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**LOCAL GOVERNMENT (COUNTY ADMINISTRATION)
BILL, 1950.**

EXPLANATORY MEMORANDUM.

OBJECTS OF THE BILL.

(1) The main objects of the Local Government (County Administration) Bill, 1950, are :—

- (a) To provide that the County Management Acts, 1940 and 1942 (excepting the provisions consequential on the dissolution of Boards of Health contained in the third Schedule to the County Management Act, 1940) shall cease to have effect save in relation to the Borough of Dun Laoghaire.
- (b) To provide an alternative system under which many functions at present discharged by County Managers will be discharged by the elected members as a body or by committees elected by and composed of such members.
- (c) To provide that the present County Managers will become County Officers and will discharge certain functions known as employment functions, tenancy functions and individual health functions.
- (d) To enable the offices of County Officer and County Secretary to be amalgamated under the latter title, according as vacancies arise. In the case of existing Managers and County Secretaries the amalgamation will not take place without their consent. The local authority will be consulted in each case before amalgamation takes place.
- (e) To provide for certain matters consequential on or arising out of the abolition of the county management system.

SCOPE OF BILL.

(2) The Bill will not affect the management system in the four County Boroughs or the Borough of Dun Laoghaire.

PERFORMANCE OF FUNCTIONS OF COUNTY COUNCILS AND ELECTIVE BODIES.

(3) The functions of County Councils and elective bodies (i.e., Corporations of Boroughs, Councils of Urban Districts, Commissioners of Towns, the Rathdown and Balrothery Boards of Assistance, and joint bodies) are divided into scheduled functions, executive functions, employment functions, tenancy functions, and individual health functions.

(4) The scheduled functions are set out in the Second Schedule to the Bill. They comprise the more important of the reserved functions which are at present discharged directly by County Councils and elective bodies.

(5) The employment functions are defined in Section 24 of the Bill. They comprise the functions relating to the employment, control, remuneration, promotion, removal and superannuation of staff other than functions relating to the appointment of county rate collectors.

(6) The tenancy functions are defined in Section 25 of the Bill. They consist mainly of functions relating to the selection of tenants, the making of advances under the Small Dwellings Acquisition Acts, 1899 to 1948, and the fixing, revision and recovery of rent.

(7) The individual health functions are defined in Section 26 of the Bill. They include functions relating to decisions as to whether or not a particular individual shall receive treatment or otherwise avail of any health service (other than medical assistance under the Public Assistance Act, 1939) and with respect to decisions as to the extent and manner in which a person shall receive treatment and the charge to be made therefor. Decisions in relation to the admission and release of patients in mental institutions are also individual health functions.

(8) The executive functions are defined in Section 27 of the Bill as functions other than scheduled functions, employment functions, tenancy functions and individual health functions. Examples of executive functions are:—functions in regard to home assistance, acceptance of tenders and making of contracts, erection and repair of houses, construction and maintenance of roads, provision of water supply and sewerage systems, provision of hospital and other health services and the submission and execution of works under the Local Authorities (Works) Act, 1949.

(9) The scheduled functions of the Council of a County or an elective body will be performed directly by the Council or body (Section 28) and cannot be delegated.

(10) The employment, tenancy and individual health functions of the Council or elective body will be performed by the County Officer (Sections 29, 30 and 31).

(11) The executive functions of the Council of a County will be performed by Executive Committees. The Bill provides for the appointment by County Councils of two such Executive Committees to be known as the General Executive Committee and the Health Executive Committee. The executive functions of the Council relating to matters other than health matters will be performed by the General Executive Committee and the executive functions relating to health matters by the Health Executive Committee. Each Executive Committee will be composed of one-third of the members of the Council and will be elected annually by the Council on the system of proportional representation (Sections 16 and 17).

(12) An Executive Committee of the Council of a County may delegate (Section 33 (1)) to an Executive sub-committee composed of members of the Executive Committee:—

- (a) the performance of particular executive functions in relation to the whole or part of the county, or
- (b) the performance of all executive functions in relation to part of the county.

An Executive Committee of the Council of a County may also delegate (Section 33 (2)) to the County Officer the performance of particular executive functions in relation to the whole or part of the county.

