



AN BILLE RIALTAIS AITIUIL, 1954.  
LOCAL GOVERNMENT BILL, 1954.

EXPLANATORY MEMORANDUM.

The main purpose of this Bill is to remedy a number of anomalies and obscurities in existing local government law and to remove restrictions in earlier legislation which are considered superfluous in present conditions. A number of the Bill's provisions will also facilitate the task of consolidating local government law, on which work is proceeding.

Purpose of Bill.

The Bill is divided into five Parts as follows:—

Division into Parts.

- I. Preliminary and General.
- II. Offices and Employments and amendments of the Local Authorities (Officers and Employees) Act, 1926.
- III. Roads.
- IV. Provisions relating to Local Finance.
- V. Miscellaneous.

PART I.

PRELIMINARY AND GENERAL.

Part I of the Bill contains the usual provisions relating to citation, construction of terms, definitions, commencement, regulations and the repeal of older enactments.

Part I.  
(Sections 1 to 5.)

PART II.

OFFICES AND EMPLOYMENTS AND AMENDMENTS OF THE LOCAL  
AUTHORITIES (OFFICERS AND EMPLOYEES) ACT, 1926.

CHAPTER I.

*Offices and Employments.*

Part II of the Local Government Act, 1941, which contains the main provisions dealing with officers and servants of local authorities, defines the expressions "appropriate Minister", "local authority", "office" and "major office" which are also used throughout this Chapter of this Part of the Bill. Section 6 of the Bill provides that the expressions will have the same meaning as they have in Part II of the 1941 Act. In this Chapter "appropriate Minister" means accordingly the Minister in whom is vested the powers of central control set out in Part II of the 1941 Act, Part III of the Local Government Act, 1946, and Chapter I of this Part of the Bill. The Ministers concerned are the Ministers for Local Government, Health, Social Welfare, Agriculture and Defence.

Definitions.  
(Section 6.)

Section 7 provides for such alterations in the duties of local officers as may be necessary as a result of one local authority agreeing or arranging to perform any of the powers, functions or duties of another local authority. Section 58 of the Bill will enable local authorities to make such agreements and similar powers of making agreements and arrangements for special purposes are conferred by other enactments.

Alteration of duties in certain cases. (Section 7.)

General sanction or consent by appropriate Minister. (Section 8.)

*Section 8* will enable the appropriate Minister, in lieu of giving numerous individual sanctions in local establishment matters, to exercise his powers of control by specifying general conditions and requirements to be observed by local authorities.

Inclusive remuneration. (Section 9.)

*Section 22* of the Local Government Act, 1941, as it stands, confines the appropriate Minister's power of giving directions relating to inclusive remuneration to particular cases and then only where the remuneration of the holder of the office is being fixed or altered. It is considered desirable to widen this power so as to provide for the giving of general directions applying the principle of inclusive remuneration to any office or to offices of a particular class, description or grade. *Section 9* of the Bill will provide accordingly. A direction of this kind will not apply to an existing officer without his consent.

Amalgamation of offices. (Section 10.)

*Section 36* of the Local Government Act, 1946, authorises the amalgamation of offices only where the offices relate to one Minister. Occasionally it is desirable to amalgamate offices relating to two or more Ministers and it is proposed in *section 10* of the Bill to provide accordingly. It is also proposed to simplify the arrangements dealing with the payment and recoupment of the remuneration of holders of amalgamated offices where the offices which have been amalgamated are held under different local authorities. *Section 10* will replace *section 36* of the Local Government Act, 1946, which is being repealed.

Determination of certain doubts, etc. (Section 11.)

Under *section 12* of the Local Government Act, 1941, the appropriate Minister may determine any doubt as to whether a particular position under a local authority is or is not an office or as to whether any particular person is or is not an officer. It is proposed in *section 11* to extend this provision by empowering the appropriate Minister to decide also whether any particular class, description or grade of positions under a local authority or local authorities are or are not offices or whether any particular class, description or grade of persons employed by a local authority or local authorities are or are not officers.

Creation and abolition of offices. (Section 12.)

No specific power exists at present either to create or abolish an office, although *sections 5 and 6* of the Local Authorities (Officers and Employees) Act, 1926, mention the creation of offices and there is statutory provision for pension rights in certain cases of abolition of office. It is considered desirable, therefore, to supplement the terms of *section 10* of the Local Government Act, 1941 (which deals with the appointment of local officers and servants) by giving local authorities an express power of creating offices either on a permanent or a temporary basis with the sanction of the appropriate Minister. *Section 12* of the Bill will make this provision. The section will also empower local authorities to abolish offices with the prior approval of the appropriate Minister, but an office held by a person in a permanent capacity may not be abolished without the consent of such person. The provision requiring the sanction of the appropriate Minister gives formal expression to what is, in fact, current practice. The proposed power to abolish offices is a corollary to the power of creation. The interests of permanent officers are protected.

The section also proposes to apply a practice common in local government superannuation law of a time-limit (six months in this case) to appeals by officers to the appropriate Minister against decisions of the local authority relating to remuneration, duties or conditions of service.

Amendment of sections 13 and 16 of Act of 1941. (Section 13.)

*Section 13* applies the provisions of *sections 13 and 16* of the Local Government Act, 1941, which at present apply to Part II of that Act only, to Part III of the Local Government Act, 1946, and this Part of the Bill. *Section 13* of the Local Government Act, 1941, provides that every power to make any order, regulation, direction or declaration shall be construed as including a power to revoke or amend such order or regulation, etc. *Section 16* of

the Local Government Act, 1941, provides that existing officers at the commencement of Part II of that Act are not exempt from its provisions.

*Section 14* amends and extends the powers given to the appropriate Minister under section 19 of the Local Government Act, 1941, to make regulations for specified purposes for officers generally or for certain classes of officers. Paragraph (j) of sub-section (1) of section 19 enables regulations to be made for the performance of the duties of an officer by a deputy appointed by himself where he is ill, absent or incapacitated. In practice, however, it is more usual that the local authority itself appoints a substitute where an officer of a local authority is unable to perform his duties for any reason, and it is proposed, therefore, to take power to make regulations for the performance of duties by substitutes as well as deputies. It is also proposed to provide that where a deputy or substitute performs any official duties which are normally performed by the officer for whom he acts, the actions of the deputy or substitute shall be as valid in all respects as if they had been done by the officer in person. This provision is necessary to clear up doubts which have arisen as to the validity of statutory acts, etc., when performed by a deputy or substitute.

