



Bill Digest

Local Government (Rates) Bill 2018

Bill No. 96 of 2018

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Abstract

The purpose of the *Local Government (Rates) Bill 2018* is to modernise and consolidate commercial rates legislation in Ireland. It will restate the power of local authorities to introduce and collect a charge (rate) that will be levied on each relevant property. This Bill also provides for the introduction of targeted rate alleviation (waiver) schemes to support specific policy objectives, provides the Minister with the power to limit the annual rate on valuation determined by the local authority, establishes a database of relevant properties, and places the onus on the seller to inform the local authority of a transfer.

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Glossary of terms

Table 1: Glossary of terms

Term	Meaning
Annual rate on valuation (ARV)	The rate determined by elected members of a local authority to provide for the levying and collection of rates by local authorities in any given year.
Rateable valuation	The value of a commercial property determined independently by the Commissioner of Valuation.
Local authority rates	Rates are a property charge levied by local authorities on the occupiers of commercial and industrial property. It is calculated by multiplying the ARV by the rateable valuation.
Liable person	The occupier of the relevant property on the due date specified, or, if the property is unoccupied on that date, the owner of the property.
Local financial year	The calendar year as per section 96 of the <i>Local Government Act 2001</i> .
Occupier	Every person in the immediate use or enjoyment of the property as per the Valuation Act 2001 .
Owner	The person that is entitled to receive the rent of the property or, where the property is not let, would be entitled if it were to be let.
Rating authority	Has the same meaning as it has in the Valuation Act 2001 : a) the county council; b) a city council; c) a city and county council; or d) Inland Fisheries Ireland
Rating authority area	The functioning area of a rating authority with respect to its powers to make rates.
Ratepayer	The person required to pay rates on a relevant property.
Relevant property	Relevant properties are defined within Schedule 3 of the <i>Valuation Act 2001</i> and includes buildings, railways, harbours, etc.
Municipal district	A second level local government area in Ireland.
Reserved function	A reserved function of a local authority is one which can only be performed by the elected members (e.g. setting rates and the making of a development plan).

Summary

The [Local Government \(Rates\) Bill 2018](#) proposes to modernise and consolidate the existing legislative framework governing commercial rates in Ireland.

The Minister for Housing, Planning and Local Government, Eoghan Murphy T.D. has emphasised the importance of rates income to local authorities for the funding of roads, public lighting and open spaces, etc.¹ The Minister went on to say however that:

*“the legislative basis for the levying of rates is spread over a number of enactments, some dating back to the 19th century. Many provisions are outdated and not suitable for business trends in the modern era”.*²

It was therefore necessary to draft legislation, the purpose of which is to modernise and consolidate previous legislation.

A history of commercial rates in Ireland is provided on the website of [Tailte Éireann](#).³

Overview of the Valuation Office and commercial rates system

The Valuation Office is the State property valuation agency. The Valuation Office has responsibility for implementing and maintaining the valuation system – this involves the valuation of commercial and industrial property for commercial rates purposes.

The core function of the Valuation Office is the establishment and maintenance of a uniform and equitable valuation base on which commercial rates may be levied by local authorities, in accordance with the *Valuation Acts 2001 to 2015*.⁴ These valuations are integral to the commercial rating system in Ireland and formed the basis for levying approximately €1.48 billion of local government funding in 2017. Commercial rates are the single biggest income source for local authorities, comprising 35 per cent of all local authority income in 2017.

It is the value assigned to a property by the Valuation Office multiplied by the annual rate on valuation, set by the local authority at its budgetary meeting each year, which determines the rates liable from individual occupiers. [See Table 2 overleaf].

¹ Written Answers (11 September 2017) “Commercial Rates”. Available [here](#).

² Ibid.

