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**An Bille Rialtais Áitiúil, 2018**  
**Local Government Bill 2018**

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*Meabhrán Mínitheach*  
*Explanatory Memorandum*

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**LOCAL GOVERNMENT BILL 2018**

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**EXPLANATORY MEMORANDUM**

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**Purpose of the Bill**

The purpose of the Local Government Bill 2018 is to provide for the transfer of part of the administrative area of Cork County Council to the administrative area of Cork City Council and for the implementation arrangements related to that, to provide for a single chief executive position in respect of both Galway City and Galway County Councils to initiate administrative integration across those two local authorities and to amend local government legislation.

**Detailed provisions of the Bill**

**PART 1**

**PRELIMINARY AND GENERAL**

*Sections 1 to 6* contain standard provisions of a general nature dealing with such matters as short title, collective citation, commencement, interpretation, the making of regulations, orders under the 1991 Local Government Act, directions of the Minister and expenses.

**PART 2**

**ALTERATION OF CITY AND COUNTY BOUNDARIES**

*Section 7 – Transfer day* requires the Minister to appoint (by order) a transfer day for the purposes of the Act.

*Section 8 – Alteration of boundary* alters the boundary by transferring the relevant area indicated on a map (a copy of which has been laid before the Houses of the Oireachtas) deposited at the offices of the Minister's Department for the purpose of the boundary alteration.

*Section 9 – Transfer of land* provides that on the transfer day appointed by the Minister all lands and associated rights, powers and privileges within the relevant area that were vested in Cork County Council transfer to the ownership of the City Council, unless both authorities agree any exception to the default provision before the transfer day.

*Section 10 – Transfer of property other than land* provides for the two local authorities to jointly designate, before the transfer day, such other County Council property as will transfer to the City Council for the purpose of the Act. If the authorities do not designate non-land property for transfer, the Minister is required to make an order designating the property.

*Section 11 – Transfer of rights and liabilities, and continuation of leases, licences and permissions* provides that all rights and liabilities of the County Council relating to the relevant area, transferring land or property or the provision of a service in respect of the relevant area stand transferred to the City Council on the transfer day. The section also provides for the continuation in force of leases, licences, wayleaves or permissions granted by the County Council in relation to transferred land or property.

*Section 12 – Provisions consequent upon transfer of assets and liabilities to city council* provides that things relating to the relevant area that were commenced before the transfer day can be completed by the City Council, instruments operative before the transfer day will continue to operate as if done by the City Council, and money, stocks, shares or securities transferred by *section 10* are to be transferred into the name of the City Council at its request. The section also enables the City Council to request, with the consent of the County Council, companies within the meaning of the Companies Act to construe references to the County Council in their memoranda or articles of association as references to the City Council.

*Section 13 – Transfer of staff* requires both Cork local authorities to prepare staff transfer plans setting out their staffing requirements consequent on the boundary alteration. It requires the two chief executives to jointly designate those members of staff of the County Council that are to transfer into the employment of the City Council, having regard to the staff transfer plans. Staff are to be given 5 months' notice of a proposed designation and different staff transfer days may be specified for different members of staff or different service operation areas. Transferred staff retain their conditions of service and their previous service with the County Council will be reckonable for the purposes of employment legislation.

*Section 14 – Preparation of maps* requires the boundary surveyor to prepare four copies of maps of (a) the deposited map of the relevant area, (b) the altered Cork City Council administrative area and (c) the altered Cork County Council administrative area, and deposit a sealed copy of each map at the principal offices of the surveyor, the Minister, the City Council and the County Council. The local authorities are to publish copies of the maps on their websites and are to make copies available for inspection at their offices.

*Section 15 – Cork Boundary Alteration Implementation Oversight Committee* establishes the Oversight Committee that will oversee implementation of the boundary alteration. It will consist of a chair and two members to be appointed by the Minister and the Minister will appoint the day on which the Committee shall be dissolved. Specific functions are assigned to the Committee in different sections of the Bill.

*Section 16 – Implementation plan* deals with a particular function of the Oversight Committee involving the making of an implementation plan that specifies the measures the two local authorities should take to facilitate the effective and efficient implementation of the boundary alteration. The section lists a number of items that may be specified in the plan and the plan is required to specify the principles and methods that shall apply in relation to the calculation of loss of income for the purposes of making a financial settlement and any contributions to be paid in accordance with, or the valuation of any property for the purposes of, a financial settlement. The plan may contain guidelines and recommendations on making arrangements in accordance with the Act or the performance of functions in respect of the relevant area.

*Section 17 – Financial settlement* requires the two local authorities to make a financial settlement arrangement, having consulted with the Oversight Committee, within 6 months of the commencement of the section and before the transfer day. If they fail to do so, the Minister will make the financial settlement arrangement in consultation with the Oversight Committee. A financial settlement is to provide for the determination of the financial loss likely to be incurred by either authority by virtue of the Act, taking into account incurred liabilities, accruing income, reduction in liabilities, loss of income, cost of purchased land being transferred and any profit accruing from the subsequent sale of transferred land. It is also to provide for the determination of the annual financial loss likely to be incurred on account of these matters, the manner of calculating such loss, the payment of annual contributions by the City Council to the County Council to offset such loss or in respect of transferred land subsequently sold, including due dates for payment. The settlement is to provide for the payment of contributions by the County Council to the City Council in respect of the City Council performing functions in the relevant area during 2019 after the transfer day. For 2020 onwards, the contribution payable by one local authority to the other is to be determined under the settlement before 31 August of the previous year. Contributions not paid by the due date for payment will be recoverable in court as a simple contract debt. Disputes that arise in relation to the financial settlement are to be decided by the Oversight Committee, which will prepare and submit a report in relation to the implementation of a financial settlement at the Minister's request. The two local authorities are to jointly review the operation of a financial settlement 3 years and 10 years after it is made, following which they will notify the Minister either that no amendment to the financial settlement is required or of a proposal to amend the financial settlement following consultation with the Oversight Committee. If they do neither, the Minister may make the amending financial settlement, having consulted the Committee. There is also provision for amending a financial settlement outside the formal review periods where the Cork local authorities wish to do so.