Regulations in relation to officers and their holders.  
(Section 14.)

Paragraph (k) will enable the appropriate Minister to make regulations providing for restrictions on officers engaging in any other gainful occupation. Under section 39 (which is being repealed) of the Local Government Act, 1946, an officer may be prohibited from engaging in outside work for pay except with the permission of the local authority and the consent of the Minister. It is considered desirable to have a power to make regulations in this matter for officers generally or for a particular class, description or grade of officer.

Paragraph (l) is a provision on substantially the same lines as section 26 of the Local Government Act, 1941, which deals with removals from office and which is being repealed. The powers of removal are exercisable by local authorities in accordance with regulations and accordingly it is more appropriate that the power should be provided in section 19 which already deals with a number of matters on which regulations may be made.

Paragraph (m) will give local authorities power to impose short term suspensions, not exceeding seven days. Under section 27 of the Local Government Act, 1941, the appropriate Minister or a local authority may suspend an officer but only the appropriate Minister may terminate such suspension. This means, because of the need to refer the facts to the Minister for his consideration, that the period of suspension is normally protracted and for this reason local authorities are reluctant to use the power of suspension except where a most serious breach of discipline occurs. It is considered desirable in the interests of staff discipline to provide for suspension for short periods and the forfeiture of remuneration in respect of the period of suspension where such penalty is warranted. The other provisions of the paragraph follow from the general desire to concentrate as far as possible the limitations under which local authorities may exercise their general staff functions in one section and in one set of regulations.

The provisions of paragraph (n) which would enable the appropriate Minister to supplement regulations by the issue of directions from time to time are intended to ensure flexibility in matters which are subject to frequent change.

*Section 15* is intended to clarify a doubt which has arisen as to whether section 20 of the Local Government Act, 1941, empowers the appropriate Minister to assign a particular duty to an officer who belongs to a class of officers whose duties have been defined generally. Normally the duties of officers are defined generally by classes but it is sometimes necessary to assign a particular duty to an officer belonging to one of those classes.

Powers of appropriate Minister in relation to duties of office.  
(Section 15.)

Suspension of marriage bar in certain cases. (Section 16.)

There are a number of married women in the local service to whom no marriage bar applied on first appointment. The subsequent declaration of a marriage qualification has prevented their promotion or transfer, with consequent hardship. In *section 16* it is proposed to provide that a requirement that a woman holder of an office should be either unmarried or a widow shall not apply to existing married female officers of local authorities who were appointed to offices to which that qualification or the condition that the holder should resign on marriage did not apply at the date of appointment.

Requisition to resign from office. (Section 17.)

Under *section 24* of the Local Government Act, 1941, the appropriate Minister may require an officer to resign in certain circumstances, and if he refuses, the Minister may remove him from office. The power can be exercised only where the Minister is satisfied either that the holder does not possess a qualification necessary for the office, or that on account of any alteration in the conditions of service or in the duties of the office, it is in the public interest that the holder should resign. There is some doubt as to whether the Minister is empowered by the section to require an officer whose office has been abolished to resign. The amendment proposed in *section 17* of the Bill will remove this doubt.

It is also intended to facilitate the transfer of officers from one local authority to another. *Section 24* of the Local Government Act, 1941, as it stands, enables the transfer of an officer from one office to another under the same local authority in cases where it is necessary in the public interest to abolish the first office. With the setting up of regional authorities and health institutions and the closing down of existing institutions, it is necessary to provide for the transfer of officers to the service of the regional authority. The proposed amendment also includes a provision designed to prevent an officer who, as part of a reorganisation, is asked to take up duty in another locality from claiming superannuation benefits on the ground that his office has been abolished.

Suspension of officers. (Section 18.)

*Section 27* of the Local Government Act, 1941, provides that the appropriate Minister or the local authority can suspend an officer but only the appropriate Minister can terminate a suspension. The suspension by local authorities of officers will henceforth be dealt with in accordance with the regulations to be made under paragraph (m) of *section 14* of this Bill. The reasons for this change are set out in the note on that section.

Fixing by appropriate Minister of remuneration of major office. (Section 19.)

*Section 19* proposes to amend *section 29* of the Local Government Act, 1941, by providing that in addition to fixing remuneration for a specified major office the appropriate Minister shall also have power to fix the remuneration for major offices of a class, description or grade and that the power to fix remuneration for a specified office may be exercised even though the office may belong to a class, description or grade of offices for which the appropriate Minister has already fixed remuneration.

A major office is an office declared to be such by a declaration made or deemed to have been made under *section 9* of the Local Government Act, 1941. The term includes engineering, medical and other professional posts and the more important administrative positions under local authorities.

Control of remuneration. (Section 20.)

Under *section 19* of the Local Government Act, 1941, the appropriate Minister may make regulations governing the remuneration applying to offices. It is, however, impracticable to apply a general control by means of regulations to all local offices. Powers of control otherwise than by regulation are contained in *section 30* of the 1941 Act for major offices and in *section 42* of the Local Government Act, 1946, for other offices and employments. The latter section has not worked satisfactorily and it is proposed in *section 20* of the Bill to substitute a single provision applicable to all offices and employments under local authorities.

Section 70 of the Local Government Act, 1925, prohibits any person from holding any office or being employed for remuneration under any local authority while he is or within twelve months after he has ceased to be a member of such local authority or any local authority in the same or an adjoining county or county borough. It is considered that eligibility for minor employment by a local authority is objectionable only where a person is or recently was a member of the employing authority. It is proposed, therefore, in *section 21* that the disqualification of a person from employment as a minor officer or servant shall operate only in respect of membership of a local authority, as defined in section 2 (2) of the Act of 1941, by which he is employed, with the exception of paragraph (c) of that subsection. This exception is to ensure that membership of advisory and visiting committees will not of itself involve the disqualifications of section 70 of the Act of 1925.

