shall normally be held at such place.

(3) Subject to this Act, meetings shall be held on such days and at such times as the local authority shall by resolution appoint or shall fix by standing orders.

(4) In so far as practicable, a local authority shall fix a regular schedule for the holding of ordinary meetings, which may be set out in standing orders or appointed by resolution.

(5) Subject to this paragraph, different days, times and places (whether within or without the administrative area of the authority) may be appointed from time to time by resolution or fixed by standing orders for different meetings.

Day of annual meeting.

3.—(1) In every year in which a local election is held, the annual meeting of a local authority shall be held—

(*a*) if the local authority is a county council, on the fourteenth day, and

(*b*) in any other case, on the tenth day,

after the polling day or, where the poll is for any reason counter-manded, interrupted or adjourned, after the day on which the poll is completed or the fresh poll is held.

(2) Where the fourteenth day or tenth day referred to in *subparagraph (1)* is an excluded day, the meeting shall be held on the next following day which is not an excluded day.

(3) In every other year, the local authority shall hold an annual meeting on such day, in the month of May or June, as the local authority shall by resolution appoint or fix by standing orders.

(4) Whenever an annual meeting of a local authority is for any reason not held on the day appointed or fixed by or by virtue of this paragraph for the holding of such meeting, the meetings administrator shall, following consultation, if practicable, with the Cathaoirleach, or if the office of the Cathaoirleach is vacant or the Cathaoirleach is unable to act, with the Leas-Chathaoirleach, convene a meeting of the local authority for a convenient hour on the day which appears to such administrator to be the earliest convenient date for that purpose and a meeting so held shall be deemed for all purposes to be an annual meeting held on the day appointed under *subparagraph (1), (2)* or *(3)* as appropriate.

Business and public notice of annual meeting.

4.—(1) At an annual meeting in an election year the meetings administrator shall read out the names of the persons duly elected as members of the local authority F92**[**...**]**.

(2) Subject to *subparagraph (1)*, the election of a Cathaoirleach in accordance with *sections 36* and *37* is to be the first business at an annual meeting F92**[**...**]**

(3) Where the Cathaoirleach is elected in accordance with *sections 36* and *37* the next business shall be the election of the Leas-Chathaoirleach.

(4) In the case of the annual meeting of a local authority in an election year the business to be transacted shall, subject to this paragraph, include the consideration of the election, appointment or nomination of members of joint bodies or other bodies elected, appointed or nominated by such local authority.

(5) Every member of a joint body who has been elected, appointed or nominated by a local authority and is in office as such member at the date of an election to such local authority shall continue to hold office as such member of such joint body until his or her successor is appointed unless he or she sooner dies, resigns, is disqualified, removed from office or otherwise ceases to be a member of the local authority or a member of the joint body, as the case may be, other than by way of reaching the ordinary day of retirement of members of a local authority.

(6) (*a*) In an election year a local authority shall publish a notice of its annual meeting in at least one newspaper circulating in its administrative area which—

(i) states the date of the annual meeting and F92**[**...**]** that the first business of the meeting will be the election of the Cathaoirleach, and

(ii) specifies the joint bodies and other bodies to which the local authority is entitled to make appointments at that meeting or subsequently.

(*b*) In this paragraph "appointments" includes—

(i) appointments of members of the local authority, whether by virtue of holding a particular office or by way of nomination, election or otherwise, and

(ii) appointments of persons who are not members of the local authority.

(7) (*a*) The notice under *subparagraph (6)(a)* of the annual meeting shall be in a form and published within a period, prescribed by the Minister by regulations.

(*b*) Regulations under this subparagraph may also provide for the publication by a local authority of a subsequent public notice within such period as may be specified, listing the appointments made by it to joint bodies or other bodies referred to in *subparagraph (6)(a)*, or indicating that such a list may be inspected at the principal offices of the local authority.

(*c*) Failure by a local authority to publish a notice of the annual meeting as required by this paragraph or to publish it with any omission or error in it does not invalidate any meeting of the local authority or any appointment made or other thing done at the meeting.

Local authority budget meeting.

5.—A local authority shall hold its budget meeting in accordance with *section 103* within the period prescribed by regulations made by the Minister for the purposes of that section.

Special meetings.

