AN BILLE UM BAINISTI CHATHRACH AGUS CONTAE (LEASU), 1954.

CITY AND COUNTY MANAGEMENT (AMENDMENT) BILL, 1954.

Mar a ritheadh ag Dáil Éireann.
As passed by Dáil Éireann.

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[No. 35*b* of 1954.]

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SCHEDULE.

Enactments Repealed

AN BILLE UM BAINISTI CHATHRACH AGUS CONTAE (LEASU), 1954.

CITY AND COUNTY MANAGEMENT (AMENDMENT) BILL, 1954.

BILL

entitled

AN ACT TO AMEND AND EXTEND THE ACTS RELATING TO THE MANAGEMENT OF COUNTY BOROUGHS, COUNTIES AND CERTAIN OTHER AREAS AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

Interpretation.

1.—(1) In this Act—

" the Act of 1940 " means the County Management Act, 1940 (No. 12 of 1940);

" borough " does not include a county borough;

" the Corporation of Dublin " means the Right Honourable the Lord Mayor, Aldermen and Burgesses of Dublin;

" elective body " means an elective body for the purposes of the County Management Acts, 1940 and 1942;

" estimate of expenses " has the meaning assigned to it in *section 9;*

" estimates committee " has the meaning assigned to it in *section 7;*

" estimates meeting " has the meaning assigned to it in *section 10;*

" executive function " means a function other than a reserved function;

" grouped counties " has the same meaning as in the Act of 1940;

" individual health functions " means functions—

(*a*) with respect to decisions as to whether or not any particular person shall be eligible to avail himself of a service (including a service for the payment of grants or allowances) made available under the Health Acts, 1947 to 1954, or the Mental Treatment Acts, 1945 and 1954, or as to the extent to which and the manner in which a person shall receive treatment under or otherwise avail himself of any such service,

(*b*) with respect to decisions as to the making or recovery of a charge, or the amount of any charge, for a service (including a service for the payment of grants or allowances) made available under the Health Acts, 1947 to 1954, or the Mental Treatment Acts, 1945 and 1954, in respect of a particular person,

(*c*) under sections 107, 168, 188, 203, 206, 208, 215, 216, 217, 218, 219, 220, 223, 224 and Part XVII of the Mental Treatment Act, 1945 (No. 19 of 1945),

(*d*) under section 39 of the Health Act, 1947 (No. 28 of 1947);

" local authority " means—

(*a*) the corporation of a county borough,

(*b*) the council of a county, or

(*c*) an elective body;

" manager " means—

(*a*) as respects the corporation of a county borough—the manager for the purposes of the Acts relating to the management of the county borough, and

(*b*) as respects the council of a county or an elective body —the manager for the purposes of the County Management Acts, 1940 and 1942;

" the Minister " means the Minister for Local Government;

" prescribed " means prescribed by the Minister by regulations made under this Act;

" reserved function " means—

(*a*) as respects the corporation of a county borough—a reserved function for the purposes of the Acts relating to the management of the county borough, and

(*b*) as respects the council of a county or an elective body—a reserved function for the purposes of the County Management Acts, 1940 and 1942.

(2) Any reference in this Act to a function includes a reference to a power or duty and any reference to performance of a function includes, as respects a power, a reference to exercise of the power.

(3) Notwithstanding anything contained in this section, every reference in this Act to a meeting, member, committee, member of a committee, or meeting of a committee of a local authority shall, where the local authority in question are the corporation of a county borough or borough, be construed as a reference to a meeting, member, committee, member of a committee, or meeting of a committee (as the case may be) of the council established by law in respect of the county borough or borough.

Prior information to members of local authority of manager's proposals.

2.—(1) Subject to the provisions of this section, a local authority may by resolution direct that, before the manager performs any specified executive function of the local authority, he shall inform the members of the local authority of the manner in which he proposes to perform that function, and the manager shall comply with the resolution.

(2) A resolution under *subsection* (*1*) of this section may relate to any particular case or occasion or to every case or occasion of the performance of the specified executive function.

(3) A resolution under *subsection* (*1*) of this section shall not apply or extend to the performance of any function of the manager in relation to the officers or servants of a local authority or the control, supervision, service, remuneration, privileges or superannuation of such officers or servants or any of them, and any resolution purporting to be passed under *subsection* (*1*) of this section which contravenes this subsection shall be void.

(4) Every dispute arising between a local authority and the manager as to whether a resolution passed by the local authority does or does not contravene *subsection* (*3*) of this section shall be referred for decision—

(*a*) in case the local authority are a joint mental hospital board or a joint board established by order under

section 45 of the Health Act, 1953 (No. 26 of 1953)—
to the Minister for Health, and

(*b*) in any other case—to the Minister.

(5) A resolution under *subsection* (*1*) of this section shall not apply or extend to the performance of any of the individual health functions of a local authority, and any resolution purporting to be passed under *subsection* (*1*) of this section which contravenes this subsection shall be void.

(6) Every dispute arising between a local authority and the manager as to whether a resolution passed by the local authority does or does not contravene *subsection* (*5*) of this section shall be referred for decision to the Minister for Health.

