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**AN BILLE RIALTAIS ÁITIÚIL, 2000**  
**LOCAL GOVERNMENT BILL, 2000**

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**EXPLANATORY MEMORANDUM**

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*Background*

This Local Government Bill is one element of a broad programme of measures for the renewal of local government — many aspects of which are already in place, or on which work is well in train, e.g. constitutional recognition, new funding system, modernisation of human resources, updated financial management and accounting systems, Planning and Development Bill, etc. The Local Government Bill takes account of proposals as set out in *An Action Programme for the Millennium* (1997), *Better Local Government* (1996), *Real Local Government* (1997) and the *Report of the Task Force on Integration of Local Government and Local Development Systems* (1998).

*Overview*

The central aims of the Bill are to:

- *enhance* the role of the elected member,
- *support* community involvement with local authorities in a more participative local democracy,
- *modernise* local government legislation, and provide the framework for new financial management systems and other procedures to promote efficiency and effectiveness,
- *underpin generally* the programme of local government renewal.

The Bill follows from the recent amendment of the Constitution — Article 28A — which gave specific recognition to local government and fixed a five year cycle for local elections. The Bill provides a modern statutory framework for our local government system — structures, functions and operations — and repeals outdated law and terminology. Under the provisions of the Bill, a single, common legislative code will apply to all local authorities, replacing archaic provisions spread over a whole series of Acts dating back to the 19th century. Local authorities will be known in future as county councils, city councils and town councils in line with everyday language.

The Bill contains a general statement of local authority functions, a comprehensive code on local authority membership; provides for the office of Cathaoirleach for all local authorities (to which the title mayor may be assigned) and for the holding of local elections and filling of casual vacancies; and provides flexible arrangements for local authority co-operation and joint service provision. Other provisions include a corporate plan for county/city councils; a framework

for introduction of new financial management and accounting systems; updated operational procedures; local government audit; and flexible powers for the making of bye-laws.

A comprehensive new general ethics framework will apply for both staff and councillors; and modern provisions concerning local authority staffing and related matters are also incorporated. Provision is made for introduction by regulations of a salary for councillors.

There will be an independent commission to deal with local authority boundary changes and local electoral reviews. Provision is made for establishment of new town councils, change of place names, public local inquiries, consequential provisions on failure to perform functions. A range of other miscellaneous matters are also provided for.

The Bill emphasises that the elected council determines policy, and sets out an updated range of mechanisms to oversee, monitor and direct implementation of policy by the executive. The manager operates within this policy framework and under a duty to carry into effect decisions of the elected council. A new framework is provided for local authority meetings with right of media and public access.

The partnership model is introduced for county and city councils via strategic policy committees (SPCs) with representation from relevant sectoral/community interests; similar arrangements apply for towns. SPC chairs and the Cathaoirleach form a corporate policy group which must be consulted in preparation of the corporate plan and annual budget for submission to the council. Flexible arrangements are provided for consultation with local communities along with statutory recognition for County/City Development Boards which were set up recently. The Boards combine all relevant players (State, local government, social partners, local development) under the local government umbrella, to draw up a strategy for economic, social and cultural development for their area. County and town councils are required to promote the objective of unified and improved customer service. A community fund may be established by a local authority to carry out special projects of benefit to the community and an annual contribution may be raised.

From 2004 the dual national/local mandate ends and the Cathaoirleach of county and city councils will be elected by direct vote of the people for a five year term.

#### *Repeals*

The Bill replaces various local government related enactments dating back to the 19th century dealing with the establishment and operation of local authorities. Among the enactments replaced are some or all of the Municipal Corporations (Ireland) Acts, 1840 and 1843; Commissioners Clauses Act, 1847; Towns Improvement (Ireland) Act, 1854; Local Government (Ireland) Act, 1898; various post independence Local Government Acts and the city and county management code. A separate Bill to modernise rating law will follow the Local Government Bill and will allow for the repeal of much of the remaining pre-independence statutes. A Valuation Bill is currently at an advanced stage of drafting. Some, largely technical, amendments to the Local Government Bill as now published will be necessary arising from the enactment of the Planning and Development Bill which is at present before the Oireachtas.

## PART 1

### PRELIMINARY AND GENERAL

*Part I (sections 1 to 8)*, together with *Schedules 1, 2, 3 and 4*, contain the usual provisions of a general nature dealing with such matters as citations, construction and commencement, interpretation (see *section 2* for definition of various terms), regulations, orders, directions, repeals and amendments, and expenses of the Minister.

## PART 2

### LOCAL GOVERNMENT AREAS AND LOCAL AUTHORITIES

*Section 9* allows the Minister to fix a day to be the establishment day on which the arrangements set out in *sections 10 and 11* as regards local government areas and local authorities will come into force.

*Section 10* establishes local government areas in the State, corresponding geographically with the current local authority areas. In future, there will be three categories of local government area — county, city and town. County boroughs will be known as cities and the areas formerly titled as boroughs, urban districts and town commissions will be called towns — in line with everyday language. The result of *sections 10 and 11* is that a common legislative code will apply to all authorities, and archaic terminology and confusing variations between different laws applying to different types of authorities will be removed. The local government areas are listed in *Schedules 5 and 6*, and are unchanged from current areas.

*Section 11* provides that each local government area will have a local authority known, as appropriate, as a county council, city council, or town council, with a uniform legislative foundation: members of local authorities are titled councillor and the chair of every local authority as Cathaoirleach; but see *Part 5* as to the latter. *Subsection (6)* provides that a local authority has jurisdiction in its administrative area in respect of the functions vested in it by this or any other enactment. *Subsections (7) to (16)* are general provisions which provide for local authority corporate status, seal, continuation of authorities despite repeal of old enactments or any renaming or change in the form of incorporation; along with necessary savers for past acts done, etc.

## PART 3

### LOCAL AUTHORITY MEMBERSHIP

*Section 12* states the general eligibility criteria for becoming a member of a local authority. Any person 18 years or over and a citizen of Ireland or ordinarily resident in the State qualifies. Eligibility is subject to certain disqualifications, set out in *sections 13 and 14*.

*Section 13* sets out the various disqualifications from local authority membership which apply. Among those disqualified are specified EU related office holders, Ministers and Ministers of State, MEPs, Gardaí, members of Defence Forces, civil servants and those convicted of certain offences. Local authority staff, other than those designated by order under *section 160*, will now also be disqualified from standing for election, in the same way as civil servants.

*Section 14* provides that from the local elections in 2004 and thereafter, members of Dáil Éireann and Seanad Éireann are also disqualified from local election thus ending the dual national/local mandate.

*Section 15* provides that it is an offence for a person to act as a member of a local authority when disqualified, and for a maximum penalty of £1,500.

*Section 16* provides that a person ceases to be a member of a local authority, and any body to which he or she was appointed by a local authority, on becoming disqualified from membership under *section 13* or *14* or under *section 181* (conviction of ethics offence) or *section 20* of the Local Elections (Disclosure of Donations and Expenditure) Act, 1999.

*Section 17* provides that local authority members take up office 7 days after a local election and hold office until they retire 7 days after the next election (the “ordinary day of retirement”), unless they resign or otherwise cease to be members in the meantime.

