



SEANAD ÉIREANN

**AN BILLE LUACHÁLA (LEASÚ) (UIMH. 2), 2012
VALUATION (AMENDMENT) (NO. 2) BILL 2012**

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

SEANAD ÉIREANN

AN BILLE LUACHÁLA (LEASÚ) (UIMH. 2), 2012 —AN TUARASCÁIL

VALUATION (AMENDMENT) (NO. 2) BILL 2012 —REPORT

*Leasuithe
Amendments*

**Government amendments are denoted by an asterisk*

1. In page 5, between lines 20 and 21, to insert the following:

“(b) in the definition “community hall” by deleting “other than a premises of a club” and substituting “other than the licensed premises, of a club”.”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

2. In page 6, between lines 21 and 22, to insert the following:

“(i) a decrease in profitability of the company located within the relevant property as evidenced by the owner or occupier of the relevant property to the Commissioner through company records (as per the Companies Acts);”.”.

—*Senators Feargal Quinn, Sean D. Barrett.*

3. In page 7, between lines 8 and 9, to insert the following:

“3. An occupier shall not be liable for any unpaid rates due to a rating authority if such rates were incurred during the occupancy of the relevant property by a previous occupier.”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

4. In page 7, between lines 20 and 21, to insert the following:

“Amendment of section 12 of Principal Act

5. Section 12 of the Principal Act is amended by substituting for subsection (5) the following:

“(5) The Tribunal shall consist of valuers who have not been involved in the matter previously.”.”.

—*Senators Feargal Quinn, Sean D. Barrett.*

5. In page 7, between lines 30 and 31, to insert the following:

“(3) The rated occupier or owner shall be entitled to seek a review of the rateable value of their property by the Commissioner of Valuation if at any time the value of their property changes.”.”.

—*Senators Feargal Quinn, Sean D. Barrett.*

*6. In page 8, line 40, after “list” to insert “or existing valuation list”.

*7. In page 13, line 39, to delete “Where section 26D(2) applies” and substitute the following:

“Without prejudice to the generality of section 26C, where section 19(1A) applies and regulations have been made under section 26B”.

8. In page 18, to delete lines 23 and 24 and substitute the following:

“(d) any interested party or company.”.”.

—*Senators Feargal Quinn, Sean D. Barrett.*

*9. In page 19, to delete lines 9 to 12 and substitute the following:

“value of the property concerned that accords—

(a) with that required to be achieved by section 19(5), or

(b) in the case of an appeal from a valuation made under section 28, with that required to be achieved by section 49.”.

*10. In page 20, line 3, to delete “received the appeal.”.” and substitute the following:

“received the appeal.

(4) For the avoidance of doubt, neither subsection (1)(a) or (2)(b)(ii) (so far as it relates to section 19(5)) nor section 19(5) shall require the Tribunal to achieve the determination of the value of a property concerned by reference to any particular method of valuation and the Tribunal may arrive at its determination by reference to whatever method of valuation or combination of methods of valuation as the Tribunal, in its discretion, may deem appropriate.”.”.

11. In page 22, between lines 37 and 38, to insert the following:

“30. Part 12 of the Principal Act is amended by inserting after section 55 the following:

“55(A). (a) The Minister may introduce a legislative mechanism for a review of rates based on changes to value of a property from any cause.

(b) The Minister may make regulations in relation to the procedure to ensure a national evaluation of rates every 5 years.”.”.

—*Senators Feargal Quinn, Sean D. Barrett.*

*12. In page 22, to delete lines 38 to 40 and in page 23, to delete lines 1 to 9 and substitute the following:

“Amendment of section 56 of Principal Act

30. Section 56 of the Principal Act is amended by substituting for subsection (1) the following:

“(1) In this section—

‘appropriate year’ means the financial year immediately following the effective date in relation to the valuation list that, for the time being, stands published in respect of the area of the rating authority concerned;

‘consumer price index number’ means the All Items Consumer Price Index Number compiled by the Central Statistics Office;

‘consumer price index number relevant to the appropriate year’ means the consumer price index number most recently published by the Central Statistics Office before the effective date mentioned in the definition of ‘appropriate year’ in this subsection;

‘consumer price index number relevant to the preceding year’ means the consumer price index number lastly published by the Central Statistics Office before the day that falls 12 months before the day on which the consumer price index number referred to in the preceding definition is published;

‘preceding year’ means the financial year that immediately precedes the financial year mentioned in the definition of ‘appropriate year’ in this subsection.”.”.

*13. In page 23, line 17, to delete “*section 35*” and substitute “*section 31*”.

*14. In page 23, line 20, after “Minister” to insert “for Public Expenditure and Reform”.

*15. In page 23, line 33, to delete “*section 35*” and substitute “*section 31*”.

*16. In page 23, line 35, after “Minister” to insert “for Public Expenditure and Reform”.