(7) The manager shall inform the members of a local authority—

(*a*) before any works (other than works of maintenance or repair) of the local authority are undertaken, or

(*b*) before committing the local authority to any expenditure in connection with proposed works (other than works of maintenance or repair).

(8) A local authority may by resolution define what information is to be given pursuant to this section, and how and when it is to be so given, and the manager shall comply with the resolution.

(9) Nothing in the foregoing provisions of this section shall prevent the manager from dealing forthwith with any situation which he considers is an emergency situation calling for immediate action without regard to those provisions.

Direction that works be not proceeded with.

3.—Where the members of a local authority are informed pursuant to *section 2* of this Act of any works (not being works which the local authority are required by or under statute or by order of a Court to undertake), the local authority may by resolution direct that the works shall not be proceeded with, and the manager shall comply with the resolution.

Requisition that a particular thing be done.

4.—(1) Subject to the provisions of this section, a local authority may by resolution require any particular act, matter or thing specifically mentioned in the resolution and which the local authority or the manager can lawfully do or effect to be done or effected in performance of the executive functions of the local authority.

(2) Notice of the intention to propose a resolution under this section shall be given in writing to the manager and—

(*a*) the notice shall be signed by three members of the local authority,

(*b*) the notice shall contain a copy of the resolution, and

(*c*) the notice may require that the resolution shall be considered at a special meeting and shall then specify a day (not less than seven days after the day on which the notice is received by the manager) for the holding of the special meeting.

(3) A resolution under this section shall not be considered at a meeting of the local authority which is held less than seven days after the day on which the manager received the relevant notice under *subsection* (*2*) of this section.

(4) Where the manager receives a notice under *subsection* (*2*) of this section, he shall as soon as possible send a copy of the notice to every member of the local authority and, if the notice requires

a special meeting and *subsection* (*5*) of this section does not apply, a special meeting of the local authority shall be summoned for the day specified in that behalf in the notice at the usual hour for meetings of the local authority.

(5) Where—

(*a*) a notice under *subsection* (*2*) of this section specifies a day for the holding of a special meeting, and

(*b*) an ordinary meeting of the local authority is to be held on a day—

(i) which is not less than seven days after the day on which the manager receives the notice, and

(ii) which is within the period of ten days the last of which is the day specified in the notice or the period of ten days the first of which is that day,

the resolution shall be considered at that ordinary meeting and a special meeting shall not be summoned.

(6) Without prejudice to any other relevant requirements, it shall be necessary for the passing of a resolution under this section that the number of the members of the local authority voting in favour of the resolution exceeds one-third of the total number of the members of the local authority.

(7) A motion to pass a resolution under this section shall be dealt with before any other business at the meeting.

(8) Where a resolution is passed under and in accordance with this section, the manager shall, if and when and so far as money for the purpose is or has been provided, do or effect in accordance with the resolution the act, matter or thing specified in the resolution.

(9) A resolution under this section shall not—

(*a*) apply or extend—

(i) to the performance of any function of a local authority generally,

(ii) to every case or occasion of the performance of any such function or to a number or class of such cases or occasions so extended as to be substantially or in effect every case or occasion on which any such function is performed, or

(iii) to every case or occasion of the performance of any such function in a particular area or to a number or class of such cases or occasions so extended as to be substantially or in effect every case or occasion on which any such function is performed in that area, or

(*b*) apply or extend to the performance of any executive function in relation to the officers or servants of a local authority or the control, supervision, service, remuneration, privileges or superannuation of such officers or servants or any of them,

and any resolution purporting to be passed under this section which contravenes this subsection shall be void.

(10) Every dispute arising between a local authority and the manager as to whether a resolution passed by the local authority under this section does or does not contravene *subsection* (*9*) of this section shall be referred for decision—

(*a*) in case the local authority is a joint mental hospital board or a joint board established by order under section 45 of the Health Act, 1953 (No. 26 of 1953), and the

dispute is as to whether the resolution does or does not contravene *paragraph* (*b*) of that subsection—to the Minister for Health, and

(*b*) in any other case—to the Minister.

(11) A resolution under this section shall not apply or extend to the performance of any of the individual health functions of a local authority, and any resolution purporting to be passed under this section which contravenes this subsection shall be void.

(12) Every dispute arising between a local authority and the manager as to whether a resolution passed by the local authority does or does not contravene *subsection* (*11*) of this section shall be referred for decision to the Minister for Health.

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Appointment of manager

5.—(1) In this section "the Act of 1926" means the Local Authorities (Officers and Employees) Act, 1926 (No. 39 of 1926).

(2) The office of manager shall be an office to which the Act of 1926 applies, save that section 5 shall not apply and section 6 shall apply subject to the subsequent provisions of this section.

(3) Where a local authority request under section 6 of the Act of 1926 a recommendation of a person for appointment as the manager, the request shall be by resolution.

(4) Where a local authority appoint under section 6 of the Act of 1926 a person as the manager, the appointment shall be by resolution.

(5) Where—

(*a*) one of the councils of two grouped counties request under section 6 of the Act of 1926 a recommendation of a person for appointment as the manager, and

(*b*) the other council do not, on the same day, so request a recommendation of a person for appointment as the manager,

the other council shall be deemed to have made the last-mentioned request on that day.