Employment by local authorities of local authority members. (Section 21.)

Various statutes from the Grand Jury (Ireland) Act, 1836, to the Local Government Act, 1946, confer powers, functions and duties on surveyors and assistant surveyors of local authorities. The fact that certain powers, functions and duties which are essential to local authorities can be exercised only by such officers has caused difficulties. Modern policy in the field of local government favours the assignment to the local authority of the various statutory powers necessary for the discharge of its functions rather than the vesting of power in a specified officer of the authority, and it is proposed in *section 22* of the Bill to bring the law generally into conformity with this policy by transferring the statutory powers, functions and duties of surveyors and assistant surveyors to the appropriate local authorities. It is necessary in order to avoid claims for special superannuation terms to provide that the transfer of powers may not be deemed to alter an officer's position materially to his detriment.

Transfer of powers from surveyors to local authorities. (Section 22.)

*Section 23* contains special provisions relating to the superannuation of certain persons in the local service. Various periods of service either in the civil service or as commissioner or chief executive officer for a local authority, which are not reckonable for pension purposes under existing law, are to be aggregated. The persons concerned are Dr. P. J. Herson, Dublin City and County Manager, and Mr. Séamus Ó Murchadha, Chief Executive Officer of the Dublin Board of Assistance.

Special provisions for certain persons. (Section 23.)

*Section 24* and the *Second Schedule* propose to clarify the position in relation to the power of the appropriate Minister and the Minister for Education to make age limit orders by making the statutory provisions reflect more closely the policy pursued by the Ministers. The age limit of sixty-five has been applied by various orders made under section 23 of the Local Government Act, 1941, and section 6 of the Vocational Education (Amendment) Act, 1944, to most offices under local authorities. The age limit orders are, however, intended to apply only to office holders who on compulsory retirement would be entitled to a pension and it is now proposed to limit the powers of the Ministers accordingly and lest there be any doubt in the matter to validate any orders that have been made. A saver is provided for proceedings in a case instituted in the High Court before the Bill was introduced. It is also proposed to provide that an officer who will not be obliged to retire on reaching the age limit because he would not then be entitled to a pension will be retired compulsorily if and when he does become so entitled. It is also intended to make clear that the orders will apply notwithstanding any statutory tenure for life that an officer may possess.

Age limit orders, etc. (Section 24.)

This section is intended to institute a system of local conciliation for servants of local authorities. It provides machinery for considering appeals on behalf of servants of any particular class, description or grade from decisions affecting their remuneration, duties or conditions of service. The appeal is to the elected members of the local authority concerned who, after referring it to a local conciliation committee, can refuse the appeal or make a new

Appeals on behalf of servants. (Section 25.)

decision, subject to confirmation by the appropriate Minister where it relates to a matter of remuneration, who can confirm it with or without modification or refuse to confirm it. If the local authority concerned is not a rating authority their decision has to be approved by the rating authorities who defray the expenses of the local authority. Under *section 59* of this Bill local authorities are empowered to set up advisory committees to assist them in dealing with appeals, such committees to consist, if desired, partly of members of the local authority and partly of other persons.

## CHAPTER II.

### *Amendments of the Local Authorities (Officers and Employees) Act, 1926.*

The Principal Act.  
(Section 26.)

This section, and a special chapter, are necessary because the scope of the words "Minister" and "local authority" are narrower for the purposes of the Local Government Acts than for the Local Authorities (Officers and Employees) Act, 1926, as amended and applied. It is intended that the amendments under this Bill will relate to the full scope of the Act of 1926, affecting appointments under, in addition to local authorities for the purposes of the Act of 1941, vocational education committees, county committees of agriculture, harbour authorities, as well as such offices as coroner, that are filled on the recommendation of the Local Appointments Commissioners.

Exclusion of certain offices from scope of Act of 1926.  
(Section 27.)

Section 2 (1) of the Local Authorities (Officers and Employees) Act, 1926, provides that every office under a local authority the qualifications for which are wholly or in part professional or technical is an office to which the Act applies and consequently one to be filled by means of a recommendation from the Local Appointments Commissioners. There are a number of part-time offices of engineer and surveyor in urban districts and towns and the duties and remuneration of these offices are very limited. It is virtually impossible to get suitable applicants for these offices other than members of county council engineering staffs and many of the posts are held in a temporary capacity by such officers at a small remuneration. It would facilitate administration to remove these part-time offices from the scope of the Act of 1926, thus permitting them to be filled on a permanent basis without recourse to the Local Appointments Commissioners and *section 27* of the Bill will provide accordingly.

It is also proposed to exclude temporary offices from the scope of the Act. Normally it is not practicable to have appointments to these offices made by way of a recommendation from the Commissioners unless the appointments are for a number of years. There are a number of relatively junior offices (e.g., radiographer) which are held to be "technical" and these must be filled under the Act of 1926. They could, however, much more suitably be filled locally. Accordingly it is proposed to delete "technical" posts from the scope of the Act. There is provision in the Local Authorities (Officers and Employees) Act, 1926, enabling the appropriate Minister to include all three types of office in the scope of the Act, where desired, by a declaration under *section 2 (1) (c)*.

Time limit for taking up duty.  
(Section 28.)

Local authorities have been seriously inconvenienced in the past through persons recommended by the Local Appointments Commissioners delaying unreasonably in taking up appointments. *Section 28* of the Bill proposes to remedy this by amending *section 6* of the Local Authorities (Officers and Employees) Act, 1926, so as to enable local authorities to specify a period of not less than three months within which persons recommended for appointment by the Local Appointments Commissioners must take up duty on pain of losing the right to appointment.

Fees charged by Local Appointments Commissioners.  
(Section 29.)

*Section 10* of the Local Authorities (Officers and Employees) Act, 1926, provides that the Local Appointments Commissioners may charge every candidate such fee as they, after consultation with the appropriate Minister, think proper. This provision en-

joins a consultation with the Minister regarding the fees to be charged in the case of every appointment. *Section 29* of the Bill will do away with much unnecessary work by enabling the Commissioners to fix application fees for candidates by reference to classes or grades of offices rather than to particular appointments.

