

ÉIRE.

BILLE UM BAINISTI CHONTAE (LEASU), 1942.
COUNTY MANAGEMENT (AMENDMENT) BILL, 1942.

Mar do ritheadh ag Dáil Éireann.

As passed by Dáil Eireann.

ARRANGEMENT OF SECTIONS.

Section.

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ÉIRE.

BILLE UM BAINISTI CHONTAE (LEASU), 1942. COUNTY MANAGEMENT (AMENDMENT) BILL, 1942.

BILL

entitled

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AN ACT TO AMEND THE COUNTY MANAGEMENT ACT,
1940, IN CERTAIN RESPECTS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

Definitions.

1.—(1) In this Act—
the expression “ the Act of 1941 ” means the Local Government 10
Act, 1941 (No. 23 of 1941);
the word “ suspended ” means that the members of the council,
board, or other body, in respect of which that word is used are
removed from office under Part IV of the Act of 1941 or are
deemed by virtue of section 51 of that Act to be so removed, and 15
cognate words shall be construed accordingly;
the word “ commissioner ” means a person appointed under section
48 of the Act of 1941 to be the commissioner or one of the com-
missioners for a suspended council, board, or other body;
the expression “ existing commissioner ” means a person who is a 20
sole commissioner at the passing of this Act.

(2) Each of the following bodies, that is to say :—

- (a) the corporation of a county or other borough,
- (b) the council of a county,
- (c) the council of an urban district,

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shall be a rating authority for the purposes of this Act, and the
expression “ rating authority ” shall, in this Act, be construed
accordingly.

(3) For the purposes of this Act, the suspension of a council,
board, or other body shall be deemed to continue until the date of 30
the coming into office of the members of such body elected at an
election held in pursuance of section 45 of the Act of 1941.

The Principal Act.

2.—(1) In this Act the expression “ the Principal Act ” means
the County Management Act, 1940 (No. 12 of 1940).

(2) This Act shall be construed as one with the Principal Act, 35
and accordingly every expression and word to which a particular
meaning is assigned by the Principal Act for the purposes of that
Act shall have that meaning in this Act.

Power to declare certain bodies to be joint bodies.

3.—(1) The Minister may by order, whenever he so thinks fit,
declare any particular board or committee (other than a pier or 40
harbour authority or a vocational education committee), not less
than half the members of which are required to be appointed by
two or more rating authorities severally, to be a joint body within
the meaning and for the purposes of the Principal Act.

(2) The Minister may by order, whenever he so thinks fit, revoke 45
any order previously made by him under the foregoing sub-
section of this section or under this sub-section.

(3) Whenever the Minister makes an order under sub-section (1)
of this section, the following provisions shall, so long as such order
continues in force, apply and have effect in relation to the board 50
or committee to which such order relates, that is to say :—

- 5 (a) such board or committee shall be a joint body within the meaning and for the purposes of the Principal Act as if such board or committee were mentioned in sub-section (2) of section 1 of that Act, and the Principal Act shall be construed and have effect in relation to such board or committee accordingly;
- 10 (b) the functional area of such board or committee shall, for the purposes of the Principal Act, be deemed to be the area consisting of the respective functional areas of the several rating authorities by which not less than half the members of such board or committee are required to be appointed;
- 15 (c) if, at the date of such order, such board or committee is by virtue of any enactment then in force a local authority within the meaning and for the purposes of section 72 of the Local Government Act, 1925 (No. 5 of 1925), such board or committee shall be a local authority within the meaning and for the purposes of Part IV of the Act of 1941, and that Part of that Act shall apply and have effect in relation to such board or committee accordingly.
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25 4.—(1) In relation to the appointment of the first county manager for a county or for each of two grouped counties, the Local Appointments Commissioners shall, when complying with the provisions of sub-section (3) of section 4 of the Principal Act, have regard also to the subsequent provisions of this sub-section and, in so far as the said subsequent provisions are inconsistent with the provisions of the said sub-section (3), the said Commissioners shall comply with the said subsequent provisions where those provisions are applicable, that is to say:—

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Amendment of section 4 of the Principal Act.