(6) Where—

(*a*) one of the councils of two grouped counties appoint under section 6 of the Act of 1926 a person as the manager, and

(*b*) the other council do not, on the same day, so appoint that person as the manager,

then, notwithstanding any other provision of this or any other Act, that person shall, on that day, become and be appointed by virtue of this subsection as the manager as respects the other council.

(7) Where, as respects the following local authorities, that is to say, the Corporation of Dublin and the council of the county of Dublin, and before the commencement of an order under *section 14* of this Act—

(*a*) one of the local authorities request under section 6 of the Act of 1926 a recommendation of a person for appointment as the manager, and

(*b*) the other local authority do not, on the same day, so request a recommendation of a person for appointment as the manager,

the other local authority shall be deemed to have made the last-mentioned request on that day.

(8) Where, as respects the following local authorities, that is to say, the Corporation of Dublin and the council of the county of Dublin, and before the commencement of an order under *section 14* of this Act—

(*a*) one of the local authorities appoint under section 6 of the Act of 1926 a person as the manager, and

(*b*) the other local authority do not, on the same day, so appoint that person as the manager,

then, notwithstanding any other provision of this or any other Act, that person shall, on that day, become and be appointed by virtue of this subsection as the manager as respects the other local authority.

(9) Where, as respects a local authority—

(*a*) a recommendation is made under section 6 of the Act of 1926 of a person for appointment as the manager, and

(*b*) on the expiration of three months after the date of the recommendation, that person has not become appointed as the manager,

then, notwithstanding any other provision of this or any other Act, that person shall thereupon, if still available for appointment, become and be appointed by virtue of this subsection as the manager.

(10) (*a*) Where an office of manager becomes vacant, the Minister shall appoint a person to be the manager temporarily until a permanent appointment to the office is made but such temporary appointment may be terminated by the Minister at any time.

(*b*) In the case of the Corporation of Dublin and the council of the county of Dublin and before the commencement of an order under *section 14* of this Act, the same person shall be appointed under this subsection in relation to each of them.

(*c*) In the case of two grouped counties, the same person shall be appointed under this subsection in relation to each of them.

Restriction on certain variations.

6.—(1) The manager shall not submit any proposal to vary the number of permanent offices under a local authority for the sanction of such Minister as may be empowered to sanction the proposal save with the consent by resolution of the local authority.

(2) The manager shall not submit any proposal to fix an increased or reduced rate of remuneration applicable to any class, description or grade of office or employment for the sanction of such Minister as may be empowered to sanction the proposal save with the consent by resolution of the local authority.

(3) The manager shall not fix an increased or reduced rate of remuneration applicable to any class, description or grade of office or employment under a local authority save with the consent by resolution of the local authority, but this restriction shall not apply if a proposal by the manager to fix that increased or reduced rate of remuneration applicable to that class, description or grade of office or employment has previously, with the consent by resolution of the local authority given pursuant to *subsection (2)* of this section, been submitted for the sanction of such Minister as may be empowered to sanction the proposal.

Estimates committee.

7.—(1) A local authority may by resolution appoint a committee (in this Act referred to as an estimates committee) to fulfil the functions assigned to an estimates committee by this Act.

(2) If a local authority exercise the power conferred by *subsection* (*1*) of this section—

(*a*) they may at any time revoke the appointment of the estimates committee, and

(*b*) they may by resolution fill any vacancy occurring in the membership of the estimates committee on account of any member of the committee having died, resigned or ceased to be a member of the local authority.

(3) An estimates committee of a local authority, other than the council of a county, shall consist of so many of the members of the local authority as the local authority, immediately before electing the committee, by resolution decide, subject to the restriction that the number of the members of the committee shall not exceed—

(*a*) where the number of the members of the local authority is an even multiple of three, one-third of that number, and

(*b*) where the result obtained on dividing the number of the members of the local authority by three consists of a whole number and a fractional remainder, that whole number.

(4) The number of the members of an estimates committee of the council of a county shall be twice the number of the county electoral areas in the county and, with respect to each such electoral area, two members of the council who were elected for that area shall be appointed to the committee.

Financial statements.

8.—(1) A local authority may by resolution require the preparation and submission to their members of statements of the financial position of the local authority.

(2) The following provisions shall have effect in relation to financial statements required by resolution of a local authority under *subsection* (*1*) of this section :—

(*a*) they shall be in such detail and shall be prepared and submitted at such intervals as may be specified in the resolution,

(*b*) they shall be prepared and submitted—

(i) in the case of a local authority having an estimates committee, by the committee with the assistance of the manager, and

(ii) in any other case, by the manager.

Estimate of expenses.

9.—(1) In each local financial year, there shall be prepared during the prescribed period and in the prescribed form an estimate (in this Act referred to as an estimate of expenses) showing the amounts estimated as necessary to meet the expenses and provide for the liabilities and requirements of a local authority during the local financial year then next ensuing and such preparation shall be carried out—

(*a*) in the case of a local authority having an estimates committee, by the committee, and

(*b*) in any other case, by the manager.