*Section 9* of the Local Authorities (Officers and Employees) Act, 1926, requires the Local Appointments Commissioners to obtain the Minister's consent to the selection of a person for appointment to an office otherwise than by competitive examination which is taken to mean a written competitive examination. In practice, all selections are made by interview board and the concurrence of the appropriate Minister must therefore be obtained to every selection. *Section 30* of the Bill enables this to be done for classes of offices.

Dispensing with competitive examination. (Section 30.)

Under existing law the Local Appointments Commissioners cannot compile panels of qualified persons from which the needs of a number of local authorities can be met. *Section 31* of the Bill will empower the Commissioners to compile such panels.

Panels of persons qualified for appointment to offices. (Section 31.)

### PART III.

#### ROADS.

*Section 32* proposes to clarify the law in regard to the compulsory acquisition of land for the production of road materials.

Production of road materials. (Section 32.)

*Section 33* will amend section 17 of the Development and Road Improvement Funds Act, 1909, so as to include borough corporations and urban district councils in the definition of road authorities for the purposes of Part II of that Act.

Extension of application of Development and Road Improvement Funds Act, 1909. (Section 33.)

*Section 34* proposes to declare, for the purpose of removing doubts, that the expressions "highway", "public highway", "highway repairable by the inhabitants at large", and similar expressions shall be construed as meaning a "road" as defined in the Local Government Act, 1925. These expressions occur in many pre-1922 statutes, e.g., the Public Health Acts Amendment Act, 1890, the Barbed Wire Act, 1893, the Local Government (Ireland) Act, 1898, the Public Health Acts Amendment Act, 1907, and the Development and Road Improvement Funds Act, 1909, and are now inappropriate in view of the definition of road in the Local Government Act, 1925. The word "road" is defined in that Act to mean any public road, and to include any bridge, pipe, arch, gully, footway, pavement, fence, railing or wall (where such fence, railing or wall was erected by or was liable to be maintained by the county council or grand jury) forming part thereof.

Meaning of "highway," etc. (Section 34.)

Under section 24 of the Local Government Act, 1925, it is the duty of a county council to maintain and construct all main roads in the county. Section 1 of that Act provides that main roads are such as are declared to be so by order of the Minister for Local Government. A doubt has been raised as to the Minister's power to declare a road to be a main road in advance of its construction. *Section 35* will clarify the position by providing that the Minister's power to declare a road to be a main road is, and always was, exercisable in relation to a proposed new road.

Declaration of main road. (Section 35.)

*Section 36* proposes to substitute a simpler procedure for the temporary closing of roads for that contained in section 29 of the Local Government Act, 1925, which enables the Minister for Local Government by order to authorise a road authority to close a road. The existing procedure is cumbersome and it is proposed to provide instead that a road authority may close any road in their care after public notice, subject to a power of intervention by the

Temporary closing of road. (Section 36.)

Minister. The section has provisions also to facilitate the holding of road races on a road closed temporarily to traffic.

Traffic signs.  
(Section 37.)

*Section 37* will substitute a new definition of "traffic sign" for that in section 69 of the Local Government Act, 1946, which empowers the Minister to make regulations prescribing the size, shape, colour and character of traffic signs to be provided by road authorities and provides that "no traffic sign shall be provided by a road authority which is not in accordance with any relevant regulation." No regulations have been made because it was felt that section 69 was too rigid. The section would prevent the use of old signs which are still quite useful and which it would be uneconomic to replace. Again, it would in strictness require regulations to cover the exact shape and dimensions of warnings written on roads and of temporary signs at road openings, etc., matters which it is undesirable to tie into regulations. The new provision will enable the Minister to make regulations regarding specified signs: uniformity in less important signs will be secured, so far as it is needed, by directions issued by the Minister from time to time.

The road authorities will have discretion in regard to other signs. It is proposed to add a new provision to section 69 of the 1946 Act prohibiting the erection of devices and notices which might be confused with lawfully erected traffic signs or make them more difficult to read. This provision is designed to facilitate adherence to the 1949 International Convention on Road Traffic.

Traffic Wardens.  
(Section 38.)

*Section 38* will empower certain local authorities with the consent of the Commissioner of the Garda Síochána to make arrangements for the patrol of places where children cross roads on their way to and from school. The patrols will be carried out by persons appointed by the local authorities, and traffic will be bound to stop at the direction of such persons.

Foreign cars  
and drivers.  
(Section 39.)

The Motor Car (International Circulation) Act, 1909, has been found to be defective in certain respects. It extends, for example, only to the drivers of foreign cars and does not apply to tourists who intend to drive Irish cars. Again, it can be used only to give effect to an International Convention and cannot be availed of for informal agreements. It is proposed to repeal the Act and *section 39* contains new provisions in substitution for it.

Contribution  
to ferry.  
(Section 40.)

Under the Ferries (Acquisition by Local Authorities) Act, 1919, a road authority may acquire and work an existing ferry. It is proposed in *section 40* of the Bill to amend section 1 of the Act so as to enable a road authority, as an alternative, to contribute to the cost of working, maintaining or improving a ferry, subject to such conditions as they may wish to impose.

Bridge Orders.  
(Section 41.)

*Section 41* provides that work authorised by a bridge order made by the Minister under the Local Government Act, 1946, may be carried out notwithstanding any interference with navigation or other rights. Provision is made for the payment of compensation where private rights are curtailed or terminated. In the event of a dispute the amount of the compensation will be assessed by arbitration.

*Section 41* also proposes to amend section 55 of the Local Government Act, 1946, under which any powers and duties of a road authority in relation to a bridge constructed or reconstructed under that Act are transferred to the authority which executes the works. In certain circumstances it may be desirable to vest the bridge in an authority other than the executing authority. *Section 41* accordingly provides that the Minister may by a bridge order transfer the powers and duties of road authorities in relation to the bridge to the executing authority or to any other road authority.

