



**AN BILLE RIALTAIS AITIUIL (FORALACHA
AIRGEADAIS), 1977
LOCAL GOVERNMENT (FINANCIAL PROVISIONS)
BILL, 1977**

EXPLANATORY MEMORANDUM

General

The object of the Bill is to provide for certain reliefs in relation to the payment of rates and for a number of consequential and miscellaneous amendments of the law relating to rating and local government. Validation is provided for the 25% relief of rates which obtained in 1977 on domestic property and on the domestic portion of mixed property (i.e. property embodying a non-domestic as well as a domestic use). Full relief of rates is conferred for 1978 and future years on domestic property, the domestic portion of mixed property, secondary schools, community halls and farm buildings not already exempted from rates.

The reliefs take the form of an allowance to be made by rating authorities against the rates due on the properties concerned. For 1977, the amount of this allowance is one quarter of the rate in the pound on the valuation or part of the valuation of the property benefiting. For 1978 and future years, the allowance will be the whole of the rate in the pound on the relevant valuation or part of a valuation. These allowances involve a loss in rates income to rating authorities, for which they will be compensated by a grant from the Exchequer equal to the aggregate of allowances made by them.

The Minister for the Environment is taking power in the Bill to limit the amounts to be provided by local authorities in their rates in the pound and in their estimates of expenses. Authorisations by local authorities of expenditure in excess of that provided for in their estimates of expenses are also being made subject to the Minister's sanction.

Section 1 defines terms which are of general application in the Bill and should be read with *section 2*. The following are some of the more important definitions:

"Minister" means the Minister for the Environment;

"rate" means, as appropriate, the municipal or the county rate but does not include contract water rates or rents;

"domestic hereditament" means any premises which is used as a dwelling and which is not a mixed hereditament. Land or buildings which adjoin a house but which are separately valued will also be regarded as domestic provided that the valuation does not exceed £1 in the case of land or £2 in the case of buildings. Farm buildings embraced in the same valuation figure as a dwelling will also count as domestic. The use of a dwelling to provide lodgings, apart from statutorily registered accommodation under the Tourist Traffic Acts, 1939 to 1975, will not of itself disqualify a premises from domestic status;

"mixed hereditament" means a premises used partly as a dwelling and partly for another or other purposes;

"secondary school" means a school, not already exempted from rates which is recognised as a secondary school by the Minister for Education. The definition extends to all buildings forming part of the school complex (including any such buildings which are not separately valued and which are used to provide other education) and to land up to a limit of £40 valuation belonging to and used in conjunction with the school;

“community hall” means a hall or similar building not mainly used for profit or gain but for purposes which involve participation by inhabitants of a locality generally and are recreational or otherwise of a social nature. Use of a hall for one or more particular sports or games will not of itself make a premises a community hall;

“farm building” means any farm, outhouse or other office building within the meaning of Section 14 of the Valuation Act 1852 which was erected before 1st March 1959. Farm buildings erected after 1st March, 1959 already enjoy exemption from rating under the Local Government (Reduction of Valuation) Act, 1966.

Generally, entitlement to rates relief under the Bill in any local financial year will hinge on the use ordinarily made of a premises at the time of the making of the rate (or if no use is actually made, on the use last ordinarily made of a premises).

Section 2 deals with the identification of the valuation or part of the valuation of properties on which rates relief is to be granted. The relevant valuation or portion of a valuation is known in this section and throughout the Bill as the “specified valuation”. In the case of community halls and farm buildings, the specified valuation is the whole of the buildings valuation of the property concerned. The specified valuation of a secondary school is the whole of the buildings valuation and the whole or such part of the land valuation of the school as does not exceed £40. A general rule applying to the specified valuation of both domestic and mixed hereditaments is that this must not exceed the amount of the valuation in relation to which the rate may be made. Where a valuation, then, is already subject to reduction for rating purposes, relief will be given under this Bill by a rating authority, and compensation claimed, on the reduced rather than on the gross valuation.