(2) The manager shall, so far as is not inconsistent with the due performance of his other duties attend every meeting of the estimates committee of a local authority and shall furnish such information, assistance and advice to the committee as is required by them in the performance of their functions.

(3) Where the manager considers that an estimate of expenses prepared by the estimates committee of a local authority (whether by reference to the whole of the estimate or to any part or parts thereof) would, if adopted, seriously prejudice the efficient or economical performance of the functions of the local authority, the manager shall prepare a separate report specifying the provision which in his opinion is necessary.

(4) In the event of an estimate of expenses not having been prepared by the estimates committee of a local authority pursuant to *paragraph* (*a*) of *subsection* (*1*) of this section, the manager shall himself prepare such estimate.

(5) Where it would be inconsistent with the due performance of his other duties for the manager to attend a meeting of the estimates committee of a local authority, he shall designate an officer of the local authority to attend the meeting in his place.

Estimates meeting.

10.—(1) An estimate of expenses shall be considered by the local authority at a meeting (in this Act referred to as an estimates meeting) of the local authority at which the manager shall be present and which shall be held during the prescribed period and of which not less than seven days' notice shall have been given to every person who is a member of the local authority when such notice is given.

(2) Not less than seven days before the day on which an estimates meeting of a local authority is to be held, the manager shall—

(*a*) deposit in the offices of the local authority a copy of the estimate of expenses,

(*b*) send a copy of the estimate of expenses, together with a copy of any separate report under *subsection* (*3*) of *section 9* of this Act, to every person who is, on the day before the commencement of the said seven days, a member of the local authority, and

(*c*) give public notice in the prescribed manner of the fact that the estimate of expenses has been made and that a copy thereof has been deposited as aforesaid.

(3) A copy of an estimate of expenses which is deposited in pursuance of this section in the offices of a local authority may be inspected free of charge by any member of the public at any time while those offices are open for the transaction of official business, and the manager shall supply to a person making application to him therefor a copy of the estimate of expenses at the price of one shilling per copy.

(4) At an estimates meeting of a local authority or at an adjournment thereof, the local authority—

(*a*) may by resolution amend, whether by addition, omission or variation, the estimate of expenses,

(*b*) shall by resolution adopt the estimate of expenses either (as the case may require) without amendment or with the amendments made therein under *paragraph* (*a*) of this subsection, and

(*c*) shall by resolution determine, in accordance with the estimate of expenses as so adopted, the rates in the pound to be levied for the several purposes specified in the estimate or, in the case of an elective body which is not a rating authority, prepare and by resolution adopt, in accordance with the estimate of expenses as so adopted, the demand or other instrument whereby the money to meet the expenses of the elective body in the local financial year then next ensuing is to be obtained.

(5) A local authority may adjourn an estimates meeting as often as they wish, subject to the limitation that no such adjournment shall be to a day not within the period of twenty-one days beginning on the day on which the estimates meeting begins.

Limitation on expenditure.

11.—(1) At any time after they have adopted an estimate of expenses, a local authority may, as respects the local financial year to which the estimate relates, authorise by resolution the expenditure of money or the incurring of a liability in excess of the expenditure for any particular purpose specified in the estimate.

(2) Save with an authorisation given by resolution under *subsection* (*1*) of this section, the total amount of money expended and liability incurred by a local authority as respects any local

financial year for any particular purpose specified in the estimate of expenses for that year shall not exceed the total amount specified in that estimate in respect of that purpose.

(3) Where, as respects any local financial year the manager is of opinion that the proper performance of the functions of a local authority requires the expenditure of money or the incurring of a liability in respect of any particular purpose in excess of the expenditure for that purpose specified in the estimate of expenses for that year, he may prepare an application for the authorisation by the local authority of the excess expenditure and may submit the application—

(*a*) in the case of a local authority having an estimates committee, to the committee, and

(*b*) in any other case, to the members of the local authority.

(4) Where an application is submitted to an estimates committee under *subsection* (*3*) of this section, the committee shall consider the application and shall then submit it, with their recommendation thereon, to the members of the local authority.

Grouping of Counties.

12.—(1) Where, in the case of two counties—

(*a*) one of the councils of the counties by resolution declare that the counties should become grouped counties, and

(*b*) on the day on which such resolution is passed or on a day within three months thereafter, the other council by resolution also declare as aforesaid,

the Minister, with the consent of the Minister for Health and the Minister for Social Welfare, may by order extend the application of subsection (2) of section 3 of the Act of 1940 by the insertion of the counties as a group in the First Schedule to that Act.

(2) An order under *subsection* (*1*) of this section shall not be made in relation to two counties unless—at the time of the making of the order—

(*a*) neither county is one of two grouped counties,

(*b*) neither county is, if the order is made before the commencement of an order under *section 14* of this Act, the county of Dublin, and

(*c*) the office of manager for at least one of the counties is vacant.

(3) An order under *subsection* (*1*) of this section shall come into operation on the day specified in that behalf in the order, being a day not earlier than sixty days, and not later than one hundred and eighty days, after the day on which the order is made.

(4) Where, immediately before the making of an order under *subsection* (*1*) of this section, a person held permanently the office of county manager for one of the counties concerned, that person shall, on such commencement, become and be appointed permanently by virtue of this subsection as the manager for the other county.