*Section 18* provides for resignation from local authority membership, and includes provision that a person shall be deemed to have resigned if absent from meetings for a continuous uninterrupted period of 6 months. Special provisions apply in case of absence due to illness or other bona fide reason accepted by the authority.

*Section 19* deals with casual vacancies and sets out the procedures to be followed in replacing that member through co-option by resolution of the elected council. The co-optee must be nominated by the same political party which originally nominated the person who caused the vacancy, reflecting what is often current practice. Local authorities may include in standing orders procedures to apply in the case of non-party members.

*Section 20: Subsection (1)* validates acts of a local authority notwithstanding possible participation by a disqualified member. *Subsection (3)* is a saver to ensure that tenure of existing local authority members continues after the enactment of this Bill, but subject to its provisions. *Subsection (4)* provides that existing members who are aldermen will retain that title until the next election.

*Section 21* and *Schedule 7* set out the number of members of each local authority. It does not change existing membership numbers but provision to alter the numbers in future is provided by *section 22*.

*Section 22* provides that a county or city council may adopt a proposal to alter the number of members and sets out the procedures. Town councils with 9 members may apply, under similar procedures, for an increase to 12 members, if the town concerned has over 15,000 population. The Minister may on foot of such application alter the number of members but must first request the Local Government Commission [see *Part 11*] to report on the application.

## PART 4

### LOCAL ELECTIONS

*Section 23* provides that the Minister may by order determine local electoral areas for the purposes of local elections and the number of members to be elected for each area. Such determination is made on

foot of and in line with a report of the Local Government Commission; reasons must be given for any variation.

*Section 24* provides that persons registered on the register of local government electors are entitled to vote at a local election in the relevant local electoral area.

*Section 25* prohibits a person from voting more than once at a local election. However, a person living in the area of a town council has a vote at both the town council and the county council elections. From 2004 local government electors will also have a vote for a directly elected county/city Cathaoirleach — see *Part 5*.

*Section 26* provides that local elections will be held in the months of May or June in 2004 and every fifth year thereafter. By virtue of Article 28A of the Constitution local elections must be held no later than in the fifth year after the year in which they were last held and it is no longer possible to extend this interval.

*Section 27* provides that local elections shall be conducted in accordance with regulations made by the Minister, and polls shall be held under the proportional representation system, with a single transferable vote for each elector. Regulations may deal with all matters of detail in holding the elections. Such regulations must be approved in draft by resolution of each House of the Oireachtas. The existing local elections regulations continue in force.

*Section 28* provides that where as a result of a boundary alteration or a revision of local electoral areas, any revisions of polling districts and any adjustments to the register of electors are required, they may be made by the manager; these apply on a temporary basis pending the making of a new polling scheme under section 28 of the Electoral Act, 1992, by the council.

*Section 29* provides that 2004 and every year after in which local elections are held is an election year for purposes of Harbour Boards, VECs and school attendance committees; local authority appointments to these bodies are thus aligned with the local electoral cycle.

*Section 30* provides that boundary alterations to certain towns for electoral purposes made under section 17 of the Local Government Act, 1994, continue in force.

## PART 5

### CATHAOIRLEACH AND LEAS-CHATHAOIRLEACH

*Part 5* provides for the office of Cathaoirleach and Leas-Chathaoirleach for each local authority; for their election, and ancillary matters.

#### *Chapter 1: General*

*Section 31* provides that each local authority (county, city and town council) shall have a chairperson and vice-chairperson, to be known as Cathaoirleach and Leas-Chathaoirleach, elected in accordance with the provisions of this Part. *Section 32* makes provision for different titles to apply in certain circumstances, in place of these generic titles. By virtue of *subsection 31(10)* this chapter applies to a Cathaoirleach or Leas-Chathaoirleach, however elected.

*Section 32* permits the retention of titles of Lord Mayor and Mayor where they were previously in use; allows for the adoption of the title Mayor by the elected council of any other local authority; or for the adoption of Cathaoirleach by any authority which is otherwise titled. *Schedule 8* gives details of the style of the alternative title of mayor and deputy mayor.

*Section 33* allows for the resignation from office of the Cathaoirleach or Leas-Chathaoirleach of a local authority.

*Section 34* allows for the removal, by resolution of the elected members, of the Cathaoirleach or Leas-Chathaoirleach from that office for specified reasons and subject to special procedures and to a  $\frac{3}{4}$  vote of the council. This section comes into operation in 2004 by virtue of *section 31(11)*.

## *Chapter 2: Election by local authority*

*Section 35* provides that the arrangements set out in this Chapter apply to the election by local authority members of a Cathaoirleach and Leas-Chathaoirleach. These arrangements have effect for *all* local authorities until *Chapter 3* comes into force in 2004, and thereafter this chapter will continue to apply to town councils in relation to Cathaoirligh and Leas-Chathaoirligh, and to county and city councils in relation to Leas-Chathaoirligh only.

*Section 36* provides that a local authority shall elect a Cathaoirleach and Leas-Chathaoirleach from among its members at every annual meeting, as at present. Members of Dáil and Seanad Éireann are disqualified from these offices as at present (*subsection (1)(c)*). This provision will become redundant with the termination of the dual mandate in 2004 (see *section 14*).

*Section 37* sets out the procedure to be followed for the election of a Cathaoirleach by the members of a local authority and is similar to current procedures.

*Section 38* provides for the filling (by the members) of a casual vacancy in the office of Cathaoirleach or Leas-Chathaoirleach (in cases where the office holder was elected by the members).

## *Chapter 3: Direct Election*

*Section 39* provides that the provisions of this Chapter come into effect in 2004 for direct elections to the office of Cathaoirleach in county and city councils. An outgoing Cathaoirleach in 2004 holds office until the ordinary day of retirement, on which the directly elected Cathaoirleach comes into office.

*Section 40* provides for direct election by local government electors of the Cathaoirleach of a county or city council; such direct election will be held in conjunction with the local elections to be held in 2004 and every 5th year thereafter. There will be a single county or city-wide electoral area. Direct elections are conducted in accordance with regulations made for that purpose in the same way as local elections. Such regulations may be made as one with or separate from the local elections regulations made under *section 27* and must be approved in draft by resolution of both Houses. A person who is ineligible or disqualified from election as a member of a local authority is disqualified from election as Cathaoirleach (*subsection (4)*). The directly elected Cathaoirleach will have a term of office of 5 years, and is eligible for re-election; but may not hold more than two

consecutive terms (*subsection (6)*). If the directly elected Cathaoirleach is not already a member of the local authority, s/he becomes a member by virtue of election as Cathaoirleach, and the overall number of members of that authority will increase by one for that Cathaoirleach's term of office, provided s/he is not otherwise a member (*subsection (7)*).

*Section 41* provides that where a casual vacancy occurs in the office of a directly elected Cathaoirleach and the remaining term of office is more than 12 months, a bye-election is held to fill the vacancy by direct election. In any other case, the council elects a Cathaoirleach from among its members. In either case, the term of office is for the remainder of the term of office of his or her predecessor.

*Section 42* provides for various amendments to the Electoral Act, 1992 the effect of which is to disqualify a directly elected Cathaoirleach from nomination as a Dáil candidate while s/he holds office and for 12 months afterwards.