It is intended to replace the bridge over the River Foyle at Lifford which is defective and is too narrow for modern traffic. *Section 42* will give road authorities power, subject to the Minister's approval, to adopt schemes for the construction, improvement, alteration, maintenance, or abandonment of cross-border bridges.

Schemes for cross-border bridges. (Section 42.)

#### PART IV.

##### PROVISIONS RELATING TO LOCAL FINANCE.

*Section 43* will empower a local authority with borrowing powers to borrow, with the consent of the Minister, by way of temporary loan or overdraft to meet any expenses incurred by them in the execution of any of their powers and duties. The section will re-enact in an improved form the provisions of section 3 of the Local Authorities (Financial Provisions) Act, 1921, as extended by section 11 of the Local Authorities (Miscellaneous Provisions) Act, 1936, and section 65 of the Local Government Act, 1941. These provisions have been continued on a temporary basis by the Expiring Laws Acts.

Borrowing by way of temporary loan or overdraft. (Section 43.)

Section 238 (2) of the Public Health (Ireland) Act, 1878, limits the indebtedness of sanitary authorities, that is, county councils, county borough and borough corporations and urban district councils, to twice the rateable valuation of their areas. In *section 44* of the Bill it is proposed to exempt from this limitation loans raised by urban district councils and corporations of non-county boroughs for the purpose of providing, improving or extending a water supply or sewerage system. The new provision is rendered necessary partly because of a change in the method of providing State assistance for water and sewerage schemes undertaken by local authorities. Formerly such assistance was given by means of lump sum grants towards the capital cost of approved schemes. The present system is to make annual contributions towards loan charges incurred on such schemes. The change has meant that local authorities now borrow the whole cost of schemes instead of the balance not covered by grants.

Exclusion from limitation of borrowing. (Section 44.)

Section 6 of the Local Authorities (Miscellaneous Provisions) Act, 1936, authorises borough corporations and urban district councils to provide and maintain town halls (with or without municipal offices) together with all necessary furniture and fittings. The section confers borrowing powers for the provision of buildings, furniture and fittings and doubts have been expressed as to whether borrowing for the reconstruction of a town hall is authorised even where the work is obviously of a capital nature. In *section 45* it is proposed to remove these doubts.

Borrowing for maintenance of town hall. (Section 45.)

*Section 46* provides that a rate shall not be invalidated by reason of non-compliance with certain requirements in section 18 of the Valuation (Ireland) Act, 1852, as adapted. This section requires the secretary or clerk to a rating authority, within three days of the receipt of the revised list of valuations from the Commissioner of Valuation, to post a notice of receipt of the list and of the times and places at which it may be inspected on or near the principal outer door of churches, chapels or meeting houses within the rating area. The procedure is inappropriate to modern conditions. Rating authorities nowadays give adequate notice of receipt of valuation lists by means of newspaper advertisements and by printed notices in various places in their districts.

Rate not to be invalidated in certain circumstances. (Section 46.)

Section 41 of the Valuation (Ireland) Act, 1852, provides for penalties for failure to comply with the provisions of the Valuation Acts. *Section 46 (3)* is intended to safeguard local officers against liability for failure to post notices in accordance with the Valuation Acts.

*Section 47* proposes to amend section 60 of the Local Government Act, 1941, which gives power subject to certain conditions to

Amendment of rates. (Section 47.)

local authorities to make such amendments of the rates assessed on individuals as are rendered necessary by reason of errors, omissions and changes in occupation. It is clear that in the case of a county council the amendment of a rate under that section is an executive function, i.e., that it is to be done by the manager, but there is some doubt in the case of urban authorities. *Section 47* of the Bill will clarify the position.

Amendment of  
Local Authorities  
(Works) Act,  
1949.  
(Section 48.)

*Section 48* provides for the assessment of expenses incurred by county councils under the Local Authorities (Works) Act, 1949. The Act enables county borough and borough corporations and county and urban district councils to carry out works affording relief or protection from flood damage. No specific provision was made in the Act in regard to the chargeability of local expenses. Generally the cost of works carried out under the Act has been met by State grants but in the absence of specific provisions in the Act as to chargeability any local expenses incurred by a county council would be a county-at-large charge. As the Act is a permanent measure it is considered desirable to make specific provision for the chargeability of expenses. *Section 48* accordingly provides that expenses incurred by county councils under the Act in relation to their own property should be chargeable in the same way as the cost of maintaining the property. In any other case the expenses will be charged on the county health district. Where the Minister makes an order under section 3 (1) of the Act authorising a local authority to execute works on behalf of another, he may in such order include a provision requiring a contribution to be made by the other local authority. If that authority is a county council the contribution will, if the Minister so directs, be chargeable on the county health district. Provision is made for the chargeability of compensation for damage caused by the execution of works under the Act and local authorities will also be empowered to borrow to meet expenditure under the Act.

Audit fees.  
(Section 49.)

*Section 49* is designed to bring more flexibility into the provisions of section 69 of the Local Government Act, 1941, relating to the fixing of the fees to be paid by public authorities for the audit of their accounts by local government auditors.

Making of  
charges.  
(Section 50.)

Section 20 of the Local Government (Ireland) Act, 1902, as amended, provides that at the audit of the accounts of any public body, the auditor shall charge against any member or officer of the body the amount of any deficiency or loss incurred by his negligence or misconduct, or of any sum which ought to have been, but was not brought into account by him. *Section 50* provides that where a person retained by a public body in any professional, advisory or consultative capacity certifies a sum to be payable by such public body he shall, in so far as the payment certified by him is concerned, be deemed to be an officer of the public body.

The provisions of section 20 of the 1902 Act apply to local authorities, vocational education committees, committees of agriculture and certain other bodies.

Chargeability of  
expenses of  
county councils.  
(Section 51.)