(5) An order under *subsection* (*1*) of this section in relation to the county of Tipperary, North Riding, and the County of Tipperary, South Riding, shall be expressed and shall operate to amend section 9 of the Act of 1940 by inserting the following subsection after subsection (2):

"(3) There shall be an assistant county manager for the county of Tipperary, North Riding, and an assistant county manager for the county of Tipperary, South Riding, but one and the same person shall be the assistant county manager for each of those counties."

Cesser of grouping of counties.

13.—(1) Where, in the case of two grouped counties—

(*a*) one of the councils of the counties by resolution declare that the counties should cease to be two grouped counties, and

(*b*) on the day on which such resolution is passed or on a day within three months thereafter, the other council by resolution also declare as aforesaid,

the Minister, with the consent of the Minister for Health and the Minister for Social Welfare, may by order terminate the application in relation to the counties of subsection (2) of section 3 of the Act of 1940.

(2) An order under *subsection* (*1*) of this section shall come into operation on the day specified in that behalf in the order, being a day not earlier than sixty days, and not later than one hundred and eighty days, after the day on which the order is made.

(3) Where, immediately before the making of an order under *subsection* (*1*) of this section, a person held in a permanent capacity the offices of county manager for each of the counties concerned—

(*a*) at any time after the expiration of thirty days after the day on which the order is made and before its commencement, the Minister may by order declare the county of which such person is to cease to hold the office of county manager,

(*b*) if such person has, during the said thirty days, notified the Minister of the county of which he wishes to cease to hold the office of county manager, the county declared by the order under this subsection shall be that county,

(*c*) immediately before the commencement of the order under *subsection* (*1*) of this section, such person shall cease to hold the office of county manager for the county declared by the order under this subsection, but such cesser shall not qualify him for any superannuation allowance, gratuity or like benefit.

(4) An order under *subsection* (*1*) of this section in relation to the county of Tipperary, North Riding, and the county of Tipperary, South Riding, shall be expressed and shall operate to amend section 9 of the Act of 1940 by deleting subsection (3).

Cesser of holding of offices of Dublin City Manager and Dublin County Manager by the same person.

14.—(1) Where, in the case of the Corporation of Dublin and the council of the county of Dublin—

(*a*) one of them by resolution declare that the office of the Dublin City Manager and the office of the Dublin County Manager should cease to be held by one and the same person, and

(*b*) the other of them, on the day on which such resolution is passed or on a day within three months thereafter, by resolution also declare as aforesaid,

the Minister, with the consent of the Minister for Health and the Minister for Social Welfare, may by order terminate the operation of subsection (3) of section 3 of the Act of 1940.

(2) An order under *subsection* (*1*) of this section shall come into operation on the day specified in that behalf in the order, being a day not earlier than sixty days, and not later than one hundred and eighty days, after the day on which the order is made.

(3) An order under *subsection* (*1*) of this section shall be expressed and shall operate—

(*a*) to amend section 5 of the Act of 1940—

(i) by deleting "(other than the county of Dublin)" in subsection (2), and

(ii) by deleting "(other than the county of Dublin)" and "(other than the county borough of Dublin)" in subsection (3),

(*b*) to amend section 9 of the Act of 1940 by deleting subsection (1),

(*c*) to amend section 10 of the Act of 1940 by deleting subsection (2) and paragraph (e) of subsection (3),

(*d*) to amend subsection (3) of section 11 of the Act of 1940 by deleting "(other than the county of Dublin)", and

(*e*) to amend section 14 of the Act of 1940 as follows:

(i) subsections (1) and (2) shall be deleted,

(ii) subsection (4) shall not apply with respect to an officer who was not a Dublin City Manager or a Dublin Assistant City Manager before the commencement of the order,

(iii) in case the order comes into operation on a day which is a 1st day of April, subsections (3), (7) and (8) shall not apply in respect of the local financial year beginning on that day or any subsequent local financial year,

(iv) in case the order comes into operation on a day which is not a 1st day of April—

(I) subsections (3), (7) and (8) shall not apply in respect of the local financial year next following that in which the order comes into operation or any subsequent local financial year,

(II) in applying subsection (3) in respect of the local financial year in which the order comes into operation, the expression "cost of management" shall, in lieu of having the meaning specified in subsection (4), mean the sum arrived at by ascertaining the total of all remuneration (including travelling and other personal expenses, if any) paid by the Corporation of Dublin in respect of the portion of that year before the coming into operation of the order to the Dublin City Manager and the Dublin Assistant City Managers respectively and deducting from that total all sums payable in pursuance of the said section 14 to the Corporation of Dublin in respect of that year by any joint body, and

(III) in making a payment under subsection (7) or subsection (8) in respect of the local financial year in which the order comes into operation, so much only of the sum referred to in the subsection shall be paid as bears to that sum the same proportion as the portion of that year before the commencement of the order bears to one year.

(4) Immediately before the commencement of an order under *subsection* (*1*) of this section, a person then holding, whether in a permanent or a temporary capacity, the office of Dublin City Manager and the office of Dublin County Manager, shall cease to hold the latter office, but such cesser shall not qualify him for any superannuation allowance, gratuity or like benefit.