6.—(1) A requisition to have a special meeting of a local authority convened (in this paragraph referred to as a "requisition") may be made—

(*a*) by the Cathaoirleach,

(*b*) if the office of Cathaoirleach is vacant, or the Cathaoirleach is unable to act, by the Leas-Chathaoirleach, or

(*c*) by the Cathaoirleach on foot of a request presented to him or her by any 5 members.

(2) Where the Cathaoirleach refuses or neglects to act on foot of a request referred to in *subparagraph (1)(c)* within 7 days of it being presented to him or her, the members making the request may convene the meeting in accordance with this paragraph.

(3) A requisition shall be made in writing and be delivered by the Cathaoirleach, the Leas-Chathaoirleach or in a case where *subparagraph (2)* applies by the members making the requisition, as the case may be, to the meetings administrator.

(4) A requisition shall be signed by the person or persons making it, as the case may be, and shall—

(*a*) contain as an agenda a statement of the business which it is proposed to transact at the meeting, and

(*b*) specify a day, (other than an excluded day), which is not less than 3 clear days after the day on which it is received by the meetings administrator, for the holding of the meeting.

(5) On receipt of a requisition, the meetings administrator shall, unless it is a case to which *subparagraph (6)* applies, issue a notification under *paragraph 7* and give public notice under *paragraph 8* for the special meeting required by the requisition.

(6) Where—

(*a*) a requisition under *subparagraph (1)(c)* specifies a day for the holding of a special meeting, and

(*b*) an ordinary meeting of the local authority is to be held on a day within the period of 10 days after the day on which the meetings administrator receives the requisition.

the business stated in the requisition shall be considered at that ordinary meeting and the special meeting shall not be convened.

Notification of meeting and agenda.

7.—(1) A notification to attend a meeting, other than a local authority budget meeting, shall—

(*a*) be sent or delivered to each member of the local authority concerned,

(*b*) specify the place, date and time of the meeting, and

(*c*) give not less than 3 clear days notice of the meeting.

(2) *Paragraph 5* applies to a local authority budget meeting.

(3) In the case of a meeting requisitioned under *section 140* or convened under *section 34* or *146* the relevant section applies in relation to such meeting.

(4) (*a*) A notification shall include or be accompanied by an agenda listing the business proposed to be transacted at the meeting.

(*b*) An agenda which has been sent or delivered for the purposes of *subparagraph (1)* may be altered (whether by way of addition, deletion or otherwise) if an agenda paper specifying the alteration is delivered or sent to each member not less than 3 clear days before the day on which the meeting is to be held.

(5) In the case of a special meeting convened under *paragraph 6*, a copy of the requisition shall be sent with the notification.

(6) Subject to *subparagraph (7)*, a notification shall have the signature of the meetings administrator and any document claiming to have that signature shall be deemed, until the contrary is proved, to have been duly issued or given with the authority of the local authority.

(7) Non-receipt of a notification by any member or lack of a signature or any other defect in the notification does not affect the validity of a meeting or of any act or thing done at the meeting.

(8) For the purposes of this paragraph "signature" includes a facsimile of a signature by whatever process reproduced or a printed version, whether original or facsimile, of the name of the meetings administrator and a printed version of that name, whether original or facsimile, shall be deemed to have been duly placed on the document by or with the consent of the meetings administrator until the contrary is proved.

(9) The meetings administrator shall, where practicable, advise the Cathaoirleach as regards the business of a meeting.

Public notice of meetings.

8.—(1) (*a*) Notice of the place, date, and time of a meeting other than a local authority budget meeting shall be displayed not less than 3 clear days before the day of the meeting in or at the principal offices of the local authority in a position convenient for public inspection during normal office hours.

(*b*) A notice referred to in *clause (a)* shall include the agenda for the meeting or shall specify a place where the agenda can be inspected and in the case of a meeting requisitioned under *paragraph 6* or under *section 140* the agenda shall include or be accompanied by a copy of the requisition.

(*c*) *Paragraph 5* applies in the case of a local authority budget meeting.

(2) (*a*) On request, a local authority shall supply a copy of a public notice and agenda to any person seeking such copy.

(*b*) A local authority may make arrangements for the supply to the media of copies of a public notice and agenda referred to in *clause (a)*.