*Section 43* contains technical provisions to apply the Local Elections (Petitions and Disqualifications) Act, 1974, concerning election petitions to direct elections for a Cathaoirleach.

## PART 6

### MEETINGS AND PROCEEDINGS OF LOCAL AUTHORITIES

*Section 44* applies the provisions of this Part and *Schedule 9* to the meetings and proceedings of local authorities. *Subsection (2)* provides for the use of Irish or English or both at local authority meetings. *Schedule 9* sets out the legislative framework for local authority meetings. It provides for annual, ordinary and special meetings. Pre-meeting it requires notification of members and public notice and availability of agenda; and with special arrangements for budget (estimates) meeting and annual meeting and for convening of special meeting. At meetings it provides for quorum, chairing of meeting, business of meeting; deciding of questions; right of public and media access; minutes; appointments to other bodies; etc. And for standing orders to be made by the local authority, to regulate such other matters as it may consider appropriate, as well as certain matters to be incorporated in such orders. It also allows for the issue of guidelines by the Minister to promote the objective of appropriate gender balance in the making of appointments by local authorities to committees or other bodies. *Section 44(3)* provides for regulations to apply similar provisions to those set out in the Bill to proceedings of joint bodies (defined in *section 2*). *Subsection (4)* continues in force any existing provisions relating to those joint bodies until such regulations are made.

*Section 45* provides that members of the public and media have a right to attend meetings of a local authority. The local authority's right to meet "in committee" is restricted and limited to special cases and subject to special requirements designed to safeguard the public interest. The right of attendance may be subject to standing orders, which may deal with matters such as available space, conduct of the public, etc.

*Section 46* provides for a meetings administrator to be nominated by the manager with responsibility for issue of notices, recording decisions, etc.

*Section 47* provides that a local authority, in the establishment of committees, and organisation of meetings, shall seek to promote effectiveness and efficiency.

## PART 7

### COMMITTEES AND JOINT COMMITTEES

*Section 48* provides that county and city councils establish strategic policy committees (SPCs), chaired by an elected member but comprising both councillors and sectoral/community interests. SPCs are to advise the council on policy matters and are established in accordance with guidelines issued by the Minister. The existing SPC guidelines remain in effect; these provide for the drawing up of an SPC scheme by the authority and include guidance on

- representation of sectoral interests and selection procedures,
- term of office of SPC members and chairs,
- procedures to be followed in appointing chairs etc.

The activities of an SPC must be included in the local authority's annual report.

*Section 49* empowers a town council to establish a municipal policy committee to advise the council on policy matters; and is similar to *section 48*.

*Section 50* provides that city and county councils may establish Area Committees for a local electoral area or group of such areas. If the Cathaoirleach of any town council within the area concerned is not already a member of the committee, he or she will become an *ex-officio* member.

*Section 51* empowers a local authority, by resolution of at least half the number of members, to establish one or more committee(s) to advise the authority on matters within its remit, and it may delegate functions to such committee(s). However, a local authority may not delegate its functions generally or the power to adopt a budget, to make a rate or borrow money, nor any other functions prescribed. A local authority may decide to include people who are not councillors on the committee, provided they have knowledge, qualifications or experience relevant to its work. This section does not affect special local consultative committees established under the Housing (Traveller Accommodation) Act, 1998.

*Section 52* empowers two or more local authorities to set up a joint committee with representation from each of the authorities to consider matters related to the functions of those authorities (*subsection (2)*). Similar provisions apply to joint committees as to local authority committees with regard to membership, restrictions on delegation of certain functions etc. A joint committee may be established as a corporate body subject to the consent of the Minister (*subsection (5)*).

*Section 53* is a technical provision to safeguard the acts of any committee or joint committee.

*Section 54* allows for the making of regulations and issue of policy guidelines for the purposes of this Part. Such guidelines already apply to strategic policy committees.



## PART 8

### LOCAL AUTHORITY BOUNDARY ALTERATION

This Part sets out the arrangements for the alteration of local authority boundaries by order laid before both Houses; and approved in draft in the case of counties and cities. An order may only be made following a report by the Local Government Commission.

*Section 55* contains definitions for the purposes of this Part.

*Section 56* provides that a local authority may adopt a 'proposal' to alter its boundary. A consultation process with other local authorities concerned and the public must be followed. The adoption of a boundary alteration proposal and the making of a 'statement of response' by the other authority concerned are reserved functions.

*Section 57* provides that the local authority proposing the boundary alteration, having followed the consultation process set out in *section 56* may make application to the Local Government Commission for a report on the proposed alteration; the making of the application is a reserved function.

*Section 58* sets out matters which must be included in the proposal and the statement of response; procedures as to the application to the Commission and allows for other procedural matters to be set out in regulations.

*Section 59* provides that the Minister may request the Local Government Commission to prepare a report on a local authority boundary; a copy of such request must be supplied to the local authorities concerned.

*Section 60* sets out procedures to be followed by the Commission in considering a proposal for boundary alteration made by a local authority under *section 57*. The Commission may either prepare a report or notify the local authorities concerned that, for stated reasons, it considers it is not appropriate to deal with the application. In preparing a report the Commission shall review the boundary and make such recommendations in the interests of effective and convenient local government that it considers necessary (including as regards financial and other ancillary matters); and the report is furnished to the Minister. *Subsection (5)* permits the Commission to make recommendations on a boundary alteration different from that proposed. Where the Commission does not recommend a boundary alteration it may under *subsection (6)* make other recommendations as to steps to be taken by local authorities to improve the delivery of local government services in the areas concerned.

*Section 61* allows for local authority boundary alteration to be effected by Ministerial order following consideration of a report furnished by the Commission; reasons must be given for any variation. Such orders are subject to annulment by either House; or in the case of counties and cities must be approved in draft. *Subsection (4)* allows for directions to local authorities in a case where the Commission has recommended that steps be taken under *section 60(6)*.

*Section 62* and *Schedule 10* permits the Minister, or in relevant cases, another Minister of the Government, to make provision in a supplementary order for all matters consequential on a boundary alteration. Such supplementary order may contain provisions relating to financial adjustments; adaptation of enactments; transitional

arrangements for matters such as electoral registers, continuation of development plans; official maps, etc.

## PART 9

### FUNCTIONS OF LOCAL AUTHORITIES

#### *Chapter 1: General functions of local authorities*

*Section 63* provides a general statement of local authority functions which are

- to provide a forum for the democratic representation of the local community and to provide civic leadership
- to carry out the functions conferred on the authority by this or any enactment (see *subsection (2)*)
- to carry out any ancillary functions
- to take action to promote the community interest.

*Subsection (2)* and *Schedule 11* specify the various Acts which confer functions on local authorities. The specific statutory codes (e.g. planning; housing; sanitary services; fire; water pollution; roads; etc.) which govern the different services provided by local authorities are included in *Part 1* of the *Schedule*; *Part 2* sets out Acts for which other Ministers are responsible and which confer functions on local authorities (e.g. higher education grants; control of horses; etc). *Subsection (3)* provides that, subject to law, a local authority is independent in the performance of its functions. *Subsection (4)* provides that functions are performed in the name of the local authority by the elected council or the manager as may be appropriate in accordance with *Part 14*.