*17. In page 23, line 39, to delete “*section 35*” and substitute “*section 31*”.

*18. In page 23, line 41, after “Minister” to insert “for Public Expenditure and Reform”.

*19. In page 25, lines 8 and 9, to delete “*section 26H*” and substitute “*section 26G*”.

*20. In page 25, line 11, to delete “*section 26H*” and substitute “*section 26G*”.

*21. In page 25, line 15, to delete “*section 26H*” and substitute “*section 26G*”.

22. In page 25, between lines 19 and 20, to insert the following:

“Amendment of section 66 of Principal Act

36. Section 66(1) of the Principal Act is amended—

- (a) in paragraph (a), after “person” by inserting “by registered post”, and
- (b) by deleting paragraphs (b), (c) and (e).”.

—*Senators Feargal Quinn, Sean D. Barrett.*

*23. In page 27, to delete lines 19 to 22 and substitute the following:

“(b) in paragraph 4—

(i) by substituting for subparagraph (2) the following:

“(2) The Tribunal may, where it considers it appropriate, determine an appeal on the basis of written documentation submitted to it without holding a hearing under paragraph 5 of this Schedule.”,

and

(ii) by inserting after subparagraph (3) the following:

“(4) The Tribunal shall cause that judgement to be published by such means as it decides are appropriate (and the Internet may be the means of such publication).”.

*24. In page 28, to delete lines 12 to 22 and substitute the following:

“4A. (1) Any building or part of a building used exclusively for community sport, and otherwise than for profit and not being the premises of a club for the time being registered under the Registration of Clubs (Ireland) Act 1904.

(2) In this paragraph ‘community sport’ means sport, the principal participants in which are—

- (a) inhabitants of the locality in which the building concerned (or part of the building concerned) is situate,
- (b) inhabitants of localities neighbouring the first-mentioned locality, or
- (c) in the case of sporting activities involving teams and with the consent of those responsible in the first-mentioned locality for organising sporting activities in that locality, persons from any geographical area.

4B. (1) Any building or part of a building used exclusively for community sport and otherwise than for profit, and being the premises of a club for the time being registered under the Registration of Clubs (Ireland) Act 1904, but not including any building or part of a building—

- (a) used on a regular or occasional basis for the sale or consumption of alcohol or in conjunction with the sale or consumption of alcohol, or
 - (b) used directly or indirectly in the generation of income, not being—
 - (i) club membership fees,
 - (ii) income received from community organisations for the use of the building or part for community purposes, or
 - (iii) income received from participants in community sport for the use of the building or part for the purposes of community sport.
- (2) In this paragraph ‘community sport’ has the same meaning as it has in paragraph 4A of this Schedule but with the modification that, in the case of subparagraph (1)(b)(iii) of this paragraph, the definition of that expression in that paragraph 4A shall be read as if for ‘the principal participants in which are—’ there were substituted ‘the principal participants in which are, ordinarily—’.”.”.

*25. In page 28, line 26, to delete “and”.

*26. In page 28, to delete line 29 and substitute the following:

“ “Exchequer”, and

- (d) by inserting the following after paragraph 20 (inserted by the Health Service Executive (Financial Matters) Act 2014):

“21. Any land, building or part of a building used exclusively for the provision of early childhood care and education, and occupied by a body which is not established and the affairs of which are not conducted for the purpose of making a private profit.”.”.

*27. In page 29, to delete lines 21 to 28 and substitute the following:

“Transitional provisions (sections 42## to 44#####) – general statement as to their effect, including clarification as to their scope

40. (1) *Sections 42## to 44#####* provide that, in respect of certain cases in which steps under the Principal Act have already been taken before the relevant date, the Principal Act shall have effect in its un-amended form, but this is subject to *sections 42(2)## and 43(1)###*.
- (2) Unless the contrary is provided by *sections 42## to 44#####*, the fact that a step under the Principal Act had already been taken before the relevant date shall not in itself prevent the Principal Act, as it stands amended by this Act, from having effect in relation to the case concerned.

(3) In particular, the Principal Act, as amended by this Act, shall, on and from the relevant date, have effect in relation to any case in which, before that date—

(a) a valuation order has been made, and

(b) no copy valuation certificates (relating to properties situated in the rating authority area specified in the valuation order) have been issued under section 26 of the Principal Act.

(4) In this section “relevant date” has the meaning assigned to it by *section 41(2)(d)#*.”.

[#*This is a reference to the section proposed to be inserted by amendment No.28.*]

[##*This is a reference to the section proposed to be inserted by amendment No.29.*]

[###*This is a reference to the section proposed to be inserted by amendment No.30.*]

[####*This is a reference to the section proposed to be inserted by amendment No.31.*]

***28.** In page 29, between lines 28 and 29, to insert the following:

“Transitional provisions – interpretation of sections 42# to 44###

41. (1) Where, in any provision of *sections 42# to 44###*, it is provided that the Principal Act shall have effect in its un-amended form, the provision shall be read as meaning that the Principal Act shall have effect as it had effect immediately before the relevant date (as defined in *subsection (2)* for the purposes of those sections).