Section 10 of the Local Government Act, 1946, provides that the expenses of a county council shall, unless otherwise provided by law, be charged over the whole county including boroughs and urban districts. Expenses charged in this way are known as county-at-large charges and include expenditure on main roads, health, public assistance, mental hospitals and certain other purposes. This expenditure is apportioned between the urban areas in the county and the rest of the county in such a way that the amount of the expenses borne by a particular area bears the same proportion to the total expenses as the valuation of the area bears to the valuation of the whole county. The amount to be raised by the county council is raised by means of a rate on the whole county exclusive of urban areas. The amount to be raised by the urban authorities is raised by them by a rate on their areas and is paid over to the county council. The valuations taken for the apportionment of the expenditure are those appearing in the valuation

lists. It has been represented that this basis of apportionment is unfair to the urban areas since the valuations on which the urban authorities can levy rates are, in the aggregate, substantially less than the valuations which appear in the valuation lists. The difference is caused by non-productive ratings such as new houses and other buildings the valuations of which are deemed to be reduced for rating purposes, land in urban areas on which rates are assessed on only a fraction of the valuation appearing in the valuation lists, unoccupied and derelict properties the valuation of which remains in the valuation lists but for which no rates can be collected, and so on. There are proportionately more such sterile valuations in urban areas than in rural, with the result that the urban areas tend to be charged with an undue proportion of shared expenses. Under the method of apportionment proposed in *section 51* county-at-large charges will be charged in proportion to the net produce of a penny rate in each rating area. The way in which the net produce of a penny rate is to be calculated will be prescribed. Different provisions are necessary for Buncrana Urban District because of the special method of calculating its share of county-at-large charges laid down by the Local Government (Temporary Reduction of Valuation) Act, 1954.

It is also proposed to amend *section 10* of the 1946 Act by including a provision enabling the Minister to determine the chargeability of specified expenses such as overdraft interest, audit fees, etc., about which there may be some uncertainty. This provision will replace *section 71* of the Local Government (Ireland) Act, 1898. A further amendment of *section 10* is involved in the deletion of subsection (5) under which the chargeability of certain expenses such as those on road materials and machinery may be provisionally determined and subsequently adjusted. This subsection has not worked well in practice and it is proposed to make alternative arrangements in the forms of accounts of county councils.

## PART V.

### MISCELLANEOUS.

Under *section 52* it is proposed to make certain amendments in *sections 76-79* of the Local Government Act, 1946, which relate to the changing of place names. The changing of a place name is conditional on the consent of four-sevenths of the ratepayers in the place. The word "ratepayer" which is not defined in the sections has been assumed in plebiscites on proposals to change place names to have its ordinary meaning of the person who pays the rates. This has meant that the occupier of a small dwelling within the meaning of the Local Government (Rates on Small Dwellings) Act, 1928, is not a ratepayer unless he also happens to be the owner. Such an occupier although paying an addition to his rent equivalent to the rates for his premises has therefore no vote in a plebiscite on a proposal to change the name of the area in which he lives. It is proposed to provide in *section 52* that the word "ratepayer" should in the case of small dwellings mean the occupier and not the owner unless the occupier happens also to be the owner.

Place names,  
(Section 52.)

The remaining amendments propose that in every plebiscite on a proposal to change a place name a list of ratepayers (including occupiers of small dwellings) will be drawn up if the local authority directs. Under the existing legislation such a list is provided for only in the case of a proposal to change the name of a non-municipal town or of a locality. The reason for the existing provision is that the boundary of a non-municipal town or of a locality is not legally defined and it was considered necessary to give the local authority power to include ratepayers who are normally regarded as being within the boundaries of such towns or localities. In all other cases the list of ratepayers is readily available from the local authority's rate books. The inclusion of the occupiers of small dwellings among those having votes in plebiscites on place names

will necessitate giving the local authority power to prepare an *ad hoc* list in all cases since it is not statutorily required to keep the names of occupiers of small dwellings in its records.

Parish Halls.  
(Section 53.)

The law dealing with the provision of parish halls is contained in Part VIII of the Local Government Act, 1941. Section 72 of the Act provides that a county council may by resolution declare particular bodies to be approved local councils for the purposes of Part VIII. Section 73 enables the council to provide a building for use by the approved local council for public or other meetings and for lectures, exhibitions, general recreation or for similar social objects, and to entrust the care and management of the building to the local council. No county council has so far provided a hall under these powers.

It has been represented that county councils would make better use of a provision authorising them to contribute by way of grant towards the provision of parish halls and *section 53* will enable them to do so, subject to such conditions governing the use and disposal of the building as they think fit.

Swimming  
facilities.  
(Section 54.)

Sanitary authorities, that is, county councils, county borough and borough corporations and urban district councils, have power under Part V of the Local Government (Sanitary Services) Act, 1948, to provide swimming pools and other types of swimming facilities. They cannot however co-operate with other bodies in the provision of swimming facilities. It is thought desirable to encourage local initiative by enabling sanitary authorities to help swimming clubs, etc., which are not usually in a position to incur substantial capital expenditure, to provide swimming pools or bathing places thus relieving local authorities of the expense of managing and maintaining the pools as well as part of the capital cost of providing them. *Section 54* will therefore empower sanitary authorities, subject to the consent of the Minister for Local Government and to such conditions as they think fit, to make grants to bodies providing swimming facilities. Borrowing powers for the purpose are also being conferred.

Decoration of  
borough,  
urban district  
or town.  
(Section 55.)

Power to raise money for the decoration of streets on occasions of public rejoicing and other appropriate occasions is confined at present to the corporations of the four county boroughs, which may incur expenditure for the purpose up to the produce of 1d. in the pound of the rateable valuation. It has been urged that the local authorities in other towns should be empowered to expend moneys on the decoration of their districts. It is proposed accordingly in *section 55* to extend the power to all urban authorities and to town commissioners to incur expenditure up to a limit of 3d. in the pound on the rateable valuation of their areas. The limit of a 1d. in the pound at present in force in the county boroughs would it is felt be too restrictive in the smaller towns and urban areas.

Local museums.  
(Section 56.)

*Section 56* will enable county councils and the corporations of the county boroughs to contribute in money or in kind towards the provision of a local museum. As the law stands at present local authorities, while empowered to establish and maintain museums are not specifically given power to make such contributions to other bodies providing museums.

Market, etc.  
charges.  
(Section 57.)