The delegation by an Executive Committee to a sub-committee or to the County Officer may be revoked by the Committee and must be revoked where the County Council pass a resolution to this effect (Section 33 (6)).

(13) The executive functions of an elective body may be performed by such body or if the elective body so desires they may delegate (Section 33 (3)) to an Executive Committee composed of members of the elective body elected annually on the system of proportional representation :—

(a) the performance of particular executive functions in relation to the whole or part of the functional area of the body, or

(b) the performance of all executive functions in relation to part of such area.

The delegation to an Executive Committee may be revoked by the elective body (Section 33 (6)).

An elective body may also delegate (Section 33 (4)) the performance of particular executive functions in relation to the whole or part of the functional area of the body to the County Officer. This delegation can also be revoked by the elective body (Section 33 (6)).

(14) The Council of a County or an elective body may by resolution require that a specified executive function shall be performed in a specified case in a specified manner and the appropriate executive committee or sub-committee or, in the case of an executive function delegated to the County Officer, the County Officer must comply with the requisition (Section 38).

(15) An executive function will be performed by means of an executive order signed by the Chairman of the meeting at which the decision to perform the function is taken (Section 35 (1)). The County Officer is required to submit draft executive orders to the Executive Committee or other body. The draft orders may be accepted, amended or rejected by the Executive Committee or other body which can also make orders on their own initiative. Where a draft order is submitted by the County Officer it will not be necessary to propose and second it formally (Section 36 (2)).

(16) The County Officer will be responsible for the correctness of the draft orders submitted by him (Section 47). The members of a local authority voting on behalf of a particular proposal will be amenable to surcharge for any illegal payment or loss to the rates arising out of orders made by them contrary to the advice of the County Officer or other responsible officer (Section 55).

(17) When a decision relating to the grant of home assistance in a particular case forms all or part of the business to be transacted at a meeting of an Executive Authority and a quorum is not present the Chairman of the Executive Authority concerned will hold a meeting and may make the decision himself. If the Chairman is not present the County Officer will make the decision.

The procedure of an Executive Committee or Executive sub-committee will be governed by rules made by the appointing body, i.e., the County Council or elective body in the case of an Executive Committee and an Executive Committee in the case of an Executive sub-committee. The rules governing procedure

of Executive Committees and Executive sub-committees may, if the appointing body so desire, provide that where a meeting has been summoned and a quorum is not present and where the County Officer certifies that the performance of a specified executive function (not being the making of a decision relating to the grant of home assistance in a particular case) at the meeting is urgent, the Chairman of the Committee or sub-committee or in his absence the County Officer may, subject to the fulfilment of the conditions (if any) specified in the rules of procedure discharge such executive function (Section 22).

A report of the proceedings at meetings of an Executive Committee or Executive sub-committee must be furnished to the appointing body.

COUNTY OFFICERS.

(18) The present arrangement whereby a County Manager acts for two grouped counties will be discontinued. Each county will, subject to the provisions contained in Section 15 in regard to amalgamation of the office of County Officer with the office of County Secretary under the latter title, have a separate County Officer.

The County Officer will be an officer of every local authority for whom he performs functions. For the purposes of appointment, suspension, removal and remuneration the County Officer will be an officer of the County Council only. The existing Assistant County Managers will become Assistant County Officers.

(19) The County Officer may attend meetings of the local authority and may take part in discussions but he will not be entitled to vote. Where he is requested by a local authority or a Chairman of a local authority to furnish information, advice or assistance, he must so far as is reasonably possible comply with the request. In particular he must, when requested, make available periodically or on particular occasions as required, information relating to receipts and expenditure, records relating to employment and tenancy functions and information as to the manner in which he proposes to perform the function of selecting tenants (Section 45).

(20) Before submitting to the appropriate Minister a proposal to create new permanent offices, the County Officer must obtain the approval of the elective body or of the appropriate Executive Committee of the County Council as the case may be. Except in the case of offices the filling of vacancies in which is, consequent on any statute or any order made or direction given under statute, mandatory and not optional, the County Officer must obtain the approval of the elective body or Executive Committee before taking steps to fill vacancies permanently and, where he makes a temporary appointment, must notify the elective body or Executive Committee who, if they so decide, can terminate the appointment (Section 29).