³ [Tailte Éireann](#) is the name of the Government body to be formed from the merger of the Property Registration Authority, Ordnance Survey Ireland and the Valuation Office. See L&RS Note at http://vhlms-a01/AWData/Library2/LRS_Note_Tailte_ireann_-_Final_for_Pub_142805.pdf

⁴ Information in this paragraph is adapted or reproduced *verbatim* from the Valuation Office (2018) *Valuation Office Annual Report 2017*. Available at http://www.valoff.ie/en/Publications/Annual_Report_2017.pdf

Table 2: Example of calculation of rates liability

Valuation (Net Annual Value) assessed by Valuation Office	Multiplier (ARV) set by Local Authority	Rates Liability
€10,000	0.25	€2,500

Source: Commissioner of Valuation (2018) *Comptroller & Auditor General Report 2016 Chapter 11: The National Property Revaluation Programme Appropriation Accounts 2016 Vote 16: Valuation Office, Briefing Material for Committee of Public Accounts from the Commissioner of Valuation in respect of meeting on 25th January 2018.* Available at <http://www.oireachtas.ie/parliament/media/committees/pac/correspondence/2018meetings/meeting69-25012018/PAC32-R-1030-A-Briefing-material-from-Valuation-Office.pdf>

Further information on commercial rates in 2017 is provided in the [Local Authority Budgets 2017](#) report published by the Department of Housing, Planning and Local Government (including on pages 18-19).

What does the Bill propose?

Among the measures included in the Bill are provisions to allow local authorities to:

- Restate a charge (rate) to be levied on each relevant property of which the current occupier or owner of the property will be liable;
- Form a basis for greater enforcement powers by local authorities in their collection of rates through the appointment of an authorised officer with the necessary powers to carry out certain duties under the proposed Act;
- Provide for the establishment and maintenance of a database of information (to replace the rates book) to be known as the Database of Relevant Properties by the local authority concerned;
- Provide for interest to be applied on any overdue rates (this is a new provision not contained in previous legislation);
- Introduce targeted rate alleviation (waiver) schemes to support specific policy objectives including local economic and community plans, objectives contained in Development Plans and Local Area Plans, and national planning policies;
- Provides for the abatement of rates for vacant properties; and
- Provides that the onus is on the seller of a property to inform the local authority of the transfer.

While the [Explanatory Memorandum](#) for the Bill states that the Bill will “form the basis for greater enforcement powers by local authorities in their collection of rates”, the Bill does not contain any specific enforcement provisions other than those relating to the appointment of authorised officers under section 15.

Table of provisions

The table below summarises the provisions of the [Local Government \(Rates\) Bill 2018](#). For a further explanation of the key sections of the Bill, see the Principal Provisions section of this Bill Digest.

Once enacted the provisions of this Bill will come into operation on such day or days as the Minister may order.

Table 3: Summary of the Bill's provisions

Section	Title	Effect
1.	Interpretation	Standard provision defining the meaning of various terms used in the Bill. See Glossary for more information.
2.	Construction of references to annual rate on valuation	Provides clarification that any reference to the annual rate on valuation contained in any statute or statutory instrument must be read as a reference to the annual rate on valuation as provided for in section 3.
3.	Annual rate on valuation	This section provides that a local authority must at a local authority budget meeting determine, by resolution, the annual rate on valuation (ARV) to be applied in the calculation of commercial rates under section 4. The ARV must be determined in accordance with the local authority budget adopted.
4.	Rate to be levied on occupiers of relevant property	Section 4 provides that each year rating authorities must impose and collect rates levied in respect of commercial and industrial properties from the occupiers (or owners if unoccupied) of such properties. This section also provides the basis for calculating the applicable rate by multiplying the rateable valuation of the relevant property determined by the Commissioner of Valuation by the annual rate on valuation (ARV) adopted by the local authority. Notice of the rate levied must be given to the person liable.
5.	Power to limit annual rate on valuation	Provides that the Minister for Housing, Planning and Local Government may give a direction to a local authority in respect of the amount of annual rate on valuation (ARV) to be determined by it. A local authority must comply with any such direction. Where such a direction is not complied with, any determination made by the rating authority, will be substituted by the amount set out in the direction. The section also sets out the duties of the chief executive of a local authority where the Minister has issued a direction limiting the annual rate on valuation to be determined.
6.	Discharge of rates by set-off	This section provides that local authorities can offset any rates owed to them by a person against an amount that the local authority owes to that person, either in part or in full.
7.	Collection, care and management of rates	This section provides that is a function of the local authority to manage and collect rates and any interest due under the Act.