(5) Immediately before the commencement of an order under *subsection* (*1*) of this section, a person (other than a person specified in *section 22* of this Act) then holding, whether in a permanent or a temporary capacity, the office of Assistant Dublin

City Manager and the office of assistant county manager for the county of Dublin, shall cease to hold the latter office, but such cesser shall not qualify him for any superannuation allowance, gratuity or like benefit.

Seeking, reception and examination of tenders.

15.—(1) A local authority may, with the consent of the Minister, by resolution make regulations specifying the procedure to be followed in regard to the seeking, reception and examination of all or any particular class or classes of tenders for the supply of goods, the execution of works, or any other thing for which the local authority may lawfully invite the submission of tenders.

(2) Tenders to which regulations under this section apply and which are tenders to the local authority by whom the regulations were made shall be sought, received and examined in accordance with the procedure prescribed by such regulations.

(3) As soon as conveniently may be after each election or appointment of the members of a local authority, the local authority shall by resolution declare—

(*a*) in case there are regulations for the time being in force under this section in relation to the local authority, whether the local authority consider that the regulations should be—

(i) revoked,

(ii) revoked and replaced by new regulations,

(iii) amended, or

(iv) left in force without amendment, and

(*b*) in any other case, whether the local authority consider that regulations under this section in relation to the local authority should or should not be made.

Obligations in case of proposal involving illegal payment, deficiency or loss.

16.—(1) Where a proposal is made at a meeting of a local authority to do or effect any act, matter or thing—

(*a*) which constitutes a reserved function or is mentioned in a resolution under *section 4* of this Act, and

(*b*) in consequence of which an illegal payment is to be made out of the funds of the local authority, or a deficiency or loss is likely to result in or to such funds,

the manager (or, in his absence, such other officer as may be designated by the manager) shall object and state the grounds of his objection, and, if a decision is taken on the proposal, the names of the members present and voting for and against the decision and abstaining from voting on the decision shall be recorded in the minutes of the meeting.

(2) Subsection (2) of section 61 of the Local Government Act, 1925 (No. 5 of 1925), shall cease to have effect in relation to a local authority.

(3) Where, in accordance with *subsection* (*1*) of this section, the names of the persons voting for a decision to do or effect any act, matter or thing are recorded in the minutes of the meeting of a local authority, those persons shall be surcharged on any surcharge or charged on any charge that may subsequently be made as a result of the decision as if they had made or authorised the making of the payment or caused the loss or deficiency, and no other person shall be surcharged or charged.

Delegation by Manager.

17.—(1) (*a*) The manager may delegate any function, other than a health function, performable by him to any

approved officer of the local authority, subject to the approval of such delegation by the Minister of State who administers the provision under which the function is performed.

(*b*) The manager may delegate any health function performable by him to any approved (health) officer of the local authority, subject to the approval of such delegation by the Minister for Health.

(2) Where a delegation to an officer is made under this section—

(*a*) the officer shall perform the delegated function under the general direction and control of the manager,

(*b*) the officer shall perform the delegated function in accordance with such (if any) limitations as may be specified in the delegation as to the area or period in which or the extent to which he is to perform that function, and

(*c*) a provision made by or under this or any other Act which vests functions in the manager or regulates the manner in which any function is to be performed shall, if and in so far as it is applicable to the delegated function, have effect, for the purposes of the performance of that function by the approved officer, with the substitution of the officer for the manager.

(3) Notwithstanding *subsection* (*2*) of this section, where a delegation to an officer is made under this section—

(*a*) the manager may, in any particular case of the performance of the function, inform the officer that he has decided to perform the function himself, and the function shall thereupon be performable in such case by the manager and not by the officer, and

(*b*) if the officer is satisfied that, in any particular case of the performance of the function, performance would, on account of the importance of the decision involved or on account of any other reasonable consideration, be more appropriately effected by the manager, the officer may refer such case to the manager, and the function shall thereupon be performable in such case by the manager and not by the officer.

(4) The manager may revoke a delegation under this section.

(5) Where a function is performed by an officer pursuant to a delegation under this section and any surcharge or charge subsequently falls to be made consequent on such performance—

(*a*) in case the payment was made or authorised to be made, or the loss or deficiency was caused, by the officer, the manager shall be treated as if he also had made or authorised the making of the payment or had caused the loss or deficiency, and

(*b*) in case the payment was made or authorised to be made, or the loss or deficiency was caused, by the manager, the officer shall be treated as if he also had made or authorised the making of the payment or had caused the loss or deficiency.

(6) A delegation or revocation thereof under this section shall be effected by means of an order in writing signed by the manager.

(7) A document purporting to be an order under this section and to be signed in accordance with this section, or purporting to be certified in writing by the manager to be a true copy of an order under this section, shall be received, without proof, as *prima facie* evidence of such order.

(8) Notification of a delegation or revocation thereof under this section shall be given at the next meeting of the local authority.