*Section 57* will enable local authorities, with Ministerial consent, to exceed any statutory limit on the amount of a rent, toll, stallage, fee or other charge in relation to a market or fair, abattoir or slaughter-house. Certain markets and abattoirs operated by local authorities were established under local Acts which fixed the tolls and other charges leviable by the local authority by reference to prices and costs which have no relevance to those prevailing to-day. Where local authorities establish markets and abattoirs under the Local Government (Sanitary Services) Acts they may vary their charges with the consent of the Minister for Local Government or the Minister for Agriculture, as the case may be. It is proposed to assimilate the position of local authorities operating under local Acts to that of authorities generally.

From time to time cases have arisen where it would obviously be more convenient that a particular function should be carried out, not by the responsible local authority, but by the local authority of an adjoining area. *Section 58* will provide for such cases by enabling a local authority to arrange for the discharge of any of their functions by another local authority, where they are of opinion that that course would be advantageous. The making of such an arrangement will be a function reserved to the elected members of the authorities concerned and the arrangement may apply either in general or in a particular case.

Power of one local authority to act for another. (Section 58.)

*Section 47* of the Health Act, 1947, provides that a health authority and an urban sanitary authority may with the consent of the Minister for Local Government and the Minister for Health arrange for the provision of health services by the urban authority. It is necessary therefore to provide that agreements under *section 58* shall not be made where an arrangement could be made under *section 47*.

*Section 59* of the Local Government Act, 1925, empowers a county council to appoint committees on which non-members may serve. The intention of that section is that such committees would perform specified functions of the council with confirmation of their acts by the county council itself, or, if the county council so decide, with the consent of the Minister, without confirmation. Similar provisions in relation to the appointment of committees by borough corporations and urban district councils are contained in *section 102* of the Municipal Corporations (Ireland) Act, 1840, and *section 5* of the Public Health (Ireland) Act, 1878, respectively. In these cases, however, only members of the local authority can be members of the committees. It is proposed in *section 59* to give local authorities an additional power to appoint purely advisory committees, consisting wholly or partly of local authority members, to advise on matters where local or specialised knowledge may be of assistance. It is intended to require local authorities to refer appeals on behalf of servants under *section 25* of the Bill to committees appointed under this section.

Advisory Committees. (Section 59.)

Special provisions apply to national monuments advisory committees and consultative health committees and, in order to retain these provisions, it is necessary to provide for the exclusion from the functions, with which advisory committees under *section 59* may deal, functions proper to the other types of advisory committee.

*Section 60* proposes to empower the Minister for Local Government (with in certain cases the consent of the Minister for Health) to make regulations providing in relation to local authorities for the following matters:—

Regulations with respect to meetings, procedure, contracts, accounts and audit. (Section 60.)

- (a) summoning and holding of meetings,
- (b) procedure,
- (c) making of contracts,
- (d) accounts,
- (e) audit of accounts,
- (f) matters which are subsidiary or ancillary to any of the foregoing matters.

*Section 22* of the Local Government (Ireland) Act, 1902, empowers the Minister to make general regulations regarding the preparation and audit of accounts of public bodies. *Section 86 (1) (d)* of the Local Government Act, 1925, supplements *section 22*. A comprehensive enabling section covering procedure, contracts, accounts and audit would have the advantage that uniform codes of regulations dealing with these matters could be framed. The law on

the subject is at present scattered over a large number of enactments which show considerable variations and anomalies as between different types of authority.

Regulations made under the section will be laid before the Houses of the Oireachtas as soon as may be after they are made and if a resolution annulling any such regulations is passed by either House within the next twenty-one days on which the House has sat the regulations will be annulled accordingly.

Standing orders.  
(Section 61.)

Under section 96 of the Commissioners Clauses Act, 1847, town commissioners (and consequently certain borough corporations and urban district councils) may make byelaws for the due management of the affairs of the commissioners. Such byelaws must be confirmed by the Minister for Local Government. There is some doubt as to whether the byelaws may be regarded as covering procedure and meetings, etc., and it is considered that the position should be clarified. County councils are empowered by Article 36 (10) (XIV) of the Schedule to the Local Government (Application of Enactments) Order, 1898, to make standing orders for the regulation of their proceedings and business. These standing orders do not require confirmation by the Minister. There does not appear to be any statutory power enabling certain non-county borough corporations to make standing orders. It has been held that they have a common law power to do so but the position here requires clarification also; and it is proposed in *section 61* to confer a general power on local authorities to make standing orders for the regulation of their proceedings, except in regard to matters which are dealt with by or under legislation including the preceding section. The section will replace section 96 of the 1847 Act and article 36 (10) (XIV) of the Schedule to the 1898 Order which are being repealed.

Local inquiries.  
(Section 62.)

*Section 62* proposes to extend to all local inquiries held at the instance of the Minister for Local Government the provisions of section 91 of the Local Government Act, 1946, which empowers the appropriate Minister to issue certificates directing the payment of a contribution towards the costs and expenses reasonably incurred by any person in relation to a local inquiry. The power is at present restricted to inquiries held under section 83 of the Local Government Act, 1941. Inquiries connected with compulsory purchase and provisional orders are held under housing and public health legislation and under other Acts. It is proposed to simplify the procedure for dealing with claims for costs by enabling the claims to be dealt with under one enactment.

Incorporation  
of town  
commissioners.  
(Section 63.)

Commissioners of towns under the Towns Improvement (Ireland) Act, 1854, which are not urban sanitary districts are not incorporated except for special purposes such as housing, libraries or the acceptance of gifts. The absence of incorporation carries certain disadvantages. For instance, land required for the commissioners purposes must be held by some of the commissioners personally. This involves transfers of land from time to time. Further, commissioners must be sued in the name of two of their number or of the town clerk instead of as a body. There is no good reason why commissioners should not be given the advantages of incorporation for all purposes and *section 63* proposes to do this.