Section	Title	Effect
8.	Provision for abatement of rates in respect of vacant properties	<p>Section 8 provides for the abatement of rates levied on a vacant property, subject to any regulations made by the Minister. Making a scheme of abatement is a reserved function and the scheme must be approved at a local authority budget meeting. The scheme will apply for the entire of the local financial year. The Minister may make regulations including in respect of the maximum amount of abatement that may be granted and any rateable valuation thresholds. Where a local authority scheme provides for a lower rate of abatement than the maximum prescribed by regulations section 8 sets out where any surplus income must be directed.</p> <p>The local authority must publish any scheme on its website. Liable persons may apply to the local authority for an abatement and the local authority must decide on such application within 3 months.</p>
9.	Database of Relevant Properties	<p>Provides that local authorities must establish and maintain a 'Database of Relevant Properties'. This section also provides local authorities with the power to delegate this function to the Local Government Management Agency. However, the delegated function continues to remain a function of the local authority. The information to be contained in the Register includes:</p> <ul style="list-style-type: none"> • The name of the occupier; • The address of the property; • The nature of the business undertaken. <p>The local authority must pay the fees and expenses of the LGMA in respect of the delegated function.</p>
10.	Duty to inform rating authority of transfer of relevant property	<p>This section places an obligation on the owners of relevant properties to notify the rating authority where the property is transferred from one person to another person. It also places a duty on a person transferring the property (i.e. the owner or occupier) to discharge all rates for which he/she is liable on the transfer date. The owner of a property will be liable in respect of the outstanding rates of a previous occupier (up to a maximum of 2 years rates) where the owner did not notify the rating authority of the transfer.</p>
11.	Interest on overdue rates	<p>Section 11 provides rating authorities with the power to apply interest to unpaid rates and sets out the formula for calculating any such interest.</p>
12.	Payment of rates on sale of relevant property	<p>Section 12 provides that the owner of a relevant property, prior to the sale of that property, must pay any rates including interest on unpaid rates owing to the local authority. The local authority must provide the owner with confirmation of any unpaid rates. Sale in this section includes the transfer of property for no or little consideration or property compulsorily acquired.</p>
13.	Unpaid rates to be a charge on property	<p>Section 13 provides that any unpaid rates and interest accrued thereon will be and will remain indefinitely a charge on the property to which it relates. This differs</p>

Section	Title	Effect
		from the usual 12 year recovery period provided for in the Statute of Limitations Act 1957 . This provision does not affect the liability of any previous occupier for outstanding rates or the right of a rating authority to pursue said occupier.
14.	Scheme for waiver of rates	<p>Section 14 provides that local authorities may introduce a scheme to provide a waiver for all or a portion of the rates due in order to support the following:</p> <ul style="list-style-type: none"> • The implementation of the National Spatial Strategy; • The implementation of a development plan; • The implementation of a local area plan; • The implementation of a local economic and community plan. <p>The making of such a scheme will be a reserved function and the local authority can not make a scheme until the adjustment period ceases in respect of its administrative area. The Minister may make regulations specifying the maximum percentage of rates that may be waived, the period of such waiver and any other matter necessary or expedient.</p>
15.	Authorised officers	This section provides for the appointment of authorised officers by the chief executive of a local authority.
16.	Powers of authorised officers	<p>Section 16 provides that for the purposes of assessing an application for an abatement of rates, an authorised officers has the power to enter and inspect a relevant property; inspect books, records and documents; remove books, records and documents; and require the owner or occupier to give such information and assistance as the authorised office reasonably requires. This section also makes it an offence for a person to obstruct or interfere or to fail or refuse to comply with an authorised officer or member of the Garda Síochána carrying out the duties under this section. A person found guilty of an offence may be liable to a class A fine (i.e. up to €5,000) and/or up to 6 months imprisonment. An authorised officer may not enter a dwelling unless with the consent of the occupier or a warrant issued by the District Court.</p>
17.	Regulations	This section provides the Minister with the power to make regulations and for such regulations to be laid before the Houses.
18.	Expenses	Provides for expenses incurred by the Minister in the administration of the Act to be paid out of monies provided by the Oireachtas.
19.	Amendment of <i>Local Government (Financial Provisions) Act 1978</i>	Amends section 10 of the Local Government (Financial Provisions) Act 1978 to refer to the determination of the annual rate on valuation proposed under section 3 of the Bill.
20.	Amendment of <i>Valuation Act 2001</i>	Amends section 56 of the Valuation Act 2001 to refer to the determination of the annual rate on valuation proposed under section 3 of the Bill.
21.	Amendment of <i>Act of 2001</i>	Amends section 211B of the Local Government Act 2001 to refer to the determination of the annual rate on valuation proposed under section 3 of the Bill.