*Section 18 – Arrangements for performance of certain functions* requires the two local authorities to jointly make an arrangement, before the transfer day and following consultation with the Oversight Committee, for the performance of specified City Council functions within the relevant area. Such arrangements are to be in accordance with the implementation plan and have regard to any guidelines or recommendations of the Committee. If they fail to do so, the Minister may make such an arrangement after consulting the Committee. Arrangements may be amended by the authorities but not revoked without the Minister's consent and disputes arising in relation to them are to be determined by the Oversight Committee.

*Section 19 – Compliance with Act* requires the Cork local authorities to co-operate with each other in the performance of their functions for the purposes of the Act, to exchange information and consult each other. The chief executives are required to do all such acts as are required for the effective and orderly operation of the Act and the staff are to perform their functions in a manner to enable compliance with the section. Until the end of 2020, the chief executives are to submit monthly reports to the Oversight Committee (and a copy to the elected members) of the measures adopted to ensure compliance with the Act. Having considered these reports, the Committee may issue a notice to the chief executives specifying measures it considers need to be adopted and may also prepare and submit reports to the Minister to the same effect. The chief executives are also required to provide the Minister with any information s/he requests for the purpose of performing his/her functions under the Act.

**PART 3**  
**OTHER CONSEQUENTIAL PROVISIONS**

*Section 20 – Data sharing by Cork local authorities* requires Cork County Council to provide to Cork City Council the information, including personal information, that the City Council may require for the purpose of performing functions in relation to the relevant area.

*Section 21 – Rating area for local financial year 2019* provides that the relevant area remains part of the rating area of the County Council until 31 December 2019 and the County Council's budget and the municipal districts' schedules of works for 2019 continue to apply for the rest of the year. The City Council will, however, during 2019 set the municipal rate and decide any variation in the local property tax rate for 2020.

*Section 22 – Elections to Cork local authorities in 2019* provides for the registers of electors to be used by the two Cork authorities in 2019 to be based on the boundary alteration that will take place soon after the date of the local elections, and *Section 23 – Polling districts and polling places* requires the two local authorities to make interim polling district arrangements to cater for the new administrative areas.

*Section 24 – Development plans and local area plans relating to relevant area* provides that the County Council development plan and relevant local area plans will continue to apply to the relevant area after the transfer day until such time as Cork City Council makes replacement plans or variations.

*Section 25 – Planning applications and development contribution schemes* provides that the County Council will complete any planning enforcement proceedings commenced before the transfer day and conclude any planning permission or planning application cases already underway at that time, while the City Council will be responsible for new enforcement proceedings that arise in relation to planning applications and decisions made before the transfer day. The City Council's development contribution schemes will apply to the relevant area and the transferred development contributions will continue to be ring-fenced for infrastructure and facilities in the relevant area.

*Section 26 – Continuation of instruments applicable to relevant area* provides that rules, regulations and by-laws already applicable to the relevant area will continue to apply after the transfer day for one year or such further period as is specified by the City Council. Cork City Council may also resolve to extend any of its by-laws, rules and regulations to the relevant area.

*Section 27 – Saver for certain acts done before transfer day* is a general saver to the effect that acts and instruments done or made by the County Council before the transfer day will continue to have effect in the relevant area as if done or made by the City Council.

*Section 28 – Outstanding charges* provides that outstanding sums due to Cork County Council in respect of the period up to end 2019, in respect of the main revenue collection areas of rates, housing rents and housing loan repayments, will continue to be due to and collectible by the County Council.

## PART 4

### AMENDMENT OF ENACTMENTS

*Section 29 – Amendment of Principal Act* contains some amendments to the Local Government Act 2001 consequential on the alteration of the Cork boundary. *Section 30 – Amendment of Local Government Act 1991* makes a number of amendments to Part V of the Local Government Act 1991 to provide that future boundary alterations can be effected by Ministerial order only where the local authorities concerned are in agreement. *Section 31 – Amendment of section 3 of Valuation Act 2001* provides that the transfer of properties into the Cork City Council area under this Act will not constitute a material change of circumstances for the purposes of the Valuation Acts, which means that the City Council will not be able to request a revaluation of the transferred properties on the basis of the boundary alteration.

## PART 5

### MISCELLANEOUS

*Section 32 – Chief executive of Galway local authorities* amends the Local Government Act 2001 by inserting a section to provide for a single chief executive with dual responsibility for Galway City Council and Galway County Council.

The SCHEDULE, which is applied to the Oversight Committee by *section 15*, contains the usual appointment, resignation, disqualification from office, payment of expenses, meetings and quorum, etc. provisions applicable to statutory bodies.

*An Roinn Tithíochta, Pleanála agus Rialtais Áitiúil,*  
*Iúil, 2018.*