(*c*) A local authority may charge such fee, if any, as it may fix for the supply of the copy of the public notice and agenda but no fee shall exceed the reasonable cost of providing the copy.

(3) By resolution or standing orders, a local authority may make such additional arrangements for the giving of public notice of meetings, including display of notice at additional locations, including but not limited to public libraries, or publication in a newspaper, electronically or otherwise, as it considers appropriate.

(4) Failure to display or to supply a copy of a notice by virtue of this paragraph does not affect the validity of a meeting or of any act or thing done at the meeting.

Business of meeting.

9.—Subject to *paragraph 16*, no business shall be transacted at a meeting other than that specified in the agenda which relates to the meeting or business required by this Act or otherwise by law to be transacted at the meeting.

Chairing of meetings.

10.—(1) If present at a meeting, the Cathaoirleach shall chair it.

(2) If and for so long as the Cathaoirleach is not present, or the office of Cathaoirleach is vacant, the Leas-Chathaoirleach shall chair the meeting if he or she is present but shall leave the chair on the arrival at the meeting of the Cathaoirleach or, in the case of a meeting to fill a casual vacancy in the office of Cathaoirleach in accordance with *section 38* F92**[**...**]**, following the election of a Cathaoirleach at that meeting.

(3) In any other case, the meeting shall proceed to the election of one of the members present to chair the meeting and such member shall leave the chair on the arrival at the meeting of the Cathaoirleach or Leas-Chathaoirleach.

(4) It is the duty of a Cathaoirleach, Leas-Chathaoirleach or any other member who is required in accordance with this paragraph to chair a meeting to take the chair and to proceed with the business of the meeting.

(5) The procedure for the chairing of an annual meeting in an election year until the election of a Cathaoirleach at such meeting by virtue of *section 36* shall be specified in standing orders and may include provision, subject to *subparagraph (6)*, for the taking of the chair for this period by a member or by an employee of the local authority concerned.

(6) Any member selected to chair an annual meeting under *subparagraph (5)* shall not have a second or casting vote and the employee of the local authority, if so selected in accordance with that subparagraph, shall not have any vote.

Quorum.

11.—(1) The quorum for a meeting of a local authority is one-fourth of the total number of members of the local authority plus one or, where one-fourth of such total number is not a whole number, the quorum is the next highest whole number plus one.

(2) Whenever a meeting of a local authority is abandoned owing to failure to obtain a quorum, the names of those members present at the time and place appointed for

such meeting shall be recorded by the meetings administrator and they shall for all purposes be deemed to have attended a duly constituted meeting.

Doing of acts and determination of questions.

12.—(1) Each member present at a meeting of a local authority shall have a vote unless prohibited from voting by this or any other enactment.

(2) All acts of a local authority which are reserved functions or questions duly coming or arising before a meeting of a local authority shall be determined—

(*a*) by a majority of the votes of the members present and voting, or

(*b*) where there is an equality of votes, by a second or casting vote of the person chairing the meeting (which person shall have and may choose to exercise such a vote).

(3) This paragraph is without prejudice to the other provisions of this Act (including provisions required to be included in standing orders by virtue of *paragraph 16*) or of any other enactment, requiring either the presence of a specified number or proportion of the members or that a specified number or proportion should vote in favour for the doing of any particular act.

(4) Nothing in this paragraph shall be read as prohibiting a local authority from setting out in standing orders the procedures and methods of voting including when a roll call vote is to be taken.

Disorderly conduct.

13.—(1) If—

(*a*) in the opinion of the person chairing a meeting (in this paragraph referred to as the "chair"), any member has been or is disorderly by persistently disregarding the ruling of the chair, or by behaving irregularly, improperly or offensively, or by otherwise obstructing the business of the meeting, and

(*b*) the chair has conveyed his or her opinion to the members present by naming the member concerned,

then the chair or any member may move "that the member named leave the meeting" and the motion, if seconded, shall be put and determined without discussion.

(2) Where a local authority decides in accordance with *subparagraph (1)* that a member leave a meeting, that member shall immediately leave the meeting and shall not be entitled to speak or to take any further part in that meeting on that day.

