



**AN BILLE RIALTAIS ÁITIÚIL (FORÁLACHA AIRGEADAIS)
(UIMH. 2), 1983
LOCAL GOVERNMENT (FINANCIAL PROVISIONS) (NO. 2)
BILL, 1983**

EXPLANATORY MEMORANDUM

General

The main purpose of the Bill is to confer a general discretion on local authorities to make charges for services they provide to persons or in respect of premises.

Local authorities at present may make charges for a wide range of services, facilities etc. These include water supply (except for water supplied by urban authorities for domestic purposes within their boundaries), housing supply (rents), commercial refuse collection and disposal, recreational facilities (tennis courts, swimming pools, sports halls, golf courses etc.), some of their regulatory functions (planning permissions for example) and a host of miscellaneous services (pounds, markets, parking facilities etc.). The Bill supplements these provisions with a general enabling power to charge for services directly supplied to consumers for which there is no power at present to make charges, and by removing specific legal prohibitions on charges (for example, the requirement that urban authorities cannot charge for water supplied to domestic consumers within their areas). The Bill contains specific provision by way of amendment of existing legislation in regard to charges for water supplied, including supplies in urban areas for domestic purposes.

The services for which charges are to be made and the rates of charge will be matters for local discretion and the Bill gives local authorities flexibility in the manner in which charges are to be applied. Local authorities will be empowered to levy different rates of charge on different classes of premises or on different categories of persons.

These powers will be supplemented by powers to waive all or part of the charges in hardship cases.

Section 1 provides for definitions of the terms used in the Bill.

Section 2 provides that any enactment which requires or enables a local authority to provide a service shall be deemed to empower the authority to charge for the service (*subsection (1)*). This provision will apply even where existing law precludes a charge or requires that a service be provided free of charge (*subsection (2)*). Local authorities will also be empowered to make charges which are greater than those permitted under existing enactments in respect of the provision of services (*subsection (3)*).

Section 3 empowers local authorities to determine the level of charges and allows different rates of charge to be determined in respect of different classes of consumers or of services. It also provides

for the payment of a charge by the person for whom the service is provided or by the occupier of a premises in respect of which the service is provided.

Section 4 enables the Minister for the Environment by order to exclude any particular service from the scope of section 2 of this Bill. Subsection (1) provides for the non-application of section 2 to a service specified by the Minister. Subsection (2) empowers the Minister to make an order specifying a service and subsection (3) provides for the amendment or revocation of any such order. Subsection (4) provides for the laying of orders before the Houses of the Oireachtas and for their annulment by resolution within 21 sitting days.

Under section 5 a local authority may waive a charge made by virtue of section 2 in cases of personal hardship (subsection (1)). Subsection (2) removes any obligation to pay or collect a waived charge.

Section 6 provides for the recovery of unpaid charges and related matters. Subsection (1) provides for the recovery of an unpaid charge as a simple contract debt in any court of competent jurisdiction. Subsection (2) deals with a situation where an application to which a charge relates is not accompanied by the correct amount of charge and provides that such application will not be considered unless the correct charge is paid.

Section 7 provides for the setting off of an unpaid charge against a sum due by the local authority to the person concerned.

Section 8 provides for the amendment of section 65A of the Public Health (Ireland) Act, 1878, as inserted by section 7 of the Local Government (Sanitary Services) Act, 1962, so as to remove the obstacle to charging for domestic water in urban areas, to empower sanitary authorities to make charges for water which are greater than those permitted under existing enactments or agreements (paragraph (a)), to waive a charge if it is satisfied that this is appropriate (paragraph (b)), and to empower sanitary authorities to allow payment by instalments (paragraph (c)).

Section 9 substitutes a new section for section 9 of the Local Government (Financial Provisions) Act, 1978, which provided for the payment of grants to rating authorities and housing authorities in respect of the rates reliefs given by them under that Act. Subsection (1) empowers the Minister to make a grant to a rating authority which is not greater than the aggregate of the allowances made by the authority in a local financial year. Subsection (2) requires the Minister to furnish to rating authorities an estimate of the amount of the grant which he proposes to pay them and requires the rating authorities, where the aggregate of the allowances is greater than the estimated grant, to make appropriate provision for any excess in their estimates. Subsection (3) confirms similar arrangements made in 1982 and 1983.

Section 10 deals with short title, collective citation etc.

*An Roinn Comhshaoil,
Aibreán, 1983.*