(2) In *sections 42# to 44###*—

(a) a reference to a copy valuation certificate, under a particular section of the Principal Act, is a reference to a copy of a valuation certificate, provision for the issue of which is made by that section;

(b) a reference to a word or expression that is also used in the Principal Act shall be read in the manner in which it is to be read by virtue of the Principal Act;

(c) “application for revision” means an application for there to be exercised, in relation to a property, the powers conferred by section 28 of the Principal Act;

(d) “relevant date” means the date of commencement of the provision of this Act that amends the provisions of the Principal Act that are relevant to the steps taken in the cases mentioned in *section 42#, 43## or 44###*, as the case may be.”.

[#*This is a reference to the section proposed to be inserted by amendment No.29.*]

[##*This is a reference to the section proposed to be inserted by amendment No.30.*]

[###*This is a reference to the section proposed to be inserted by amendment No.31.*]

***29.** In page 29, between lines 28 and 29, to insert the following:

“First category of transitional cases – where copy valuation certificates issued under section 26 of Principal Act

42. (1) Where—

- (a) a valuation order has been made before the relevant date, and
- (b) one or more copy valuation certificates under section 26 of the Principal Act, relating to properties situated in the rating authority area specified in the valuation order, have been issued under that section before that date,

then, on and from the relevant date, the Principal Act shall, in its un-amended form, have effect in relation to—

- (i) the copy valuation certificates, and
- (ii) the eventual valuation certificates issued under section 24 and the valuation list, published on foot of that order,

but this is subject to *subsection (2)*.

- (2) *Subsection (1)* does not apply to section 24 of the Principal Act which section, as amended by this Act, shall have effect in relation to the matters referred to in that subsection.”.

***30.** In page 29, between lines 28 and 29, to insert the following:

“Second category of transitional cases – where one or more of the steps in revision process have not been completed

- 43.** (1) Where, before the relevant date—

- (a) an application for revision has been made, and
- (b) there has not been issued to the applicant a copy valuation certificate, or a notice, under section 29 of the Principal Act,

then, on and from the relevant date, the Principal Act, as amended by this Act, shall have effect in relation to that application (including all steps and stages consequent on that application).

- (2) Where—

- (a) before the relevant date—
 - (i) an application for revision has been made, and
 - (ii) there has been issued to the applicant a copy valuation certificate, or a notice, under section 29 of the Principal Act,

and

- (b) there has not been issued, before the relevant date, a valuation certificate or notice under section 28 of the Principal Act to the applicant,

then, on and from the relevant date, the Principal Act shall, in its un-amended form, have effect in relation to that application (including all steps and stages consequent on that application).”.

*31. In page 29, between lines 28 and 29, to insert the following:

“Third category of transitional cases – where valuation or revision process completed but time for appeal has not elapsed or appeal not fully determined

44. (1) Where, before the relevant date, there has been issued to a person a valuation certificate or a notice under section 28, 33 or 40 of the Principal Act or a valuation list has been published under section 23 of that Act (and the case does not fall within *section 40(3)#*), and—

(a) before that date there has not elapsed (in relation to the relevant person’s entitlement to appeal), as appropriate—

(i) the period of 40 days specified in section 30(1) of the Principal Act,

(ii) the period of 28 days specified in section 34(2) of that Act, or

(iii) the period of 28 days specified in section 40(5) of that Act,

or

(b) before that date—

(i) the relevant person has appealed against the matter concerned to the Commissioner under section 30 of the Principal Act but the Commissioner has not determined the appeal, or

(ii) the relevant person has appealed against the matter concerned to the Tribunal under section 34 or 40 of the Principal Act but the Tribunal has not determined the appeal,

then, on and from the relevant date, the Principal Act shall, in its un-amended form, have effect as respects—

(i) the relevant person’s entitlement to appeal (and the entitlements and obligations of any other person), and

(ii) all steps and stages consequent on any such entitlement being invoked,

in relation to that valuation list, valuation certificate or notice.

(2) In this section “relevant person” means the person to whom the valuation certificate or notice referred to in *subsection (1)* has been issued or, as the case may be, any other person referred to in *section 30(1)##*.”.

[#This is a reference to the section proposed to be inserted by amendment No.27.]

[##This is a reference to the section proposed to be inserted by amendment No.11.]

*32. In page 29, to delete lines 31 to 33 and substitute the following:

“(2) The collective citation “Valuation Acts 2001 to 2014” shall include—

(a) section 16 of the Health Service Executive (Financial Matters) Act 2014, and

(b) this Act.”.