(3) Where in the opinion of the chair—

(*a*) there is general disorder which impedes the orderly transaction of business, or

(*b*) where a member against whom it was resolved that he or she leave the meeting by virtue of this paragraph refuses to do so,

the chair may adjourn the meeting for such period as he or she considers necessary in the interests of order.

Minutes.

14.—(1) Minutes of the proceedings of a meeting of a local authority shall be drawn up by the meetings administrator.

(2) The minutes shall include—

(*a*) the date, time and place of the meeting,

(*b*) the names of the members present at the meeting,

(*c*) a list of the senior employees of the local authority present at the meeting,

(*d*) reference to any report submitted to the members at the meeting,

(*e*) where there is a roll call vote, the number and names of members voting for and against the motion and of those abstaining,

(*f*) particulars of all resolutions passed at the meeting, and

(*g*) such other matters considered appropriate.

(3) A copy of the minutes of a meeting shall be sent or given by the meetings administrator to each member of the local authority.

(4) Minutes of a meeting shall be submitted for confirmation as an accurate record at the next following ordinary meeting, where practicable, or where not, at the next following meeting and recorded in the minutes of that meeting.

(5) When confirmed, with or without amendment, the minutes of a meeting shall be signed by the person chairing the meeting they were submitted to for confirmation and any minutes claiming to be so signed shall be received in evidence without proof.

(6) Until the contrary is proved, every meeting in respect of the proceedings of which minutes have been confirmed shall be deemed to have been duly convened and held and all the members at the meeting shall be deemed to be duly qualified.

(7) A copy of the minutes of a meeting when confirmed in accordance with *subparagraph (5)* shall be open to inspection at the principal offices of the local authority and any person may inspect and make a copy of, or abstract from, the minutes during the usual office hours of the authority.

(8) A copy of the minutes shall be provided to any person applying for them on payment of such reasonable sum, if any, being a sum not exceeding the reasonable cost of supplying the copy, as may be fixed by the local authority.

(9) Each local authority shall make proper arrangements for the safe keeping of the minutes of the authority.

Record of attendance at meetings and address for correspondence.

15.—(1) Each local authority is responsible for the maintenance of a record of attendance at its meetings.

(2) The attendance of each member present at a meeting shall be entered by that member in a record kept for that purpose by the local authority.

(3) Where any provision of this Act provides for the delivery or sending of a document to a member such document shall be sent to the address supplied in writing by the member.

(4) Where any provision of this Act provides for the delivery or sending of a notice to the manager, meetings administrator or to the principal offices of a local authority

such notice shall be sent or delivered to the address of such office of the local authority as shall be fixed for that purpose by the manager and such address shall be included in the standing orders of the local authority.

Standing orders.

16.—(1) (*a*) A local authority shall, subject to this Act and by resolution for which at least one-half of the total number of members of the authority vote in favour, make standing orders for the regulation of its meetings and proceedings.

(*b*) A local authority may include in standing orders all such incidental, consequential or supplementary provisions as may appear to the local authority to be appropriate for that purpose.

(*c*) A local authority shall in making standing orders comply with *section 19(3)(c)*.

(2) A local authority may, by resolution for which at least one-half of the total number of members of the authority vote in favour, amend or revoke standing orders and make new standing orders.

(3) (*a*) A copy of standing orders shall be sent or delivered by the meetings administrator to each member on his or her coming into office, or as soon as practicable thereafter, and as soon as may be practicable after new standing orders have been made.

(*b*) A copy of any amendment to standing orders shall likewise be supplied to each member.

(4) Without prejudice to the generality of *subparagraph (1)*, a local authority shall include in standing orders provisions for the following:

(*a*) a schedule of ordinary meetings;

(*b*) commencement, adjournment and termination of meetings;

(*c*) the chairing of an annual meeting in an election year where the Cathaoirleach falls to be elected in accordance with *section 36*;

(*d*) the revocation of resolutions subject to a requirement that such number of members as is specified in standing orders, which shall be at least one-half of the total number of members of the authority, vote in favour and subject to such other requirements as may be so specified;

(*e*) dealing with urgent business related to a function of the local authority, subject to a requirement that such number of members as is specified in standing orders, which shall be at least one-half of the total number of members of the authority, vote in favour and subject to such other requirements as may be so specified;

(*f*) the procedures to be followed for the doing of acts and the determination of questions, including the procedures and methods of voting and when a roll call vote is to be taken;

(*g*) the suspension of any provision of standing orders other than those to which *clauses (d), (e)* and *(f)* relate and subject to a requirement that at least two-thirds of the members present vote in favour and to such other requirements as may be specified in standing orders;

(*h*) the address for the purposes of *paragraph 15(4)*.