(9) Where a delegation to a Dublin Assistant City Manager or to an assistant county manager (in this subsection referred to as the officer) is made under section 13 of the Act of 1940, the following provisions shall have effect notwithstanding anything contained in that section—

(*a*) the manager may, in any particular case of the performance of the function, inform the officer that he has decided to perform the function himself, and the function shall thereupon be performable in such case by the manager and not by the officer, and, for the purposes of such performance, the substitution specified in paragraph (*c*) of subsection (4) of the said section 13 shall be deemed not to have been made,

(*b*) if the officer is satisfied that, in any particular case of the performance of the function, performance would, on account of the importance of the decision involved or on account of any other reasonable consideration, be more appropriately effected by the manager, the officer may refer such case to the manager, and the function shall thereupon be performable in such case by the manager and not by the officer, and, for the purposes of such performance, the substitution specified in paragraph (*c*) of subsection (4) of the said section 13 shall be deemed not to have been made.

(10) In this section—

" approved officer " means—

(*a*) a county secretary,

(*b*) a town clerk, or

(*c*) an officer approved of by the Minister as an approved officer for the purposes of this section;

" approved (health) officer " means an officer approved of by the Minister for Health as an approved (health) officer for the purposes of this section;

" health function " means a function performed in connection with the administration of a service which is a health service within the meaning of the Health Services (Financial Provisions) Act, 1947 (No. 47 of 1947).

Deputy managers.

18.—(1) (*a*) Where a manager will for any reason, other than suspension from performance of his duties, be temporarily unable to act as such, he may, after consultation with the appropriate person, appoint a person to be deputy manager for the duration of such inability.

(*b*) Where a manager has for any reason become temporarily unable to act as such and either he has not made an appointment under this section or an appointment made under this section, whether by such manager or otherwise, has become terminated under *subsection* (*4*) of this section or on account of the death or resignation of the appointee, the appropriate person may appoint a person to be deputy manager for the remainder of the duration of such inability.

(2) (*a*) The Minister may, in respect of a specified person, authorise his being appointed from time to time under *subsection* (*1*) of this section to be a specified deputy manager, and may at any time revoke such authorisation.

(*b*) Where an appointment under *subsection* (*1*) of this section is not authorised in accordance with *para-*

graph (*a*) of this subsection it shall not have effect unless and until it is approved of by the Minister.

(*c*) On receipt from the Minister of an authorisation, revocation or approval under this subsection, notice of the authorisation, revocation or approval shall be sent to every member of every local authority concerned.

(3) The Minister may himself appoint a person to be deputy manager if—

(*a*) he refuses to approve of an appointment under *subsection* (*1*) of this section, or

(*b*) a manager is for any reason temporarily unable to act as such and an appointment under *subsection* (*1*) of this section is not for the time being in force.

(4) The Minister, or the appropriate person with the consent of the Minister, may at any time terminate the appointment of a deputy manager.

(5) A deputy manager shall, during the continuance of the inability of the manager for whom he was appointed as deputy or until his appointment is sooner terminated under *subsection* (*4*) of this section or on account of death or resignation, act as such manager and, for that purpose, a reference in any provision made by or under this or any other Act to a manager shall be construed, where appropriate, as a reference to the deputy manager.

(6) (*a*) In the case of the Corporation of Dublin and the council of the county of Dublin and before the commencement of an order under *section 14* of this Act, the same person shall be appointed under this section in relation to each of them.

(*b*) In the case of two grouped counties, the same person shall be appointed under this section in relation to each of them.

(7) In this section "appropriate person" means—

(*a*) in the case, before the commencement of an order under *section 14* of this Act, of the Dublin Corporation or the council of the county of Dublin—either the Lord Mayor of Dublin or the chairman of the council of the county of Dublin, as the Minister directs,

(*b*) in the case, after the commencement of an order under *section 14* of this Act, of the Dublin Corporation—the Lord Mayor of Dublin,

(*c*) in the case of the corporation of a county borough other than the Dublin Corporation—the Lord Mayor or Mayor of the county borough,

(*d*) in the case of each of two grouped counties—the chairman of such one of the councils of the counties as the Minister directs, and

(*e*) in any other case—the chairman of the council of the county.

Certain functions to be reserved functions.

19.—Any function as respects which a resolution is provided for by this Act shall be a reserved function.

Amendment as to time of signing and making certain orders.

20.—(1) Where an order under a relevant subsection (whether made before or after the commencement of this section) contains a statement of the date of the day on which it was signed, the order shall be taken as complying with the requirement of that subsection that it is to contain a statement of the time at which it was signed.

(2) In *subsection* (*1*) of this section "relevant subsection" means—

(*a*) subsection (1) of section 60 of the Local Government (Dublin) Act, 1930 (No. 27 of 1930),

(*b*) subsection (1) of section 22 of the Limerick City Management Act, 1934 (No. 35 of 1934),

(*c*) subsection (1) of section 21 of the Waterford City Management Act, 1939 (No. 25 of 1939), or

(*d*) subsection (1) of section 19 of the Act of 1940.

(3) The reference in subsection (3) of section 15 of the Cork City Management Act, 1929 (No. 1 of 1929), to a record of the time of the making of an order shall be construed, both as respects an order made before the commencement of this section and as respects an order made after such commencement, as a reference to a record either of the time of the making of the order or of the date of the day of the making thereof.