Section	Title	Effect
22.	Amendment of <i>Act of 2014</i>	Amends section 29 and Schedule 3 of the Local Government Reform Act 2014 to refer to the determination of the annual rate on valuation proposed under section 3 of the Bill.
23.	Repeals and revocations	Section 23 provides for the repeal of various provisions of commercial rates legislation to be replaced by the new provisions proposed in the Bill.
24.	Short title, commencement, collective citation and construction	Standard provision setting out the short title, collective citation and construction; and providing for commencement by Ministerial order.

Introduction

The [Local Government \(Rates\) Bill 2018](#) (hereafter ‘the Bill’) was published on 07 August 2018. Pre-Legislative Scrutiny (PLS) for the General Scheme of the Bill was waived by the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach on 14 November 2017.

According to the [Explanatory Memorandum](#), its purpose is:

“...to modernise the legislation governing commercial rates, improve the rates collection powers of local authorities, and form a basis for greater enforcement powers by local authorities in their collection of rates. The Bill provides for interest to be applied where rates are unpaid; and the application of minimum charges for vacant commercial premises. The Bill also introduces mechanisms to allow local authorities to introduce targeted rates alleviation schemes. The rates alleviation (waiver) schemes are provided for in order to support the implementation of policy objectives, including: local economic and community plans; objectives contained in Development Plans and Local Area Plans; and national planning policies. The approval of these schemes would be a function of the elected members of the local authority and the cost of introducing an alleviation scheme would be met by the local authority, either through increasing income or reducing expenditure.”

In September 2017, the Minister for Housing, Planning and Local Government, Eoghan Murphy T.D. highlighted the importance of commercial rates income to local authorities for the funding of roads, public lighting and open spaces, and the need to draft legislation to modernise and consolidate previous legislation.⁵

The Minister went on to say:

“Local authorities are under a statutory obligation to levy rates on any property used for commercial purposes in accordance with the details entered in the valuation lists prepared by the independent Commissioner of Valuation pursuant to the Valuation Acts 2001 to 2015. The levying and collection of rates are matters for each individual local authority... The legislative basis for the levying of rates is spread over a number of enactments, some dating back to the 19th century. Many of the provisions are outdated and not suitable for business trends in the modern era. My Department has developed legislative proposals to modernise and consolidate the legislation governing commercial rates. Among the measures included in the General Scheme of the Bill are provisions to allow a local authority to introduce rates alleviation schemes to support specific national and local policy objectives.”⁶

Principal themes

In exploring the Bill, the subsequent sections of this Digest will discuss the following:

- Policy context and background; and
- Principal provisions.

⁵ Written Answers (11 September 2017) “Commercial Rates”. Available [here](#).

⁶ Ibid.

Background to commercial rates in Ireland

Rates are a charge on the occupation of commercial and industrial property. Local authorities are obliged by law to levy rates on commercial property. The levying and collection of rates are matters for each individual local authority.⁷ As previously noted, commercial rates are a major element in funding the general provision of services by local authorities.

History of commercial rates in Ireland

The commercial rates system in Ireland is the remaining part of a rating system that was introduced in the early 19th century. The other parts were agricultural rates and domestic rates.

A history of commercial rates is provided on the website of [Tailte Éireann](#)⁸, which explains that:

“A system of taxes or rates was first formalised in legislation by Queen Elizabeth 1 in 1601. A royal decree was issued to the effect that all persons should pay a tax; this was later altered to a property tax. King George IV initiated the first Government Valuation of Ireland Act in 1826 and Sir Richard Griffith was appointed to be the first Commissioner of Valuation to oversee the implementation of the Act in 1830.

In 1838, when the Poor Law Act was enacted, it was the first Act of Parliament to set as the base for poor law relief, the valuation of every tenement or building in the country. The basis of valuation was to be net annual value. Changes in procedures then followed through the Poor Law Acts of 1839, 43, 47, 48, 49 culminating in the dawn of a new era with the introduction of the Valuation of Ireland Act, 1852. This legislation provided for the first general valuation of all tenements in Ireland, a task which was undertaken and completed in 1864 by Commissioner Griffith. This valuation has been known ever since as the “Primary Valuation of Ireland” as it was the first time that each tenement was valued separately. The unit of valuation under the 1826 legislation was the townland.