(5) The Minister may issue general directions to local authorities in relation to standing orders and the provisions to be included in them.

(6) (*a*) Subject to this Act and to any other relevant enactment, standing orders of a local authority may include provisions to regulate the proceedings and business of committees established by the authority, as it may consider appropriate.

(*b*) Subject to *clause (a)*, a committee may regulate its own business and proceedings by way of its own standing orders or otherwise.

Committees.

17.—(1) *Paragraphs 12, 13, 14* and *15*, and *paragraph 16* in so far as it is relevant, apply in relation to a committee of a local authority or a joint committee with any necessary modifications.

(2) The quorum for a meeting of a committee shall be such as may be fixed by the local authority which established it but in no case shall be less than 3.

Right to form groups for certain appointments.

18.—(1) Where 2 or more persons are to be appointed by a local authority to a body to which this paragraph applies, then—

(*a*) any group of members who are present at the meeting at the time when the business of making the appointments is reached and comprising the number of members necessary for the purposes of this paragraph may nominate a person to be a member of that body and the person shall be so appointed on that nomination without any vote being taken, and

(*b*) the members of the body then remaining to be appointed shall be appointed successively by the members of the local authority who are not members of any group referred to in *clause (a)* and who were present at the meeting at the time when the business of making the appointments was reached.

(2) (*a*) Subject to *clause (b)* the number of members necessary to form a group for the purposes of this paragraph shall be obtained by dividing the total number of members present at the meeting of the authority at the time when the business of making the relevant appointments is reached by the number of the appointments to be so made, or, where the number so obtained is not a whole number, the whole number next above the number so obtained.

(*b*) No member of a local authority shall be a member of more than one group for the purposes of this paragraph.

(3) This paragraph applies to the following bodies:

(*a*) a committee of a local authority;

(*b*) a joint committee or joint body of one or more local authorities;

(*c*) a vocational education committee within the meaning of the Vocational Education Act, 1930;

(*d*) a harbour authority within the meaning of the Harbours Act, 1946;

(*e*) a school attendance committee within the meaning of the School Attendance Act, 1926;

(*f*) a regional authority established by order under section 43 of the Local Government Act, 1991;

(*g*) a regional tourism organisation;

(*h*) the General Council of County Councils;

(*i*) the Association of Municipal Authorities of Ireland;

(*j*) a county enterprise board within the meaning of the Industrial Development Act, 1995;

(*k*) a LEADER group established in the framework of an EU community initiative for rural development;

(*l*) the Dublin Transportation Office Advisory Committee;

(*m*) an Area Partnership Board;

(*n*) such other body or bodies as may be specified by order of the Minister either generally or in respect of one or more specified local authorities.

(4) (*a*) This paragraph applies to the appointment of—

(i) members of a local authority, and

(ii) other persons who are not members (where such appointment is authorised by or under any enactment),

to a body referred to in *subparagraph (3)*, whether by way of nomination or election.

(*b*) *Clause (a)* does not apply as regards the appointment of persons who are not members of a local authority to membership of a strategic policy committee, a municipal policy committee, a local consultative committee, a vocational education committee or a school attendance committee.

(5) This paragraph shall not be read so as to make unnecessary for appointment to any office, post or position, the possession of any special knowledge, experience or other qualification the possession of which is required by law for appointment to the office, post or position.

(6) This paragraph shall not be read so as to affect the entry to or tenure of membership of any body, or any other office, held by virtue of being an office holder.

(7) F93**[**...**]**

Equity in appointments, etc

19.—(1) A local authority shall seek to promote the objective of an appropriate gender balance in the making of appointments by it to bodies to which *paragraph 18* applies and to other bodies.

(2) The Minister may issue guidelines as regards the objective referred to in *subparagraph (1)*, and a local authority shall comply with any such guidelines in the making of its appointments to the bodies concerned.