Subject to the above and to section 7 (2) of the Bill, which allows application to the Commissioner of Valuation for apportionment of a mixed hereditament, the specified valuation of a mixed hereditament shall be taken to be one third of the buildings valuation or £18, whichever is the less. The specified valuation of a domestic hereditament is the whole of the buildings valuation and any land valuation not exceeding £1.

Subsections (2) to (6) are concerned with domestic valuations which are subject to a phased reduction for rating purposes (e.g. the 9-year reduction of valuations on certain new houses). With the total relief of domestic rates being granted under this Bill, these reductions will no longer be of practical interest to householders. On the other hand, regard must be had to them in order to determine accurately the amount of the allowances to be made and of the compensation to be claimed by rating authorities. The Minister is empowered by the above subsections to simplify the position by an order which would cause provisions conferring temporary reduction of domestic valuations to cease to have effect except as regards properties whose valuations actually stand reduced by those provisions in the year in which the order is made. The order would fix these reduced valuations permanently at their reduced level. As a *quid pro quo*, rating authorities would have the benefit of the full valuations of new and improved domestic property which materialise in later years and which would otherwise have been subject to a temporary reduction.

Section 3 requires rating authorities, as and from 1978, to make an allowance to the rated occupiers of domestic or mixed property, secondary schools, community halls or farm buildings. The allowance will be equal to the rate in the pound for the year in question on the specified valuation of the property concerned and to that extent will derate the property being relieved.

Section 4 authorises an allowance by rating authorities in 1977 to the rated occupiers of domestic and mixed hereditaments of one quarter of the rate in the pound on the specified valuations of the properties in question. The allowance may be made by way of set-off or refund, as appropriate.

Section 5 places an obligation on landlords, who before 1st January, 1978 paid the rates on dwellings occupied by their tenants, and who benefit by an allowance granted under the Bill, to make to the tenant a corresponding allowance in the rent. Where a unit of letting is not separately valued and there is no agreement between landlord and tenant on the allowance to be made, either landlord or tenant may apply to the rating authority for apportionment of the amount of the allowance due. An appeal to the Commissioner of Valuation against the apportionment made by the rating authority may be taken under *section 7*. In default of a due allowance being made by the landlord, the tenant may recover it as a simple contract debt in any court of competent jurisdiction.

This section does not apply to small dwellings, on which rent supplements in lieu of rates are being terminated by *sections 6* and *18*.

Section 6 provides for a one quarter reduction in 1977 of the rent supplements in lieu of rates charged on local authority tenants. The section terminates the levying of such supplements as and from 1st January, 1978. Private owners of small dwellings are also required to allow a one quarter reduction in 1977 on rates-linked supplements to rents. (Termination of such contributions as regards 1978 and future years is provided by *section 18*.) The section also makes it clear that private owners of small dwellings qualify in 1977 for discount on prompt payment of rates if they tendered three-quarters only of the amounts previously prescribed.

Section 7 provides for four kinds of application or appeal. The first may be taken by any rated occupier who is aggrieved at the failure of a rating authority to grant him an allowance under the Bill. Having first made a written request to the rating authority to grant him the allowance, the rated occupier may, if refused, apply to the District Court. The Court, if satisfied that the use of a premises entitles it to an allowance, will direct the rating authority to make the allowance.

An application may also be taken by the rated occupier of a mixed hereditament or by the rating authority itself, to have the valuation of a mixed hereditament apportioned for the purposes of the reliefs provided in the Bill. This application lies to the Commissioner of Valuation, with a right of appeal to the Circuit Court. An apportionment by the Commissioner or the Circuit Court would supersede the formula provided for in *section 2*. A third application may be made by the rated occupier of a hereditament, other than a domestic hereditament, which partly comprises a secondary school, community hall or farm building not carrying a separate valuation. The purpose of this application, which lies to the Commissioner of Valuation and is appealable to the Circuit Court, is to identify the portion of the total valuation which is attributable to the secondary school, community hall or farm building and which therefore attracts relief under the Bill. Where a secondary school, community hall or farm building is associated with a dwelling, apportionment is unnecessary since the total valuation already attracts full relief. A fourth appeal may be taken to the Commissioner of Valuation by a landlord or any affected tenant aggrieved at an apportionment made by a rating authority for the purposes of the allowance to be made to a tenant under *section 5*. Time limits are specified for the bringing of applications and appeals and certain transitional provisions are made in this regard for 1978.