*Section 64* contains express statutory provision for the exercise of representational functions by local authorities and indicates activities which may be undertaken including promoting interest among young people in democracy and local government.

*Section 65* confirms the power of local authorities to do things ancillary or related to their express statutory powers or which can be carried on advantageously in conjunction with them. These provisions apply and supplement the functions conferred on local authorities by every enactment.

*Section 66* provides broad powers for a local authority to take action to promote the interests of the local community in such manner as they consider appropriate. A decision by a local authority to provide assistance in money or in kind under the section is a reserved function. The power in this section cannot be used by a local authority to perform a function which is conferred on the authority by other statutory provisions and action may not be taken which would prejudice or duplicate activities arising from the performance of a statutory function by another body.

*Section 67* makes clear that *section 66* includes power for a local authority to take action in support of matters such as amenity, sport and recreation, heritage, etc. *Schedule 12* lists by way of indication various matters which are included.

*Section 68* requires local authorities in performing their statutory functions to have regard to certain matters such as the availability and effective use of resources; maintenance of essential services;

achievement of reasonable balance between functional programmes; Government or Ministerial policy; the need for co-operation, co-ordination or consultation with other public bodies; high environmental standards and sustainable development. *Subsection (4)* provides that *sections 63 to 67* are subject to any legal prohibitions, conditions or restrictions which may otherwise apply.

*Section 69* clarifies that the powers under *sections 64 to 67* vest concurrently in county and town authorities, and may be exercised separately or jointly — *section 68* would apply in such cases.

*Section 70* requires a county council and town councils in the county to take steps to promote the objective of unified and improved customer service for the public.

*Section 71* provides for devolution of functions of Ministers (subject to constitutional requirements) to local authorities by provisional order of the Government. It also provides power for transfer by the Minister of functions between local authorities of different classes. *Subsection (3)* provides that an order for the transfer of functions may contain necessary ancillary provisions.

*Section 72* is a saver which provides that the definition of functional area for the purposes of a function conferred by any other enactment will continue (e.g. particular service codes such as fire, housing, roads, waste, etc. each have a definition for the particular code which is not affected by this Act).

#### *Chapter 2: Ceremonial Functions*

*Section 73* provides that a local authority may confer a civic honour, such as admission to honorary freedom of its area, on distinguished persons.

*Section 74* allows for twinning arrangements by local authorities with other areas within or outside the State. Details of activities in relation to twinning must be included in an authority's annual report.

*Section 75* provides that a local authority may incur reasonable expenses in connection with receptions and entertainment for distinguished persons or the holding of special events relevant to its functions. Details must be included in the authority's annual report.

#### *Chapter 3: Library and Archival Functions*

*Section 76* provides that county and city councils, together with existing joint library committees, are library authorities.

*Section 77* sets out the functions of a library authority.

*Section 78* provides for the continuation of An Chomhairle Leabharlanna and outlines its functions.

*Section 79* provides for the keeping of local records and archives by local authorities.

#### *Chapter 4: Non-Public Roads — Local Improvement Schemes*

*Section 80* will allow for the continuation of the current local improvement scheme. Under these arrangements, county councils can provide assistance towards the improvement of non-public roads and the Minister can provide grants to them for that purpose.

*Section 81* contains definitions necessary for this chapter.

*Section 82* provides for the consolidation of water supply and waste water treatment and related functions at county level. Such functions will transfer from town councils (former borough corporations and urban district councils) to county councils to form a single sanitary district. The three divisions in Co. Cork will remain under *subsection (2)*.

*Section 83* provides that non-water related functions under the sanitary services code (e.g. licensing of caravan parks; burial grounds; etc.) are not affected by this Chapter.

## PART 10

### AGREEMENTS AND ARRANGEMENTS CONCERNING FUNCTIONS

*Section 84* allows a local authority to enter into an agreement with another local authority, or other public body, to carry out functions on behalf of that body. Making of an agreement is a reserved function.

*Section 85* allows for the making of practical operational arrangements with other local authorities or bodies.

*Section 86* empowers the Minister to direct local authorities to make an agreement under *section 84*, having given the authorities concerned an opportunity to first make representations.

*Section 87* is a technical provision to ensure continuation of existing inter authority agreements.

## PART 11

### LOCAL GOVERNMENT COMMISSION

This Part provides for the establishment of an independent Local Government Commission to make recommendations on a range of boundary, local electoral and other matters arising under this Act and which would meet from time to time as necessary.

*Section 88* provides for the establishment of a Local Government Commission and that the Commission and its members are independent in the performance of their functions.

*Section 89* sets out the functions of the Commission. These relate to preparing a report and recommendations as regards alteration of local authority boundaries (*Part 8*); review of local electoral areas and number of elected members assigned to each (*section 23*); alteration of number of members of a local authority (*section 22*); application for the establishment of a new town council (*section 183*); application by a town council for dissolution under *section 185*. The Minister may also request the Commission to report on any aspects of local government, including any boundary for areas of local government related administration. Reports of the Commission must be published.

*Section 90* sets out provisions concerning membership of the Commission and criteria for their appointment. Generally there are to be three to five members, one of whom is chairperson.

*Section 91* provides for eligibility and tenure of office of members etc. of the Commission. The number of members may be increased temporarily to a maximum of 7, if necessary to cope with the volume of work.

*Section 92* sets out standard procedures governing meetings and operation of the Commission. It has discretion to hold an oral hearing in any case.

*Section 93* enables the Commission to avail of staff and services of other public bodies.

*Section 94* sets out usual procedures for the public invitation and receipt of submissions by the Commission and related matters; public notice must be given in all cases. Submissions made will be open for public inspection.

## PART 12

### FINANCIAL PROCEDURES AND AUDIT

This Part contains two Chapters: *Chapter 1* deals with local authority financial procedures and *Chapter 2* with local government audit.

#### *Chapter 1: Financial Procedures*

*Section 95* defines local financial year for the purposes of *Chapter 1*.

*Section 96* requires each local authority to maintain a local fund to consist of such accounts as may be necessary under *section 106*. All monies received (other than under *section 108* — the community fund) are paid into the local fund and payments out of it are authorised under *section 98*.

*Section 97* provides that a local authority may make such banking arrangements as may be necessary for the prudent management of its moneys.

*Section 98* sets out procedures for the authorisation of payments by a local authority.

*Section 99* provides for payment by a town council (which is a rating authority) to a county council in respect of activities carried out by the county council in respect of the town and sets out the procedure under which such charge is determined.

*Section 100* provides that the expenses of a town council which is not a rating authority are met by a demand served on the county council and levied on the town by the county council as part of the rate; but without prejudice to it raising monies otherwise.

*Section 101* provides that in each year a local authority shall prepare a draft budget (formerly known as local authority estimates). The manager must consult the corporate policy group (CPG) for this purpose in accordance with *section 132*.

*Section 102* provides for the consideration and adoption of a local authority budget at the annual budget meeting and sets out the procedures which apply, including advance public notice and availability

for public inspection of the draft budget. The annual rate on valuation (formerly rate in the pound) is determined at the meeting in accordance with the budget so adopted.

*Section 103* provides for the circumstances in which a local authority may exceed the budgetary provisions adopted under *section 102*; the authorisation of the elected council is necessary, except in certain limited cases (e.g. emergency). Any excess must be brought to the notice of the Cathaoirleach and the elected council (*subsection (7)*).