(3) A local authority may by resolution make rules for the purpose of ensuring that appointments made by it to bodies to which *paragraph 18* applies and to other bodies are made fairly and equitably, taking account of the various interests represented on the authority and the totality of the appointments to be made to those bodies.

(4) Nothing in this paragraph shall be read as prohibiting the operation of *paragraph 18* by any group of members except that any member who voted for a resolution under this paragraph shall not—

(*a*) form any part of a group by virtue of *paragraph 18* in relation to a body to which rules referred to in *subparagraph (3)* apply, or

(*b*) vote in accordance with *paragraph 18* in relation to an appointment to such body.

Annotations

Amendments:

F92 Deleted (2.06.2003) by *Local Government (No. 2) Act 2003* (17/2003), s. 4 and sch., commenced on enactment.

F93 Repealed (15.06.2004) by *Health (Amendment) Act 2004* (19/2004), s. 3 and sch., S.I. 378 of 2004.

Editorial Notes:

E77 Power pursuant to schedule exercised (17.07.2002) by *Local Government Act, 2001 (Meetings) Regulations 2002* (S.I. No. 66 of 2002).

Section 62.

SCHEDULE 11

LOCAL AUTHORITY BOUNDARY ALTERATION

Matters for which provision may be made in a supplementary order under section 62(0).

1. The following are the matters referred to in *section 62(2)*:

(*a*) the functions of any authority concerned in relation to a relevant area;

(*b*) the inclusion of a relevant area, in any local electoral area or any administrative or geographical district or other division used for any purpose of public administration;

(*c*) the application or non-application of any enactment to a relevent area;

(*d*) the continuance of legal proceedings commenced by or against any authority concerned before the making of the primary order concerned where such proceedings relate to any matter, right, duty or liability arising, accrued or incurred in, or relating to, any relevant area;

(*e*) such modifications, adaptation or amendment of any enactment as may be necessary for the purposes of the primary order;

(*f*) an adjustment between any authorities concerned (which may include provision for the payment of money, by a single payment or in 2 or more instalments, by one or more authorities concerned to any other authority or authorities concerned) in relation to all or any of the following:

(i) any net loss of revenue, actual or prospective, which is or may be incurred by any authority concerned in consequence of the primary order,

(ii) property, whether real or personal (including choses-in-action), vested in or belonging to or held in trust for any authority concerned and wholly or partly situated in or relating to any relevant area,

(iii) debts (including mortgage debts), charges created by statute and other liabilities (including unliquidated amounts, unliquidated damages arising from torts or breaches of contract and accruing or prospective liabilities), due and unpaid, or incurred and undischarged, and relating wholly or in part to any relevant area,

(iv) agreements or arrangements between any authorities concerned with respect to financial matters,

(v) alteration for specified purposes in the areas of charge provided for in section 10 of the Local Government Act, 1946,

(vi) rates and charges due and payable or accruing due,

(vii) the assessment and levying of rates and charges in any relevant area, (including the temporary reduction of valuations and the making of abatements),

and for giving effect to any matter referred to in *clause (v), (vi)* or *(vii)*;

(*g*) the transfer of employees of an authority or authorities concerned to any other authority or authorities concerned;

(*h*) the enabling of provision to be made in respect of any matter referred to in *subparagraph (f)* (where provision in respect of it is not otherwise made by a supplementary order) by agreement between the authorities concerned or in the event of a failure by the authorities concerned to reach agreement, in such manner as may be specified in the order;

(*i*) the preparation of official maps showing the boundary of any relevant area and the evidential value of such maps;

(*j*) transitional matters relating to any development plan (within the meaning of the Local Government (Planning and Development) Acts, 1963 to 1999) in so far as it relates to any relevant area;

(*k*) the continuance of any thing done, or treated by virtue of any enactment as having been done, by, to or in relation to, any authority concerned in relation to any relevant area;

(*l*) the register of electors and polling districts to be used at any election of councillors for any local electoral area;

(*m*) the continuance in office of members of any authority concerned;

(*n*) the alteration of the number of members of any county council, city council or town council concerned;

(*o*) the alteration of any local electoral areas and the number of members assigned to such area for any local authority concerned;

(*p*) any other matter which appears to be necessary or proper for bringing into operation and giving full effect to the primary order.

