



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

*Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas*

ARRANGEMENT OF SECTIONS

Section

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ACTS REFERRED TO

City and County Management (Amendment) Act, 1955	1955, No. 12
Local Government Act, 1941	1941, No. 23
Local Government (Financial Provisions) Act, 1978	1978, No. 35
Local Government (Sanitary Services) Act, 1962	1962, No. 26
Public Health (Ireland) Act, 1878	1878, c. 52



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

AN ACT TO ENABLE LOCAL AUTHORITIES AND SANI-
TARY AUTHORITIES TO MAKE CERTAIN CHARGES
AND TO AMEND SECTION 9 OF THE LOCAL GOVERN-
MENT (FINANCIAL PROVISIONS) ACT, 1978.

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BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

“charge”, except where the context otherwise requires, includes fee;

“existing enactment” means an enactment which is in force on the
commencement of this Act;

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“service” means any service, facility, licence, permit, certificate,
approval or other thing which a local authority may render, supply,
grant, issue or otherwise provide in the performance or exercise of
any of its functions, powers or duties to any person or in respect of
any premises and includes the processing of an application for such a
licence, permit, certificate or approval.

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(2) References in this Act to the provision of a service shall be
construed as including references to the rendering, the supply, the
grant, the issue or the provision otherwise of the service and kindred
words shall be construed accordingly.

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(3) In this Act, a reference to any enactment is to that enactment
as amended or extended by any other enactment including this Act.

Local authorities
enabled to make
certain charges.

2.—(1) Subject to *section 4* of this Act, any existing enactment
which requires or enables a local authority to provide a service but
which, apart from this subsection, does not empower the authority to

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charge for the provision of the service shall be deemed so to empower that authority.

- 5 (2) *Subsection (1)* of this section shall have effect as regards an enactment notwithstanding the inclusion in the enactment of a provision which either precludes a local authority from charging for the provision of a service or requires that a service be provided by such an authority free of charge.

(3) Subject to *section 4* of this Act, notwithstanding any provision in any existing enactment whereby there is specified—

- 10 (a) the amount of the charge which may be made by a local authority in respect of a service which the authority is required or enabled to provide, or

(b) an amount which a charge described in *paragraph (a)* of this subsection is not to exceed,

- 15 the local authority may make a charge which exceeds the amount so specified, and any charge made by virtue of this subsection shall for all purposes be deemed to have been duly made under the enactment.

- 20 3.—(1) A charge made by a local authority by virtue of *section 2* of this Act shall be of such amount as the authority considers appropriate and shall be payable by and recoverable from the person for whom the service is provided, or, where the service is provided in respect of premises—

Amount and payment of charges made by virtue of *section 2*.

- 25 (a) in case the premises are not owned by a local authority and comprise more than one dwelling, the owner of the premises, and

(b) in any other case, the occupier of the premises,

and different such charges may be made by such an authority in respect of persons, premises or services of different classes or descriptions.

- 30 (2) In this section—

“dwelling” includes a part of any premises let as a separate dwelling, whether or not the person to whom it is let shares with any other person any accommodation, amenity or facility in connection therewith or any other portion of the premises;

- 35 “owner” means, in relation to a premises, a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the premises or, where the premises are not let at a rack rent, would be so entitled if they were so let.

- 40 4.—(1) *Section 2* of this Act shall not apply to any service which for the time being stands specified in an order made by the Minister under *subsection (2)* of this section.

Section 2 not to apply as regards certain services.

(2) The Minister may for the purposes of *subsection (1)* of this section by order specify any service.

- 45 (3) The Minister may by order amend or revoke an order under this section (including an order under this subsection).

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

Waiver of charges made by virtue of section 2.

5.—(1) A local authority may, if it is satisfied that it is appropriate so to do on grounds of personal hardship, waive all or portion of a charge made by it by virtue of *section 2* of this Act.

(2) Where a charge (or portion thereof) is waived under *subsection (1)* of this section, the liability of a person to pay that charge (or portion thereof) and any obligation on the local authority by whom the waiver was made to collect the charge (or portion thereof) shall cease.

Further provisions relating to charges made by virtue of section 2.

6.—(1) An amount payable to a local authority on foot of a charge made by virtue of *section 2* of this Act shall be payable either in advance or in such instalments payable on such dates as the authority shall determine, and, in default of being paid within two months of becoming payable, may be recovered by the authority as a simple contract debt in any court of competent jurisdiction.

(2) Where—

(a) a charge is made by a local authority by virtue of *section 2* of this Act, and

(b) the charge relates to an application to the authority for the giving, grant or issue by it of an approval or a licence, permit, certificate or other document, and

(c) no amount or an amount which is less than the amount of the charge is received by the authority with the application,

then the period within which the application is either required to be or may be considered by the authority shall not commence until the amount of the charge is received by the authority, and in case, on the expiration of the period of two months commencing on the day on which the application is received by the authority, no amount, or an amount which is less than the amount of the charge, has been received by the authority, the application shall be regarded as having been withdrawn, and where an amount which is less than the amount of the charge has been received by the authority in relation to the application, that amount shall, as soon as may be, be refunded by the authority.

Set-off.

7.—Where a sum is due to a local authority by a person in respect of a charge made under any enactment, whether by virtue of *section 2* of this Act or otherwise, and, at the same time, another sum is due by that authority to that person, the former sum may be set off against the latter either, as may be appropriate, in whole or in part.