(21) The estimates will be prepared by the County Officer who must consult each Executive Committee and an Estimates Committee (if such a committee is appointed) before submitting them to the County Council. In the case of an elective body, he must consult an Estimates Committee (if one is appointed) before submitting them to the elective body (Sections 40 and 41).

Payments arising out of the performance of scheduled or executive functions will be made by the County Officer subject to the authority of the local authority given in either general or particular terms (Section 39).

(22) The County Officer may delegate any of his functions to an Assistant County Officer. He may delegate functions other than employment functions, tenancy functions, individual health functions or the authorisation of payments to an appropriate

officer. An appropriate officer is defined in Section 34 as a County Secretary of the county concerned, a County Accountant of such county and such other officer of the Council of the County as may be approved by the Minister. Where the function relates to a Borough, Urban District or Town, the Town Clerk is also an appropriate officer and where it relates to a joint body such officer of the joint body as may be approved by the Minister is also an appropriate officer. Individual health functions may be delegated only to an Assistant County Officer or to an officer approved by the Minister for Health. Where a function has been delegated to the County Officer under Section 33 of the Bill he may not delegate it to another officer except with the consent of the delegating authority (Section 34).

(23) A County Officer may, after consultation with the Chairman of the County Council, appoint a person to be Deputy County Officer during a period of temporary absence on leave or otherwise. If for any reason the County Officer does not appoint a deputy before his absence, the Minister will appoint one (Section 52).

DUBLIN CITY AND COUNTY.

(24) The Dublin City Manager will be County Officer for Dublin County and Borough Manager for Dun Laoghaire. There will be not less than four Assistant City Managers. The four persons to be appointed to these offices are specified in Section 60 of the Bill. Each Assistant City Manager will also be an Assistant County Officer for Dublin County and Assistant Borough Manager for Dun Laoghaire. The City Manager can delegate his functions in relation to the city, the county, or the Borough of Dun Laoghaire to these officers. The administration of the Dublin Board of Assistance will also be integrated with the administration of Dublin City and county and the Dublin City Manager will be the County Officer for that body with power to delegate to the Assistant County Officers.

MISCELLANEOUS.

(25) Section 49 provides that a member of the Council of a County, of an elective body or of an Executive Committee or sub-committee shall not vote on, or act as a member in relation to, any matter in which he has directly or indirectly, by himself or his partner, any pecuniary interest.

(26) Section 50 enables the Council of a County, an elective body or an Executive Committee to appoint committees to consider any matters connected with the functions of the local authority and to advise thereon. Persons who are not members of a local authority may be appointed on these committees.

(27) Section 56 amends Section 70 of the Local Government Act, 1925, which provides that a person shall not be employed by any local authority while he is, or within twelve months after he has ceased to be a member of such local authority, or of any other local authority whose functional area is or is situate in the same county or county borough as such local authority or in any county or county borough adjoining to that county or county borough. The amendment provides that the disqualification for employment shall, in the case of employment as a servant, operate only in respect of the local authority of which the person concerned was a member.

(28) Section 57 amends Section 67 of the Local Government Act, 1946, which provides for the payment of subsistence allowances where a member of a local authority resides not less than three miles from the place of meeting. The limit of three miles is being reduced to one mile.

(29) In Section 58 provisions are included enabling an appeal against a decision affecting the remuneration, duties or conditions of service of servants of a local authority of a particular class, description or grade to be made to the elected members. The elected members will decide the appeal and to the extent to which it is confirmed by the appropriate Minister it will be binding on the County Officer. Where the local authority concerned is a joint body their decision must first be confirmed by the rating authorities who defray the expenses of the local authority.

(30) Section 59 contains a general power enabling local authorities to enter into agreements whereby one of them will perform the functions of another in cases where it is more convenient that this should be done.

(31) Section 63 provides that where a person was an established civil servant before becoming a pensionable local officer any period or periods during which he acted as a commissioner for a local body prior to his establishment as a civil servant may be reckoned as pensionable local service for the purpose of the Local Government (Superannuation) Act, 1948.

(32) Section 65 of the Bill provides for a temporary amendment of the Local Authorities (Officers and Employees) Act, 1926, to enable the Local Appointments Commissioners to set up panels of candidates for appointment to the offices mentioned therein.

*Department of Local Government,
June, 1950.*