2. In *paragraph 1(k)* "thing" includes the following:

(*a*) any written agreement or other instrument in writing or any scheme, plan, statement, policy, strategy, determination, declaration, undertaking, made or adopted by or on behalf of, or to be treated as having been made or adopted by or on behalf of an authority concerned;

(*b*) any direction given, revocation made, or to be treated as having been given or made, by or to an authority concerned;

(*c*) any licence, permit, certificate, permission, consent, approval, authorisation, exemption, relaxation, acknowledgement or dispensation granted or given, or to be treated as having been granted or given, by or to an authority concerned;

(*d*) any application, proposal or objection made, or to be treated as having been made, by or to an authority concerned;

(*e*) any condition or requirement imposed, or to be treated as having been imposed, or any notice served or to be treated as having been served, by or on an authority concerned.

3. An adjustment under *paragraph 1(f)* or an agreement under *paragraph 1(h)* may include—

(*a*) in the case of property referred to in *paragraph 1(f)(ii)*, provision for the retention of the property by any authority concerned or for the transfer of it to another authority concerned or for the joint use of such property by 2 or more authorities concerned, and

(*b*) in the case of a debt or other liability referred to in *paragraph 1(f)(iii)*, provision for the whole of such debt or liability being borne by any authority concerned or for the apportionment of the liability between 2 or more authorities concerned.

Section 63.

F94[SCHEDULE 12

Acts of the Oireachtas: Functions of Local Authorities

F94[PART 1

Responsibility primarily with the Minister

Air Pollution Act 1987
Building Control Act 1990
Control of Dogs Acts 1986 and 1992
Derelict Sites Act 1990
Dublin Docklands Development Authority Act 1997
Electoral Acts 1992 to 2004
Environmental Protection Agency Acts 1992 to 2007
Fire Services Acts 1981 and 2003
Housing Acts 1966 to 2004
Housing (Private Rented Dwellings) Acts 1982 and 1983
Licensing of Indoor Events Act 2003
Litter Pollution Acts 1997 to 2003
Local Authorities (Miscellaneous Provisions) Act 1936
Local Authorities (Mutual Assurance) Acts 1926 to 1935
Local Authorities (Officers and Employees) Acts 1926 to 1983

Local Authorities (Works) Act 1949
Local Elections Acts 1974 to 2004
Local Government Acts 1925 to 2007
Local Government (Collection of Rates) Act 1924
Local Government (Multi-Storey Buildings) Act 1988
Local Government (Rates) Act 1970
Local Government (Sanitary Services) Acts 1878 to 2001
Local Government (Superannuation) Act 1980
Local Government (Water Pollution) Acts 1977 to 2007
National Monuments Acts 1930 to 2004
Planning and Development Acts 2000 to 2007
Presidential Elections Acts 1992 to 2004
Protection of the Environment Act 2003
Seanad Electoral (Panel Members) Acts 1947 to 2001
Town Renewal Act 2000
Urban Renewal Acts 1986 and 1987
Urban Renewal Act 1998
Waste Management Acts 1996 to 2003
Water Services Act 2007
Water Supplies Act 1942**]**

Annotations

Amendments:

F94 Substituted (31.12.2007) by *Water Services Act 2007* (30/2007), s. 115, S.I. No. 846 of 2007, art. 2.

F94[PART 2

Responsibility primarily with a Minister of the Government other than the Minister

F94**[**Abattoirs Act 1988
Air-raid Precautions Acts 1939 and 1946
Animals Act 1985
Arterial Drainage Acts 1945 and 1995
Arts Act 2003
Canals Acts 1986 and 2005
Casual Trading Act 1995
Civil Defence Acts 1939 to 2002
Coast Protection Act 1963
Communications Regulation Act 2002
Control of Horses Act 1996
Coroners Acts 1962 and 2005
Dangerous Substances Acts 1972 and 1979
Dublin Transport Authority (Dissolution) Act 1987
Finance (Excise Duties) (Vehicles) Acts 1952 and 1960
Food Safety Authority of Ireland Act 1998
Foreshore Acts 1933 to 2005
Gaming and Lotteries Acts 1956 to 2003
Harbours Acts 1996 to 2005
Harbours Acts 1946 to 2005
Health Acts 1947 to 2006
Health (Fluoridation of Water Supplies) Act 1960
Intoxicating Liquor Act 2003
Local Authorities (Higher Education Grants) Acts 1968 to 1992