The Valuation Act 1852 acted as the core legislation for well over a century. In 1986, a new Valuation Act made provision for valuing certain types of machinery or industrial plant and the legislation also made rateable valuations relative in a modern context. Further refinements to the system were introduced by the Valuation Act, 1988 which provided primarily for the “global” valuation of public utility undertakings and the setting up of the Valuation Tribunal, which is an independent body to hear appeals against decisions of the Commissioner of Valuation. This body took over the appellate function previously carried out by the Circuit Court.

A comprehensive statute was introduced in 2001, which modernised the valuation code in general and repealed all previous Valuation Acts which had been in place since the middle of the 19th century. The new Valuation Act 2001 provided for a streamlining of the system of valuation and appeals and most notably provided for the revaluation of all properties in Ireland. As a consequence, the national revaluation programme has been concluded in the three county council areas in Dublin, i.e. South Dublin, Fingal and Dun Laoghaire-Rathdown, in Dublin City Council, Waterford City and County Council and in Limerick City and County Council. Since November 2015, revaluation of Kildare, Offaly, Westmeath, Longford, Leitrim and Sligo County Councils has been underway and the revaluation of Roscommon County Council commenced in January 2016. A series of amendments to the Valuation Act 2001

⁷ Department of Housing, Planning and Local Government webpage, *Local Government Finance*. Available at <http://www.housing.gov.ie/node/18>

⁸ [Tailte Éireann](#) is the name of the Government body to be formed from the merger of the Property Registration Authority, Ordnance Survey Ireland and the Valuation Office.

were enacted through the Valuation (Amendment) Act 2015 which came into force on 8th June 2015. An administrative “Working Consolidation” of the current valuation legislation is available [here](#)”.⁹

Overview of the Valuation Office and commercial rates system

The Valuation Office is the State property valuation agency. The Valuation Office has responsibility for implementing and maintaining the valuation system – this involves the valuation of commercial and industrial property for commercial rates purposes.

The core function of the Valuation Office is the establishment and maintenance of a uniform and equitable valuation base on which commercial rates may be levied by local authorities, in accordance with the *Valuation Acts 2001 to 2015*.¹⁰ These valuations are integral to the commercial rating system in Ireland and form the basis for levying approximately €1.48 billion of local government funding in 2017. Commercial rates are the single biggest income source for local authorities, comprising 35 per cent of all local authority income in 2017.

It is the value assigned to a property by the Valuation Office multiplied by the annual rate on valuation (ARV), set by the local authority at its budgetary meeting each year, which determines the rates amount due from individual occupiers.

As explained on the Department of Housing, Planning and Local Government website:

“A local authority’s annual budget represents current expenditure (sometimes referred to as revenue expenditure) which covers the day-to-day running of the local authority (including staff salaries, housing maintenance, pensions, operational costs etc.). The annual budget is adopted by the elected council at its budget meeting. [...]”

Current expenditure is funded from a variety of sources [...] although the specific contribution of income from the different sources may vary between authorities [...]

Local authorities are under a statutory obligation to levy rates on any property used for commercial purposes, in accordance with the details entered in the valuation lists prepared by the independent Commissioner of Valuation under the Valuation Act 2001.

The levying and collection of rates are matters for each individual local authority. The Annual Rate on Valuation (ARV), which is applied to the valuation of each property, determined by the Valuation Office, to obtain the amount payable in rates, is decided by the elected members of each local authority in their annual budget and its determination is a reserved function of a local authority” [see Table 4 overleaf].¹¹

⁹ Tailte Éireann webpage, *A History of the Valuation Office*. Available at <http://www.tailte.ie/history-of-the-valuation-office/>

¹⁰ Information in this paragraph is adapted or reproduced *verbatim* from the Valuation Office (2018) *Valuation Office Annual Report 2017*. Available at http://www.valoff.ie/en/Publications/Annual_Report_2017.pdf

¹¹ Department of Housing, Planning and Local Government webpage, *Local Government Finance*. Available at <http://www.housing.gov.ie/node/18>

Table 4: Example of calculation of rates liability

Valuation (Net Annual Value) assessed by Valuation Office	Multiplier (ARV) set by Local Authority	Rates Liability
€10,000	0.25	€2,500