*Section 104* provides that the elected council or the CPG may require the manager to submit such financial statements as they may decide.

*Section 105* provides for the borrowing of money by a local authority subject to Ministerial sanction and for the lending of money to another local authority.

*Section 106* provides for the keeping of proper accounts by a local authority subject to such accounting code of practice as may be issued by the Minister.

*Section 107* provides for the preparation of an annual financial statement by a local authority in accordance with the code of practice under *section 106*; for its submission to the elected council and to the Director of Audit.

*Section 108* empowers a local authority, by resolution, to set up a separate “community fund” to support specific community initiatives, such as amenity, recreational, cultural or heritage facilities, environmental or community development projects. Contributions to the community fund may be made by local voluntary, business or community groups, the local authority itself, or from a scheme adopted under *section 109*, or a combination of these.

*Section 109* provides a discretionary power for a local authority to adopt, by resolution, a scheme to collect an annual contribution from members of the local community (one payment per household) towards community initiative(s) supported by a community fund under *section 108*. The scheme is to describe the initiative(s), specify the annual contribution and the period for which it will operate; and provide for waivers in cases of hardship. Before making a scheme the authority must first publish a draft and consider submissions from the public and may also hold a local plebiscite in relation to the proposal.

*Section 110* provides for the making of regulations in relation to the form of accounts, budgets, financial procedures and other specified matters.

*Section 111* provides that where a proposal arises at a meeting of a local authority which involves illegal payment or a financial loss, the manager or other relevant official present is obliged to inform the elected council; only those voting for the proposal are liable to surcharge.

*Section 112* is a saver as regards rating; and certain repeals affecting the failure to adopt estimates etc.

## *Chapter 2: Audit*

*Section 113* contains definitions for the purposes of this Chapter.

*Section 114* provides that this Chapter applies to local authorities, joint bodies and such other bodies as may be prescribed.

*Section 115* provides for the Local Government Audit Service and the Director of Audit; and that local government auditors are independent in the performance of their professional functions.

*Section 116* provides for the issue of a code of audit practice by the Minister following consultation with the Director of Audit.

*Section 117* provides for the making of regulations in relation to audit procedures; and for criteria to be applied by local government auditors in the conduct of audit.

*Section 118* provides powers for a local government auditor to gain access to all relevant information and requires that local authorities co-operate with the auditor; failure to do so is an offence.

*Section 119* provides for issue of an audit opinion and report on the annual financial statement.

*Section 120* requires that the manager submit the audited financial statement to the elected council and that the auditor may within 3 months arrange to speak to the authority.

*Section 121* provides that a local authority may establish an audit committee which meets in public to consider the audited financial statement.

*Section 122* provides for an extraordinary audit following from information in an auditor's report or otherwise.

*Section 123* provides for the reassignment of the audit of a particular local authority, to a different auditor, where necessary.

*Section 124* provides for the payment to the Minister by local authorities of prescribed audit fees.

*Section 125* provides that local government auditors may certify certain claims etc.

## PART 13

### LOCAL AUTHORITIES AND THE LOCAL COMMUNITY

*Section 126(1)* underlines the need for a local authority to maintain contact and consult with its local community and to promote participation in local government. *Subsections (2)* and *(3)* set out some of the ways in which this may be done, including for example, information meetings, sectoral representation on committees, meetings with interested persons, appropriate publicity etc. *Subsection (4)* confirms the democratic status of local authority elected members.

*Section 127* provides that a local authority may by resolution declare a body which promotes the interests of the local community to be a recognised association and allows for provision of assistance to such association and for the delegation of certain functions to it.

*Section 128* provides a statutory basis for the establishment, composition and functions of the County/City Development Boards (CDB) which have recently been set up; and for the preparation by

the Board of a strategy for the economic, social and cultural development of its area; and that other bodies shall have regard to such strategy. Existing guidelines regarding CDB's are continued, and the Minister may revise or issue new guidelines.

## PART 14

### THE LOCAL GOVERNMENT SERVICE

This Part provides the framework in which local authority functions are carried out within policy parameters determined by the elected council; implemented by a manager and staff and subject to general overview and intervention by the Council.

#### *Chapter 1: The Elected Council*

*Section 129* provides that the policy role of the elected council is expressed by it in the exercise of its reserved functions.

*Section 130* defines what are reserved functions exercisable by the elected council; these encompass functions made exercisable by resolution under this Bill and the range of functions so designated under other enactments; and include the functions listed in *Schedule 13* and the various powers to oversee the executive set out in this Chapter. The Minister has power under *subsection (3)* to designate further specific function(s) to be a reserved function.

*Section 131* sets out the duty of the manager in relation to the elected council: to carry into effect the decisions of the council and to advise and assist the council.

*Section 132* provides for the establishment by each county and city council of a corporate policy group (CPG), comprising the Cathaoirleach and chairpersons of the SPCs to advise and assist the elected council in the formulation, development and monitoring of policy for the local authority. The CPG must be consulted by the manager in the preparation of the authority's draft budget and may involve additional persons to assist it. It must also be consulted in the preparation of the corporate plan (*section 133*). The CPG may request a report from the manager on any matter related to a function of the authority, which the manager must provide. Where a report is requested the Cathaoirleach may direct the manager to refrain from doing any particular act; a direction has effect for up to 2 months to allow time for consideration of the matter by the council. *Subsections (7) and (9)* provide necessary safeguards in respect of functions which the local authority is required by law to carry out and for emergencies. *Subsection (8)* clarifies that the provisions of this section do not derogate from the functions of the elected council.

*Section 133* provides that each local authority must prepare a statement of strategy, known as the corporate plan, within a specified period; this normally will have effect for the life of the council. This plan will set out the principal activities of the local authority, its objectives and priorities, proposals to work towards improved customer service and human resource activities. The plan must be drawn up in consultation with the corporate policy group, in accordance with any Ministerial guidelines, and is adopted by the elected council. An annual progress report must be submitted by the manager.

*Section 134* requires the submission each year by the manager to the elected council of a report on the proposed programme of capital projects for the following three years.



*Section 135* provides that the manager must, if requested by the Cathaoirleach or the elected council, supply information on any matter with which the authority is concerned and is in his or her possession or procurement.

*Section 136* requires the manager to prepare plans, specifications and costings for any works when so requested by the elected council.

*Section 137* requires the manager to inform the elected council before committing the authority to expenditure for, or undertaking, new works. Under *subsection (2)* the council may direct the manager to let them know how he or she proposes to perform any specified executive function. Special provision in case of emergency works etc. is made in *subsections (4)* and *(5)*.

*Section 138* provides that the elected council, when informed of proposed works, may direct the manager not to proceed with them: exception is made for works the authority is required to undertake under statute or by court order.

*Section 139* provides that the elected council may by resolution require the manager to carry out any executive function as may be specified by them and sets out the procedures for such a resolution to be adopted.

*Section 140* requires local authority members who represent the authority on other bodies to report back to their elected council annually or any other time if requested by the Cathaoirleach.