- 35 (a) if no person is recommended in pursuance of paragraph (a) of the said sub-section (3) and one or more of the following bodies, that is to say, in the case of the first county manager for a single county, the council of such county or the board of health of a county health district in such county or, in the case of the first county manager for each of two grouped counties, the council of either of such counties or the board of health of a county health district in either of such counties, is suspended at the passing of this Act, then and in that case, if only one commissioner for the body or one or more of the bodies so suspended is an existing commissioner and a candidate and suitable, the said Commissioners shall recommend that commissioner, or if two or more persons, each of whom is an existing commissioner for one or more of the bodies so suspended are candidates and suitable, the said Commissioners shall recommend whichever of those persons they consider to be the most suitable;
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- 45 (b) if no person is recommended in pursuance of paragraph (a) of the said sub-section (3) or in pursuance of the foregoing paragraph of this sub-section, the said Commissioners shall have regard to and (if applicable) comply with paragraph (b) of the said sub-section (3);
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- 55 (c) if no person is recommended in pursuance of paragraphs (a) or (b) of the said sub-section (3) or paragraph (a) of this sub-section and a person who is an existing commissioner (other than an existing commissioner to whom paragraph (a) of this sub-section applies) is a candidate and suitable, the said Commissioners shall, if only one such person is a candidate and suitable, recommend that person or, if two or more such persons are candidates and suitable, recommend whichever of those persons they consider to be the most suitable;
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- 65 (d) if no person is recommended in pursuance of paragraphs (a) or (b) of the said sub-section (3) or any of the foregoing paragraphs of this sub-section, the said Commis-

sioners shall have regard to and (if applicable) comply with paragraph (c) of the said sub-section (3);

- (e) if no person is recommended in pursuance of paragraphs (a), (b), or (c) of the said sub-section (3) or any of the foregoing paragraphs of this sub-section, the said Commissioners shall have regard to and comply with paragraph (d) of the said sub-section (3).

(2) For the purposes of the selection by the Local Appointments Commissioners, in pursuance of sub-section (3) of section 4 of the Principal Act as amended by this section, of a person to be recommended by them for appointment to the office of the first county manager for a county or for each of two grouped counties, the following provisions shall have effect, that is to say:—

- (a) no person shall be taken to be the county secretary of a county except the person (if any) who is the permanent county secretary of such county at the passing of this Act and is still such permanent county secretary at the time of such selection, save that the person (if any) who is the permanent county secretary of a county at the passing of this Act shall, for the purposes of such selection in relation to the office of the first county manager for that county or for each of two grouped counties of which that county is one, be deemed to be the county secretary of that county if, at the time of such selection (having then ceased to be such permanent county secretary), he holds an office under any body which is a local authority for the purposes of the Local Government Acts, 1925 to 1941;

- (b) no person shall be taken to be the secretary to the board of health of a county health district except the person (if any) who is the permanent secretary to such board at the passing of this Act and is still such permanent secretary at the time of such selection, save that the person (if any) who is the permanent secretary to the board of health for a county health district at the passing of this Act shall, for the purposes of such selection in relation to the office of the first county manager for the county in which such county health district is situated or for each of two grouped counties of which that county is one, be deemed to be the secretary to such board of health if, at the time of such selection (having then ceased to be such permanent secretary), he holds an office under any body which is a local authority for the purposes of the Local Government Acts, 1925 to 1941.

Provisions where the members of a county council are removed from office.

5.—(1) Where, at the commencement of the Principal Act, the council of a county (other than the county of Dublin) is suspended, the following provisions shall have effect in relation to that county, that is to say:—

- (a) section 90 of the Act of 1941 shall not apply or have effect in relation to the appointment of the first county manager for the said county, and in lieu thereof it is hereby enacted that the selection and recommendation under section 4 of the Principal Act of a person for such appointment may be proceeded with and completed before the suspension of the council of the said county has ceased, but the day appointed by the Minister under sub-section (2) of the said section 4 as the day as and from which the person so recommended becomes appointed to the office of such first county manager shall not be prior to the day on which such suspension ceases;
- (b) there shall not be more than one commissioner for such council at any one time while such suspension continues;
- (c) the person who is for the time being the commissioner for

such council during such suspension shall also be the county manager for the said county and shall be deemed to have been appointed to be such county manager by the Minister under sub-section (5) of section 4 of the Principal Act and accordingly shall not be the first county manager for the said county within the meaning of the Principal Act or this Act;

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(d) if the said county is one of two grouped counties, sub-section (2) of section 3 of the Principal Act (which requires one and the same person to be county manager for each of two grouped counties) shall not apply or have effect in relation to the said two grouped counties during such suspension;

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(e) the remuneration payable to the commissioner for the council of the said county under sub-section (2) of section 50 of the Act of 1941 shall, during such suspension, be deemed to include his remuneration in respect of his duties as county manager for that county, and no additional remuneration shall be payable to him in respect of those duties under the said sub-section (2) or under section 5 of the Principal Act;

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(f) if, by reason of a provision of the Principal Act or an order made under that Act, an assistant county manager is required to be appointed for the said county or for a county included in a group with the said county, section 90 of the Act of 1941 shall not apply or have effect in relation to the appointment of such first assistant county manager, and in lieu thereof it is hereby enacted that the selection and recommendation under section 12 of the Principal Act of a person for such appointment may be proceeded with and completed before the suspension of the council of the said county has ceased, but the day appointed by the Minister under paragraph (b) of sub-section (3) of the said section 12 as the day as on and from which the person so recommended becomes appointed to the office of such first assistant county manager shall not be prior to the day on which such suspension ceases.