Amendment of section 65A of Public Health (Ireland) Act, 1878.

8.—Section 65A of the Public Health (Ireland) Act, 1878, inserted by section 7 of the Local Government (Sanitary Services) Act, 1962, is hereby amended by—

(a) the substitution of the following subsections for subsection (1):

“(1) A sanitary authority may make charges for water supplied, whether within or outside their functional area, by them.

(1A) Notwithstanding any provision in any enactment which was in force on the commencement of the *Local Government (Financial Provisions) (No. 2) Act, 1983*, whereby there is specified—

(a) the amount of the charge which may be made by a sanitary authority for the supply by them (otherwise than to another sanitary authority) of a supply of water for domestic purposes, or

(b) an amount which a charge described in *paragraph (a)* of this subsection is not to exceed,

the authority may make a charge which exceeds the amount so specified, and any charge made by virtue of this subsection shall for all purposes be deemed to have been duly made under the enactment.

5 (1B) Notwithstanding any provision of an agreement whereby there is specified—

(a) the amount of the charge which may be made by a sanitary authority for the supply by them (otherwise than to another sanitary authority) of a supply of water for domestic purposes, or

(b) an amount which a charge described in *paragraph (a)* of this subsection is not to exceed,

15 the authority may make a charge which exceeds the amount so specified, and any charge made by virtue of this subsection shall for all purposes be deemed to have been duly made under the agreement.”;

(b) the substitution of the following for subsection (3):

20 “(3) (a) A sanitary authority may, if it is satisfied that it is appropriate so to do on grounds of personal hardship, waive all or portion of a charge made by it under this section.

(b) Where a charge (or portion thereof) is waived under *paragraph (a)* of this subsection, the liability of a person to pay that charge (or portion thereof) and any obligation on the sanitary authority by whom the waiver was made to collect the charge (or portion thereof) shall cease.”; and

30 (c) the insertion in subsection (7) after “the 1st day of October” of “; or by such other instalments as the sanitary authority to whom the charge is payable shall determine,”;

and the said subsection (7), as so amended, is set out in the Table to this section.

TABLE

35 (7) A charge under this section for water supplied otherwise than by measure shall be payable in advance by equal half-yearly instalments on the 1st day of April and the 1st day of October or by such other instalments as the sanitary authority to whom the charge is payable shall determine, and, in default of being paid

40 within two months after becoming payable, shall be recoverable as a simple contract debt in any court of competent jurisdiction.

9.—The Local Government (Financial Provisions) Act, 1978, is hereby amended by the substitution of the following section for section 9:

Amendment of
section 9 of Local
Government
(Financial
Provisions) Act,
1978.

"Grants
to rating
authorities,
etc.

9.—(1) The Minister shall in relation to a local financial year out of moneys provided by the Oireachtas make to a rating authority or a housing authority a grant not exceeding the aggregate of the allowances made by the authority under section 3, 4 or 6 of this Act in the local financial year. 5

(2) The Minister shall as regards each local financial year, as soon as may be, furnish to each rating authority an estimate of the grant which he proposes to make to the authority under *subsection (1)* of this section in relation to that local financial year, and in relation to the extent (if any) by which the aggregate referred to in the said *subsection (1)* exceeds the grant, as so estimated, the relevant estimate of expenses as regards that year, prepared and adopted under sections 9 and 10, respectively, of the Act of 1955, shall include, in such manner as the Minister shall direct, a provision in respect of such excess. 10 15

(3) Where, before the passing of this Act, in relation to the local financial year which commenced on the 1st day of January, 1982, or any subsequent local financial year, there was included in an estimate of expenses, within the meaning of the Act of 1955 and relating to that year, a provision similar to that required to be included in such an estimate by *subsection (2)* of this section, the inclusion shall have and shall be deemed always to have had all such validity and effect as it would have had if the said *subsection (2)*, other than the provisions thereof enabling the Minister to give directions, had been in force at the time of its inclusion. 20 25 30

(4) In this section 'the Act of 1955' means the City and County Management (Amendment) Act, 1955." 35

Short title,
collective citation
and construction.

10.—(1) This Act may be cited as the Local Government (Financial Provisions) (No. 2) Act, 1983.

(2) The collective citation "the Local Government Acts, 1925 to 1983" shall include this Act. 40

(3) The Local Government Acts, 1925 to 1983, shall be construed as one Act.

AN BILLE RIALTAIS ÁITIÚIL
(FORÁLACHA AIRGEADAIS) (UIMH. 2),
1983

BILLE

dá ngairtear

Acht á chumasú d'údaráis áitiúla agus d'údaráis sláintíochta muirir áirithe a dhéanamh agus do leasú alt 9 den Acht Rialtais Áitiúil (Forálacha Airgeadais), 1978.

*Ritheadh ag dhá Theach an Oireachtais,
6 Iúil, 1983*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
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Clóbhualte ag CAHILL PRINTERS LIMITED.

36p

LOCAL GOVERNMENT (FINANCIAL
PROVISIONS) (NO. 2) BILL, 1983

BILL

entitled

An Act to enable local authorities and sanitary authorities to make certain charges and to amend section 9 of the Local Government (Financial Provisions) Act, 1978.

*Passed by both Houses of the Oireachtas
6th July, 1983*

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE

To be purchased through any bookseller, or directly
from the Government Publications Sale Office,
Sun Alliance House, Molesworth Street, Dublin 2.

Printed by CAHILL PRINTERS LIMITED.

36p