*Section 141* provides that regulations made by the Minister, with the consent of the Minister for Finance, may make provisions for payment of allowances to local authority members in connection with matters such as meetings of the authority and its committees, the post of chair of a strategic policy committee, conferences and training events etc. *Subsection (2)* provides that the regulations may permit payment of a salary to Cathaoirligh and members of local authorities and may make provision for superannuation arrangements. *Subsection (4)* outlines matters which may be subject to regulation. *Subsection (5)* concerns criteria for authorisations to attend conferences, seminars and related matters.

*Section 142* allows for the payment of an allowance for reasonable expenses by a local authority to its Cathaoirleach and Leas-Chathaoirleach. A decision to pay such allowance and determination of its amount are reserved functions; subject to any directions of the Minister given following consultation with the Minister for Finance.

## *Chapter 2: Office of manager*

*Section 143* establishes a post of city manager and of county manager who is also manager for town councils in the county. A manager is an employee of the county council or city council. The section also makes provision as regards management of joint bodies and the continuation of existing managers.

*Section 144* provides that the appointment of a manager on foot of a recommendation by the Local Appointments Commission (LAC) and the suspension or removal of a manager under *section 145* are reserved functions. Provision is made for advance notification of the LAC of pending manager vacancies and for the appointment of a temporary manager by the Minister if a permanent appointee is not in place.

*Section 145* provides for the suspension or removal of a manager by the elected council and sets out the procedures which apply.

*Section 146* provides that a manager holds office for a tenure period specified by order.

*Section 147* provides for the appointment by the manager, following consultation with the Cathaoirleach, of an employee to be deputy manager, who acts as manager during any period when the manager is unable to act.

*Section 148* provides that the manager has responsibility for the efficient and effective operation of the local authorities for which he or she is responsible and for ensuring without undue delay the implementation of the decisions of the elected council. The manager shall in discharging these responsibilities carry out the executive functions of the authority in accordance with policy as determined by the council. *Subsection (4)* provides that every local authority function which is not a reserved function is an executive function. *Subsection (6)* provides that the functions of the manager are performed in accordance with the policy of the local authority as determined by the elected council in accordance with *Chapter 1* of this Part.

### *Chapter 3: Procedural matters*

*Section 149* contains definitions for the purposes of *Chapter 3*.

*Section 150* provides that the manager acts by signed and dated order in performing the executive functions of the local authority; *Schedule 14* lists functions to be done by order. Such orders must be available to the elected council and an order must be supplied to any member on request. Provision is also included for evidential value of such orders and savers for defects etc.

*Section 151* allows for the attendance of a manager at meetings of the local authority; or at committee meetings if requested by the council; and to give advice and assistance and arrange for the attendance of relevant staff.

*Section 152* provides that the manager acts for the local authority in legal proceedings.

*Section 153* provides that the manager may delegate any of his or her functions (other than the appointment of a deputy manager under *section 147*) to an employee of a local authority for which he or she is manager. The function continues to vest concurrently in the manager and may be revoked; the manager remains responsible for the acts of the delegate. The elected council is notified of delegations.

### *Chapter 4: Local Authority Personnel*

*Section 154* contains definitions for this Part. The “Board” means the Local Government Management Services Board.

*Section 155* defines “appropriate Minister” and provides for situations where local authorities employ persons whose duties relate to functions appropriate to particular Ministers. It also enables the Minister to determine any question or dispute as to who is the appropriate Minister in any case.

*Section 156* applies this Chapter to all persons employed by a local authority, current and future. *Subsection (3)* excludes certain positions (the subject of other legislation). Under this Chapter, and the

associated reveals, the Minister's role in individual staff matters will end and general employment law will apply to local authority staff.

*Section 157* provides that a local authority may employ such staff as it deems necessary and may determine their remuneration and conditions of employment. It also allows for the appropriate Minister to determine the retirement age. In exercising functions under this Chapter, a local authority must comply with any directions issued by the appropriate Minister and have regard to guidelines issued by the Board. The appointment, suspension and removal of the manager under *section 145* are vested in the elected council.

*Section 158* provides for necessary local authority staffing and organisational arrangements to be made by the manager and that, subject to this Part, functions of a local authority may be discharged by employees of any local authority for which the manager is responsible. Employees shall perform the duties assigned to them in relation to any function of a local authority including functions carried out on foot of an agreement under *Part 10*.

*Section 159* provides that the appropriate Minister may declare or amend the qualifications necessary for specified employments under a local authority. Such functions of the Minister may be transferred to the Board by order of the Minister. A local authority may itself fix qualifications for any employment in respect of which they are not already fixed by the appropriate Minister or the Board.

*Section 160* restricts a local authority from employing persons who are themselves local authority members; currently the restriction applies, in the main, to the home authority and to adjoining authorities. The Minister may, by order, designate local authority grades to which the employment restriction will not apply. Under existing arrangements more junior grades are exempt and it is intended that similar type exemptions will be put in place under this provision.

*Section 161* is a saver to continue existing arrangements as regards the application of certain local government statutory provisions to VEC employments for which the Minister for Education and Science is the appropriate Minister.

*Section 162* provides for a time limit of not less than one month or longer as may be specified by the local authority, within which a person recommended by the LAC must take up duty.

*Section 163* amends the Unfair Dismissals Act, 1977, to provide that its provisions relate to all local authority employees other than managers.

*Section 164* is a saver to provide for the continuation of certain existing regulations and declarations.

## PART 15

### ETHICAL FRAMEWORK FOR THE LOCAL GOVERNMENT SERVICE

This Part sets out an ethics framework specific to local authority members, managers and employees and will be applicable generally across all areas of the local authorities' work. It will replace the existing provisions in the planning code and builds on the principles in the Ethics in Public Office Act, 1995. It includes a new duty on members and staff to maintain proper standards of conduct, and a provision for the Minister to issue codes of conduct for guidance of

members and staff. It is an offence to seek, exact or accept any fee, reward or other favour for anything done by virtue of a person's office or employment. It is also an offence to offer any such reward or favour.

*Section 165* contains definitions of terms used in this Part.

*Section 166* sets out the persons to whom this Part will apply

- a member of a local authority
- employees of a local authority in grades prescribed by the Minister
- any other employee or other person in a position designated by the local authority manager.

Under *subsections (2) and (4)*, certain provisions also apply to (non-elected) members of a local authority committee and to others who are providing services to a local authority (e.g. consultants).

*Section 167* imposes a duty on members, committee members and employees of a local authority to maintain proper standards of integrity, conduct and concern for the public interest.

*Section 168* provides that the Minister may issue a national code of conduct for local authority members and for local authority employees in dealing with their conduct and standards of integrity. Members and employees must have regard to and be guided by the relevant code in the exercise of their functions. A court or the Public Offices Commission may have regard to the code of conduct in carrying out their functions. A copy of the code must be supplied by the ethics registrar to every member and every employee concerned.

*Section 169* prohibits an employee or member of a local authority, or a member of a local authority committee, from seeking, exacting or accepting a fee, reward or favour from anyone for anything done or not done by virtue of their work or office. It also prohibits any person from offering such favour or reward. Contravention of this section is an offence and provision is made for a maximum penalty of £1,500 and/or six months imprisonment on summary conviction, or £100,000 and/or three years imprisonment on indictment.