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(2) Where, at the commencement of the Principal Act the council of one of two grouped counties is suspended and the council of the other of those counties is not suspended, the following provisions shall apply and have effect in relation to that one of the said counties the council of which is not suspended, that is to say:—

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(a) section 90 of the Act of 1941 shall not apply or have effect in relation to the appointment of the first county manager for the said county the council of which is not suspended, and in lieu thereof it is hereby enacted that the selection and recommendation under section 4 of the Principal Act of a person for such appointment may be proceeded with and completed before the suspension of the council of the other of the said counties has ceased, but the day appointed by the Minister under sub-section (2) of the said section 4 as the day as on and from which the person so recommended becomes appointed to the office of such first county manager shall not be prior to the day on which such suspension ceases;

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(b) the Minister shall appoint, under sub-section (5) of section 4 of the Principal Act, a person to be the county manager for the said county of which the council is not suspended until the first county manager for that county has been appointed.

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(3) A commissioner who is or has been a member of a body which is a subsidiary body (within the meaning of Part IV of the Act of 1941) of the body for which such commissioner is the commissioner or one of the commissioners may, notwithstanding anything contained in section 70 of the Local Government Act, 1925

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(No. 5 of 1925), be appointed to and hold the office of the first or any other county manager or assistant county manager for a county or each of two grouped counties, or the office of Dublin Assistant City Manager.

Provisions where the members of an elective body are removed from office.

6.—Where, at the commencement of the Principal Act, an elective body no part of whose functional area is within the county of Dublin, is suspended, the commissioner or commissioners for such elective body shall, during such suspension, exercise and perform the executive functions of such elective body as well as the reserved functions of that body, and the county manager who, but for this section, would have those executive functions shall not exercise or perform them so long as such suspension continues. 5 10

Provisions in respect of Dublin county

7.—(1) If, at the commencement of the Principal Act, the council of the county of Dublin is suspended, the commissioner or commissioners for that county shall, during such suspension, exercise and perform the executive functions of the said council as well as the reserved functions thereof, and the Dublin County Manager shall not exercise or perform the said executive functions so long as such suspension continues. 15

(2) Where, at the commencement of the Principal Act, an elective body whose functional area is wholly or partly within the county of Dublin is suspended, the commissioner or commissioners for such elective body shall, during such suspension, exercise and perform the executive functions of such elective body as well as the reserved functions of that body, and the manager who, but for this section, would have those executive functions shall not exercise or perform them so long as such suspension continues. 20 25

(3) The payment to be made by the council of the county of Dublin to the Corporation of Dublin under sub-section (3) of section 14 of the Principal Act in respect of any local financial year during which, or any part of which, either or both of the foregoing sub-sections is operative shall be reduced by such amount as the Minister shall determine to be reasonable. 30

Short title and collective citation.

8.—(1) This Act may be cited as the County Management (Amendment) Act, 1942. 35

(2) The Principal Act and this Act may be cited together as the County Management Acts, 1940 and 1942.

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Éire.

BILLE UM BAINISTI CHONTAE (LEASU),
1942.

BILLE

dá ngairmtear

Acht do leasú an Achta um Bainistí Chontae,
1940, ar shlite áirithe.

Rilhte ag Dáil Eireann, 5adh Bealtaine, 1942.

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN rSOLATHAIR.

Le ceannach trí aon díoltóir leabhar, no díreach
ó Oifig Díolta Foillseacháin Rialtais, 3-4, Sráid
an Choláiste, Baile Atha Cliath.

Cló-bhuailte ag CAHILL & Co., LTD.

[*Tuistiún Glan.*]

Wt. 11—137. 400. 5/42. C.&Co. (8476).

Éire.

COUNTY MANAGEMENT (AMENDMENT)
BILL, 1942.

BILL

entitled

An Act to amend the County Management Act,
1940, in certain respects.

Passed by Dáil Eireann, 5th May, 1942.

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE.

To be purchased through any bookseller, or directly
from the Government Publications Sale Office,
3-4, College Street, Dublin.

Printed by CAHILL & Co., LTD.

[*Fourpence Net.*]