Section 8 provides that, pending an application or appeal under *section 7*, rates shall be payable by a rated occupier on the basis originally assessed. However, on determination of an application or appeal, appropriate adjustment will be made by the rating authority.

Section 9 requires the Minister, as regards a local financial year, to make a grant to each rating authority equal to the aggregate of allowances properly made by them under the Bill. The grant may however be reduced by the Minister to take account of refunds which rating authorities would have to make, but for this Bill, of rates paid on vacant or unoccupied property.

Section 10 empowers the Minister, with the consent of the Minister for Finance, to issue directions to local authorities limiting the amounts to be provided in their estimates of expenses, or additionally in the case of rating authorities, in their rates in the pound. It will be the duty of local authorities to comply with any direction given under this section. If, however, they purport to provide an amount in their estimate of expenses or rate in the pound in excess of a limit notified, the estimate or rate will not be invalidated but will be deemed to be reduced to the maximum amount permissible having regard to the limit.

Section 11 requires any authorisation by a local authority under section 11 of the City and County Management (Amendment) Act, 1955 of expenditure in excess of that provided in their estimate of expenses to have the sanction of the Minister. This sanction may be given generally or in relation to particular cases.

Section 12 relieves a rating authority from the obligation to enter details in the rate book of properties in respect of which rates are being wholly relieved by allowances under this Bill or under the Rates on Agricultural Land (Relief) Acts. Such properties will not of course be taken out of the rating system: rating authorities must still have regard to their aggregate valuations in determining rates in the pound.

Section 13 is designed to simplify the procedure for the making of the rate. Up to now, two meetings of a rating authority have been required for the making of a rate: an estimates meeting at which the estimate of expenses is adopted and the consequent rate in the pound determined or "struck", and a later "rates" meeting at which the rate as struck is assessed on individual valuations. The present section leaves the procedure surrounding the estimates meeting untouched, but removes the need for a further meeting to complete the formalities (in regard to rate books, etc.) consequent on the striking of a rate.

Section 14 removes the requirement of section 9 (1) of the City and County Management (Amendment) Act, 1955 that an estimate of expenses must be prepared by a local authority within the year prior to that to which the estimate relates.

Section 15 is a general provision enabling the Minister to issue directions and instructions to local authorities to secure implementation of the Bill.

Section 16 amends the Local Government (Rates) Act, 1970 so as to allow the Minister as regards 1977, to pay a grant to a rating authority towards the cost of implementing a scheme for the waiver of rates. The section provides statutory authority for the grants made for this purpose in 1977 before full domestic derating.

Section 17 provides that a person shall not lose his status as a ratepayer for the purpose of any enactment solely by reason of being made an allowance under this Bill. Examples of the enactments in mind are sections 76 to 79 of the Local Government Act, 1946 which give ratepayers a say in changing the names of towns, townlands, streets and localities, and section 21 (2) (c) of the Local Government (Planning and Development) Act, 1963 which gives certain rights to ratepayers to make objection to draft development plans.

Section 18 terminates the application of the Local Government (Rates on Small Dwellings) Act, 1928 to any rate made after 1977. This will have two main effects. Owners of small dwellings will not be entitled to add to the rents of their tenants in respect of any rate subsequent to 1977. Secondly, primary liability for rates in the case of the small number of small dwellings not qualifying for full relief of rates under this Bill will pass from owner to occupier.

Section 19 provides for commencement, citation and collective construction.

*An Roinn Comhshaoil,
Bealtaine, 1978.*