*Section 170* requires local authority members and employees to prepare and furnish to the ethics registrar of the local authority an annual declaration of interests. The form of the declaration will be set out in regulations and will also require an undertaking to have regard to and be guided by the relevant code of conduct and a statement by the members that they do not come within any grounds for disqualification from local authority membership. For the definition of a declarable interest, see *section 174* below. The monetary value of any declarable interest need not be included in the declaration (*subsection (5)*).

*Section 171* establishes a public register of interests, to be kept available for public inspection at the local authority office, containing both the annual declarations under *section 170* and the "ad hoc" disclosures under *sections 176 to 178*. Records in the register will be kept for 15 years which is in line with the Ethics in Public Office Act, 1995.

*Section 172* requires that a person is designated as ethics registrar by the manager; and provides that a person may not perform the duties of registrar for longer than two consecutive years.

*Section 173* sets out certain duties of the ethics registrar - to issue a notice at the appropriate time each year to each member and employee informing them of the requirement to complete the annual declaration under *section 170*. *Subsection (5)* empowers the registrar to bring minor errors and omissions in the declaration, of which s/he is aware, to the attention of the employee or member and provide an opportunity for correction. *Subsection (7)* deals with the situation where the ethics registrar becomes aware of a possible contravention of this Part; and imposes a duty to inform the Cathaoirleach and/or the manager, depending on the person involved in the possible contravention. *Subsection (8)* requires a Cathaoirleach or manager informed of a possible contravention to consider what action should be taken, which may include investigative or disciplinary procedures, referral to the Director of Public Prosecutions, or other appropriate action. A report of their consideration must be prepared and retained by the local authority.

*Section 174* sets out what is meant by a “declarable interest” to be included in the annual declaration under *section 170* and includes

- any business of dealing in or developing land,
- any other paid employment or occupation,
- any interest in land, including any contract for sale or purchase of land or any option to do so,
- any business of dealing in or developing land by a company or body of which the person is a member,
- shares or investments over £10,000 in any company or enterprise,
- a directorship or shadow directorship of any company,
- a gift, including foreign travel facilities, but excluding gifts from a spouse or friend for personal reasons, or gifts less than £500,
- property or a service supplied or lent at less than commercial rates or free of charge, where the commercial price/consideration was more than £500,
- a contract or contracts worth more than £5,000 for supply of services or goods to a local authority with which the person was any way concerned, directly or indirectly,
- a paid position of political adviser, consultant or lobbyist,
- any other interest set out in regulations by the Minister,
- any other interest which the person wishes to volunteer.

These interests are based on those outlined in the Planning and Development Code and on the registrable interests in the Ethics in Public Office Act, 1995.

*Section 175* deals with “beneficial interests” which are relevant for the purposes of *sections 176, 177* and *178*. Such interests include situations where the person concerned, or a “connected person” of that person (see definition in *section 165*) is—

- a member of a company,
- in partnership or employment,
- a party to any arrangement concerning land,
- a trustee or beneficiary of a trust,
- acting to secure control of a company,

which has a material or beneficial interest in, or is related to, any resolution or matter concerning the exercise of functions by the local authority. A person is also deemed to have a beneficial interest if the person, or a connected person, has actual knowledge that he or she has a “declarable interest” (see *section 174*) concerning the matter. Certain beneficial interests which are remote or insignificant need not be disclosed (*subsection (3)*).

*Sections 176, 177 and 178* set out the disclosure requirements and the action to be taken by—

- a member of a local authority, or of a committee of a local authority,
- the manager of a local authority,
- an employee of a local authority or a consultant employed by a local authority,

respectively, where a matter arises with which the local authority is dealing and in which they have a pecuniary or other beneficial interest. Such persons must disclose the interest and are prohibited from seeking to influence the local authority in its consideration of the matter and must take no part in such consideration. A member must leave any meeting and the manager must delegate the function to another employee. These “ad hoc” disclosures are recorded in the register of interests.

*Section 179* empowers the Public Offices Commission to use its powers under section 23 of the Ethics in Public Office Act, 1995, to investigate a member or employee of a local authority or other person referred to in *section 166 (1) or (2)*.

*Section 180* sets out various offences and relevant penalties under this Part in respect of failure to make the required annual declaration or to disclose an interest in a matter with which the local authority is concerned — offences may be tried summarily with a maximum fine of £1,500 and/or six months imprisonment: or on indictment with a maximum fine of £10,000 and/or two years imprisonment.

*Section 181* provides that a person convicted of an offence in relation to *sections 169, 170, 176, 177 or 178* is disqualified from being a member of a local authority for 5 years.

## PART 16

### LAND

*Section 182* provides that proposals for the disposal of land must be submitted to the elected council and sets out the relevant procedures. The council may vary the terms proposed or veto the proposal. A disposal below market rates requires the consent of the Minister. If the Planning and Development Bill, 1999, being considered by the Houses of the Oireachtas at present is enacted, certain technical provisions will need to be added to this Part by way of amendment.

## PART 17

### ESTABLISHMENT OF NEW TOWN COUNCILS, ETC.

This Part provides for the establishment of town councils and, where a town council so requests, its dissolution.

*Section 183* sets out the procedures for the establishment of a town council in certain towns — i.e. with population over 7,500 or such other prescribed figure. These involve a proposal signed by not less than 100 local electors and accompanied by a sum of £1,000 submitted to the county council; consideration, public consultation and decision by the county council and submission to the Local Government Commission for report; and an order of the Minister to establish the town council.

*Section 184* provides for the first election to a new town council whose members hold office until the next ordinary day of retirement.

*Section 185* provides that any town council may apply to the Minister to dissolve that council and for dissolution by order on foot of such application.

## PART 18

### CHANGING OF NAMES OF AREAS

This Part provides for change of names of areas and empowers the appropriate local authorities to carry out such changes, subject to proper consultation procedures.

*Section 186* contains definitions for the purposes of this Part.

*Sections 187 to 189* provide for the change of name of a town, townland or non-municipal town. The sections provide for a consultation procedure by the local authority or authorities concerned, notification of prescribed bodies, consideration of submissions received, final adoption of proposal by the elected council; and consent of the majority of the electors in the relevant area by way of local plebiscite.

*Sections 190 to 193* provide for change of name of a street or locality; a local plebiscite is also required.

*Section 194* provides for the making of regulations related to procedural matters and for necessary savers as regards a change of name under this Part.

*Section 195* provides that a local authority may display the names of streets.

## PART 19

### BYE-LAWS

This Part contains a general power for local authorities to make bye-laws as regards its own property or services or to regulate matters of local concern.

*Section 196* contains definitions for the purposes of this Part.

*Section 197* provides a general power for local authorities to make bye-laws for the regulation of facilities, services etc. provided or managed by them (*subsection (1)*); or to regulate, in the interest of the common good, matters of local concern or nuisance (*subsection (2)*). The section sets out various types of matters which may be included in such bye-laws. Bye-laws may not be made under *subsection (2)* in respect of matters specifically provided for under any

other enactment, or in respect of matters prescribed by the appropriate Minister, who under *subsection (8)* has power to amend or revoke any bye-law. The power to make bye-laws is a reserved function of the elected members.