Section 94 of the Towns Improvement (Ireland) Act, 1854, provides for the bringing of action by or against town commissioners. The Public Libraries (Ireland) Act, 1855 at section 7, the Housing of the Working Classes (Ireland) Act, 1896 in part of section 1 (1) and at section 1 (2), section 2 (3) of the Acquisition of Land (Allotments) Act, 1926, the Housing (Miscellaneous Provisions) Act, 1931, at section 43 (2), section 5 of the Local Authorities (Acceptance of Gifts) Act, 1945, and the Local Government (Sanitary Services) Act, 1948, in part of section 43, make provision for the incorporation of town commissioners for certain purposes. These provisions will be superfluous on town commissioners becoming bodies corporate for all purposes and it is proposed to repeal them.

*Section 64* will enable the Minister for Local Government or a sanitary authority with the Minister's consent to revoke orders made by sanitary authorities under section 31 of the Local Government (Sanitary Services) Act, 1948. These orders prohibit the erection or retention of temporary dwellings on particular pieces of land. A number of such orders have been made some of which cover the whole or the major part of the sanitary districts concerned. The effect of an order of this kind is to prohibit temporary dwellings, e.g., a motor caravan, from being stationed in the area for even one night. The courts have held that such orders are bad because they are unreasonably comprehensive. No power exists, however, for the revocation of such orders and it is proposed to amend the law accordingly.

Temporary dwellings.  
(Section 64.)

At present travelling expenses and subsistence allowances for members of local authorities attending meetings are calculated by reference to the member's official residence which is supposed to be determined as soon as he is elected. The absence of a provision in the law for a change of official residence has given rise to administrative difficulties and it is proposed in *section 65* to resolve them by making the member's ordinary place of residence his official residence.

Travelling expenses.  
(Section 65.)

*Section 67 (7)* of the Local Government Act, 1946, authorises the payment of subsistence allowances to local authority members attending meetings at a place not less than three miles by any route from their residences. The three mile limit has been represented to be too high, as a person attending a meeting would often be unable to get to his home for a meal in a reasonable time. The proposed amendment will enable a subsistence allowance to be paid where a member lives not less than one mile from the place of meeting.

The Dublin, Balrothery and Rathdown Public Assistance Districts are co-terminous with the areas occupied by the former Dublin, Balrothery and Rathdown Unions. The Public Assistance Act, 1939, which makes this provision does not provide for an alteration of the boundaries. Such an alteration would be necessary if existing local government boundaries in the areas affected were to be adjusted. It is proposed in *section 66* to take the necessary power to alter the boundaries by Ministerial Order.

Alteration of boundaries of certain public assistance districts.  
(Section 66.)

There are three public assistance authorities in the Dublin area—the Dublin Board of Assistance, the Rathdown Board of Assistance and the Balrothery Board of Assistance. The functional area of the Dublin Board of Assistance consists of the county borough and portion of the county. The functional areas of the Rathdown and the Balrothery Boards of Assistance are wholly within the county. The Public Assistance Act, 1939, makes provision for the supply of money by the contributing authorities to a public assistance authority whose functional area consists of the whole of a county borough and portion of a county but no provision is made where a public assistance district consists of portion of a county borough and portion of a county. It is necessary to make good this deficiency in anticipation of further adjustments of the Dublin city boundary and *section 67* makes provision accordingly.

Provision of money for certain public assistance authorities.  
(Section 67.)

## SCHEDULES.

There are two Schedules, the first of which lists the enactments being repealed by the Bill. The reason for most of the repeals has been given in the foregoing paragraphs under the headings to which the repeals are relevant.

The repeal of sections 23 to 31 of the Dungarvan Harbour, Markets and Improvement Act, 1863, will enable the Dungarvan Urban District Council to dispose of the disused market property at Dungarvan to the Waterford County Council for use as a site for a health clinic and offices. The urban district council are at present precluded from disposing of the property by the trust created by the 1863 Act.

Under section 191 of the Public Health (Ireland) Act, 1878, the amount of the fee payable to the clerk or registrar of a burial ground provided under the Act for each separate entry of death is such sum as the Minister for Health may direct, subject to a maximum of 3d. for each separate entry of death. A reasonable case has been made that this maximum is too low having regard to present day costs. It is proposed accordingly to repeal the limitation. Section 238 (3) of the 1878 Act provides that where a loan would bring the indebtedness of local authority for sanitary purposes to an amount in excess of the valuation of the district the Minister shall not sanction the loan unless he first orders a local inquiry and considers the Inspector's report. This requirement was suspended by section 6 of the Local Authorities (Financial Provisions) Act, 1921, and the suspension continued until 1942 when the coming into force of the Local Government Act, 1941, had the effect of restoring it. The procedure which the subsection requires is unnecessary in modern conditions and it is proposed to repeal the subsection.

Section 51 (7) of the Local Government (Ireland) Act, 1898, provides that debts, claims or demands payable out of the poor rate shall be paid within the half year in which they were incurred or became due or within three months after the expiration of that half year and not afterwards provided that the appropriate Minister may extend the time of payment to a time not exceeding twelve months from the due date. By section 4 of the Local Government (Ireland) Act, 1902, the Minister was empowered to extend the time of payment to a time not exceeding two years from the due date. It is proposed to repeal these provisions. The repeal of subsection (8) of section 51 of the 1898 Act is consequential.

Section 10 (2) of the Irish Universities Act, 1908, empowers county councils and county borough corporations to assist students ordinarily resident in their area who are in need of assistance by means of exhibitions, scholarships, etc., tenable at Irish Universities. The amount to be raised in any year for this purpose cannot exceed the proceeds of a penny rate or such higher rate as the local authority, with the consent of the Minister for Local Government, may fix. It is proposed to repeal this limitation.

The repeal of certain words in section 5 of the Local Authorities (Officers and Employees) Act, 1926, is intended to establish clearly that a person holding temporarily an office to which the Act applies has no special statutory tenure of office and that his appointment may be terminated at any time.

Section 33 of the Local Government Act, 1946, which empowers the Minister to vary rate collection districts is considered unnecessary and is being repealed.

The Second Schedule of the Bill contains provisions relating to the application of age limit orders to certain officers of local authorities and vocational education committees.

*An Roinn Rialtais Aitiúil.*  
*Deireadh Fomhair, 1954.*