Local Authorities (Traffic Wardens) Acts 1975 and 1987
Malicious Injuries Acts 1981 and 1986
Minister for Community, Rural and Gaeltacht Affairs (Powers and Functions) Act 2003
Pounds (Provision and Maintenance) Act 1935
Roads Acts 1993 to 2001
Road Traffic Acts 1961 to 2006
Safety, Health and Welfare at Work Act 2005
Social Welfare Acts
State Authorities (Public Private Partnership Arrangements) Act 2002
Údarás na Gaeltachta Acts 1979 to 1999
Universities Acts 1997 and 1999
Valuation Act 2001
Vocational Education Acts 1930 to 2001.**]**

Annotations

Amendments:

F94 Substituted (31.12.2007) by *Water Services Act 2007* (30/2007), s. 115, S.I. No. 846 of 2007, art. 2.

Section 67.

SCHEDULE 13

Amenities, Recreation and Other Functions

1	2
Artistic, linguistic and cultural activities	The provision of art galleries, arts centres, concert halls, museums, theatres, opera houses and the holding of artistic, linguistic and cultural performances and events and promotional activities.
Sports, games and similar activities	The provision (both indoor and outdoor) of playing fields, athletic tracks, swimming pools and other bathing places, sports centres, gymnasia and other facilities and the holding of sporting events.
General recreational and leisure activities	The provision of parks, gardens, open spaces, playgrounds, play equipment, animals, picnic sites, viewing points, footpaths, walks, boats, piers, other landing places and marinas.

Civic improvements	The provision of street furniture, paving, clocks, statues, monuments and other features, illumination and decoration and other measures designed to upgrade the local environment.
General environmental and heritage protection and improvement	Landscaping, the planting of trees and other flora, measures for the conservation, preservation and protection of landscapes and habitats, of buildings and other sites and features of artistic, amenity, architectural, archaeological, historic, heritage or natural interest.
The public use of amenities (both natural and made or altered by human intervention)	The provision of access, signs, vehicle parks, safety equipment, information and refreshment facilities, sanitary accommodation, utilities, seating, shelter and any other apparatus, equipment or anything else necessary to facilitate such use.
Allotments, fairs and markets	The provision of land, buildings, services, related amenities and facilities and promotional activity.
Promotion of public safety	Support of safety programmes and events and local safety support services (including fire safety, road safety, water safety and rescue and mountain and cave safety and rescue); and provision of safety equipment.

Section 131.

SCHEDULE 14

Certain Reserved Functions

1. The procedure at any meeting of a local authority or joint body.

2. The appointment, whether by way of nomination or election, of a person to be a member of a public authority.

3. The election of a Cathaoirleach or a Leas-Chathaoirleach of a local authority by that authority in accordance with *Part 5* or of a chairperson of a joint body.

4. The determination of an annual rate on valuation.

5. The making, amending or revoking of a bye-law by a local authority under any other enactment where the provisions governing such making, amendment or revocation do not provide that it is a reserved function.

6. The making or revoking of an order or the passing or rescinding of a resolution by virtue of which an enactment is brought into operation in or is made to apply to the functional area or a part of such area of a local authority.

7. The application to be made to any Minister in respect of the making or revoking of any such order as is mentioned in *paragraph 6*.

8. The demanding (however expressed) under any enactment including this Act of the whole or a part of the expenses of a local authority or of a joint body from any other local authority.

Section 151.

SCHEDULE 15

Functions to be done by Manager's Order

1. A decision on an application under any enactment for the grant of a permission, approval, permit, consent, certificate, licence or other form of statutory authorisation.

2. A statutory notice served under the provisions of any enactment requiring compliance with such enactment.

3. A decision to take legal proceedings.

4. The acquisition or disposal of land or an agreement regarding the use of land.

5. The letting of a dwelling.

6. The acceptance of a tender.

7. The award of grants, loans or other financial assistance.

8. The appointment of staff.