Regulations.

21.—(1) The Minister may make regulations in relation to any matter referred to in this Act as prescribed or to be prescribed.

(2) Regulations under this section may relate to local authorities generally, to any class of local authorities or to a particular local authority, and different regulations may be made in relation to different local authorities.

(3) Regulations under this section shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling the regulations is passed by either House within the next twenty-one days on which that House has sat after the regulations have been laid before it, the regulations shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Special provisions for certain persons.

22.—(1) If, immediately before the commencement of this section, John P. Keane was a temporary Dublin Assistant City Manager, he shall become by virtue of this subsection a permanent Dublin Assistant City Manager.

(2) If, immediately before the commencement of this section, Eugene O'Keeffe was a temporary Dublin Assistant City Manager, he shall become by virtue of this subsection a permanent Dublin Assistant City Manager.

(3) Immediately before the commencement of an order under *subsection* (*1*) of *section 14* of this Act, Timothy O'Mahony, if then holding the office of assistant county manager for the county of Dublin, shall cease to hold that office, but such cesser shall not qualify him for any superannuation allowance, gratuity or like benefit.

(4) Immediately before the commencement of an order under *subsection* (*1*) of *section 14* of this Act, John P. Keane, if then holding the office of assistant county manager for the county of Dublin, shall cease to hold that office, but such cesser shall not qualify him for any superannuation allowance, gratuity or like benefit.

(5) Immediately before the commencement of an order under *subsection* (*1*) of *section 14* of this Act, Eugene O'Keeffe, if then holding the office of Dublin Assistant City Manager shall cease to hold both that office and the office of assistant manager for the county of Dublin, but such cesser shall not qualify him for any superannuation allowance, gratuity or like benefit.

(6) On the commencement of an order under *subsection* (*1*) of *section 14* of this Act, Eugene O'Keeffe, if immediately before such commencement he held the office of Dublin Assistant City Manager, shall become by virtue of this section the manager for the county of Dublin.

23.—The enactments mentioned in the Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule. Repeals.

24.—This Act shall come into operation on such day or days as may be fixed therefor by order or orders of the Minister either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions of this Act. Commencement.

25.—(1) This Act may be cited as the City and County Management (Amendment) Act, 1955. Short title and collective citations.

(2) The Cork City Management Acts, 1929 and 1941, and so much of this Act as relates to the county borough of Cork may be cited together as the Cork City Management Acts, 1929 to 1955.

(3) The Local Government (Dublin) Acts, 1930 to 1953, and so much of this Act as relates to the county borough of Dublin may be cited together as the Local Government (Dublin) Acts, 1930 to 1955.

(4) The Limerick City Management Acts, 1934 and 1950, and so much of this Act as relates to the county borough of Limerick may be cited together as the Limerick City Management Acts, 1934 to 1955.

(5) The Waterford City Management Act, 1939 (No. 25 of 1939), and so much of this Act as relates to the county borough of Waterford may be cited together as the Waterford City Management Acts, 1939 and 1955.

(6) The County Management Acts, 1940 and 1942, and so much of this Act as relates to counties and elective bodies may be cited together as the County Management Acts, 1940 to 1955.

SCHEDULE.

Section 23.

Enactments Repealed.

Number and Year	Short title	Extent of Repeal
No. 1 of 1929.	Cork City Management Act, 1929.	Subsections (2) and (3) of section 10; sections 17 and 19.
No. 27 of 1930.	Local Government (Dublin) Act, 1930.	Sections 52, 58, 77 and 79.
No. 35 of 1934.	Limerick City Management Act, 1934.	Subsection (1) of section 14; sections 15, 20, 35 and 36.
No. 25 of 1939.	Waterford City Management Act, 1939.	Subsections (1) and (4) of section 13; sections 14, 19, 33 and 34.
No. 12 of 1940.	County Management Act, 1940.	Subsections (1), (2), (6) and (7) of section 4; sections 15, 22, 23, 24, 25, 28 and 29.
No. 21 of 1940.	Local Government (Dublin) (Amendment) Act, 1940.	Section 13.
No. 5 of 1941.	Cork City Management (Amendment) Act, 1941.	Sections 9 and 13.
No. 15 of 1948.	Local Government (Dublin) (Temporary) Act, 1948.	The whole Act.

AN BILLE UM BAINISTI CHATHRACH AGUS CONTAE (LEASU), 1954.

BILLE

dá ngairmtear

Acht do leasú agus do leathnú na nAcht a bhaineas le bainistí chontae-bhuirgí, contaethe agus límistéirí áirithe eile agus do dhéanamh socruithe i dtaobh nithe a ghabhas leis sin.

An tAire Rialtais Aitiúil a thug isteach.

Rite ag Dáil Éireann, 18 *Bealtaine,* 1955.

BAILE ATHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR.

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CITY AND COUNTY MANAGEMENT (AMENDMENT) BILL, 1954.

BILL

entitled

An Act to amend and extend the Acts relating to the management of county boroughs, counties and certain other areas and to provide for related matters.

Introduced by the Minister for Local Government.

Passed by Dáil Éireann, 18*th May,* 1955.

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