*Section 198* sets out the procedures to be followed in the making of a bye-law, including the giving of public notice, an obligation to make available a copy of a draft bye-law and consideration of any submissions made in relation to the draft.

*Section 199* provides that the appropriate Minister may provide by regulations that bye-laws in respect of specified matters will require ministerial approval.

*Section 200* provides for the publication of notice of the making of bye-laws, requirements as to availability of bye-laws for public inspection, provision of copies of bye-laws and maintenance and availability for public inspection of a register of any bye-laws made by a local authority.

*Section 201* is a standard provision for purposes of legal proof of a bye-law.

*Section 202* provides that it is an offence to obstruct an authorised person of a local authority, or a member of the Garda Síochána in the exercise of their powers as regards contravention of a bye-law.

*Section 203* provides that it is an offence to contravene a bye-law, with a maximum penalty of £1,500.

*Section 204* provides that bye-laws may include provision for a system of “on the spot fines”.

*Section 205* provides that offences in relation to bye-laws may be prosecuted by a local authority or a member of the Garda Síochána.

*Section 206* provides that any fines shall be paid to the relevant local authority.

*Section 207* provides for continuation in force of current bye-laws.

*Section 208* provides that the bye-law procedures of this Part may be applied by regulations to any other enactment which confers a power on local authorities to make bye-laws.

*Section 209* amends provisions of the Control of Dogs Act, 1986, concerning the making of bye-laws under that Act.

## PART 20

### PUBLIC LOCAL INQUIRIES

This Part allows for the holding of public local inquiries by an inspector appointed by the Minister.

*Section 210* provides that the Minister may hold such public local inquiries as may be necessary for the purposes of any functions conferred on the Minister or in relation to the performance of the functions of a local authority. Regulations may be made to deal with procedural matters.



*Section 211* provides for the powers of the inspector conducting a public local inquiry and for the duties, immunities and privileges of witnesses.

*Section 212* provides that a local authority or other party to an inquiry may be directed by the Minister to pay costs to another party or to the Minister.

## PART 21

### CONSEQUENTIAL PROVISIONS ON FAILURE TO PERFORM FUNCTIONS

This Part provides for consequential provisions where a local authority fails to perform certain statutory duties.

*Section 213* contains definitions for the purposes of this Part.

*Section 214* provides that where a local authority fails to carry out certain statutory duties the members of that authority may by order be removed from office; appointments to other bodies also cease. The circumstances in which the Minister may make such order are set out and include situations where

- the Minister is satisfied, after the holding of a public local inquiry, that a local authority is not effectually performing its functions,
- a local authority fails to comply with a decree of court,
- a local authority fails to adopt an estimate sufficient for its expenses.

*Section 215* provides that where the members have been removed from office the Minister may by order fix a day for the holding of a new election. Those elected hold office until the next local elections. Where a new election is not fixed, an election for that authority must be held at the next local elections.

*Section 216* provides that the Minister may appoint commissioner(s) to carry on the business of the local authority during the removal period.

*Section 217* provides for the exercise of functions by commissioner(s) during the removal period.

*Section 218* relates to “linked bodies” defined as bodies whose membership by law comprises wholly or partly of local authority appointees (e.g. joint bodies, Health Boards, etc.). Where members of a local authority are removed from office, members appointed by it to a linked body also cease to hold office. The Minister may, following consultation with the relevant Minister, by order make such arrangements as may be necessary to allow the linked body to continue to operate during the removal period.

## PART 22

### MISCELLANEOUS

*Section 219* requires county and city councils to prepare and adopt an annual report on the performance of their functions. The adoption of an annual report is a reserved function. Town councils may adopt an annual report or a report for such other period as may be decided.

*Section 220* provides for periodic returns and other data related to the performance of local authority functions to be supplied when requested by the Minister.

*Section 221* provides for the determination by the Minister of “electoral divisions” (formerly DEDs) and for the alteration of their names and boundaries. These are the building blocks used to form local electoral areas.

*Section 222* provides for report by an authorised person to the Minister in relation to any function of a local authority.

*Sections 223* and *224* provide statutory recognition for local authority representative associations — currently the General Council of County Councils (GCCC); the Association of Municipal Authorities of Ireland (AMAI); and the Local Authority Members Association (LAMA).

*Section 225* provides that the maritime boundary of a local authority is the high water mark for the time being, unless it already extends further; and that reclaimed land and structures will automatically form part of the local authority area.

*Section 226* enables a local authority to accept gifts of money, land or other property, provided the gift is not inconsistent with the effective performance of its functions: details to be published in the annual report.

*Section 227* provides that a local authority may enter into such contracts and engage such consultants as may be necessary for the performance of its functions.

*Section 228* provides for the transfer, by order, of the functions of a joint burial board to a local authority.

*Section 229* provides for the transfer, by order, of the functions of a joint drainage committee to the relevant local authorities.

*Section 230* is a standard provision in relation to regulations to remove difficulties.

*Section 231* allows for the reduction of grants to a local authority in certain circumstances, subject to prior notification of the authority and consideration of any submissions made.

*Section 232* is a standard provision related to offences by bodies corporate.

*Section 233* allows 12 months for the commencement of summary proceedings and is a standard provision.

*Section 234* allows for the delegation of certain Departmental functions of the Minister to civil servants, and continues such existing delegations.

*Section 235* is a saver as regards the EU functions of the two regional assemblies established in 1999.

## PART 23

### MISCELLANEOUS AMENDMENTS

*Section 236* amends the Finance (Excise Duties) (Vehicles) Act, 1952, to exempt certain rescue vehicles from motor tax, and also to reduce motor tax for vehicles used on offshore islands.

*Section 237* amends the Housing Finance Agency Act, 1981, to enable the Housing Finance Agency provide finance to local authorities for non-housing purposes.

*Section 238* is a technical amendment to the Housing (Traveller Accommodation) Act, 1998, to ensure the local authority annual report contains details of local accommodation programmes for travellers.

*Section 239* restates section 15(d) of the Canals Act, 1986, which requires the consent of the appropriate Minister in the case of bridges, viaducts over, or tunnels under or over canals, railways or other navigable water.

*Section 240* amends the Road Traffic Act, 1961, to enable the Minister to prescribe driving licence fees by regulations.

*Section 241* amends the Abattoirs Act, 1998, to provide more flexible arrangements for local authorities in the appointment of veterinary staff.

#### *Staffing and Financial Implications*

The Bill will not give rise to major financial or staffing requirements insofar as its general implementation is concerned. The main quantifiable costs arise in the area of the proposed modest salary and related pension arrangements for councillors; and for directly elected Cathaoirleigh of counties and cities from 2004. The salary is in recognition of the members' enhanced role within the local government system. The detailed salary and pension arrangements will be determined by regulations made by the Minister, with the consent of the Minister for Finance, after the enactment of the Bill; costs will relate to salary levels.

Updated financial, audit and operational procedures which follow from the Bill will improve local authority efficiencies generally. The proposed community initiative scheme (*section 109*) if adopted locally, provides opportunity for modest additional income towards worthwhile community projects. The Local Government Commission (*Part II*) will give rise to some limited costs (mainly publication of notices, travel and subsistence) which would arise in any event.

*An Roinn Comhshaoil agus Rialtais Áitiúil,  
Bealtaine, 2000.*