Source: Commissioner of Valuation (2018) *Comptroller & Auditor General Report 2016 Chapter 11: The National Property Revaluation Programme Appropriation Accounts 2016 Vote 16: Valuation Office, Briefing Material for Committee of Public Accounts from the Commissioner of Valuation in respect of meeting on 25th January 2018*. Available at <http://www.oireachtas.ie/parliament/media/committees/pac/correspondence/2018meetings/meeting69-25012018/PAC32-R-1030-A-Briefing-material-from-Valuation-Office.pdf>

In addition, the Valuation Office also provides a valuation service to various Government Departments, State agencies and other public bodies. It carries out open market capital and rental valuations including valuations for rent reviews for these customers. Open market valuations are provided for properties being transferred between Government Departments, State bodies and other authorities and agencies, both local and national.¹² Local authorities are obliged by law to levy rates on commercial property which has been entered in the valuation list by the independent Commissioner of Valuation.¹³

Text Box 1: Role of the Commissioner of Valuation

The Commissioner of Valuation, who is also Chief Boundary Surveyor and Accounting Officer for the Valuation Office (Vote 16 of the Appropriation Accounts), has responsibility for the overall management of the Valuation Office including management of staff, delivery of the remit of the Office including provision of up to date valuations of commercial and industrial properties to ratepayers and to rating authorities, delivery of the national revaluation programme, delivery of a programme for revision of existing valuations, provision of a valuation consultancy service to Government organisations and, as Chief Boundary Surveyor, advising on the fixing of maritime and statutory boundaries.

The Commissioner of Valuation is also Chief Executive (Designate) of Tailte Éireann, the new organisation being established from the merger of the Property Registration Authority (PRA), Valuation Office (VO) and Ordnance Survey Ireland (OSi).

Source: Valuation Office (2018) *Valuation Office Annual Report 2017*. Available at http://www.valoff.ie/en/Publications/Annual_Report_2017.pdf

The Minister for Housing, Planning and Local Government, Eoghan Murphy T.D. recently explained (March 2018) changes in the commercial rates valuation process, provided for under the [*Local Government Reform Act 2014*](#):

“The *Local Government Reform Act 2014* provided for rates harmonisation to cater for differences between Annual Rates on Valuation (ARVs) of towns and counties. The new structures of local government, including the establishment of municipal districts, provided an

¹² Information in this paragraph is adapted or reproduced *verbatim* from the Valuation Office (2018) *Valuation Office Annual Report 2017*. Available at http://www.valoff.ie/en/Publications/Annual_Report_2017.pdf

¹³ Department of Housing, Planning and Local Government webpage, *Local Government Finance*. Available at <http://www.housing.gov.ie/node/18>

opportunity to achieve a more coherent approach to rates and charges on a county-wide basis. In 2015, local authorities began the process of harmonisation to cater for differences between ARVs of former towns and of counties. Increases or decreases in rates liability due to harmonisation are being phased in since 2015 and over a period of up to 10 years. An adjustment mechanism is provided to phase in increases and decreases to be known as the Base Year Adjustment (BYA). The adoption of the ARV and BYA in respect of each financial year are reserved functions of local authorities.”¹⁴

In general, the occupier of the property pays the rates. If the property is empty the owner is usually liable for the rates – though under certain circumstances councils may refund rates on vacant property.¹⁵ The *Valuation Act 2001* provides that all commercial industrial property:

“... are rateable unless expressly exempted under Schedule 4 of the Act. Such exempt properties would principally include domestic premises, agricultural land and also include buildings used for public worship, education and health care provided on a not-for-profit basis”.¹⁶

National Revaluation Programme

The Valuation Office has been conducting a significant programme of revision of existing valuations over recent years. Conducting a revaluation involves “an extensive, evidence-based statutory process principally governed by the procedures and timelines set out in the *Valuation Acts 2001 to 2015* with the express objective of achieving both “Correctness” and “Equity & Uniformity” for ratepayers”.¹⁷

The National Revaluation Programme is the first general revaluation of all commercial and industrial property in the State since the middle of the 19th century. Phase 1 resulted in the revaluation of all rateable properties in the Dublin, Waterford and Limerick local authority areas. In September 2017 revaluation was completed for properties in Carlow, Kildare, Kilkenny, Leitrim, Longford, Offaly, Roscommon, Sligo and Westmeath and a revaluation of South Dublin bringing phase 2 of the programme to a close.¹⁸

¹⁴ *Written Answers – Commercial Rates Valuation Process*. Minister of State at the Department of Housing, Planning and Local Government (Deputy John Paul Phelan). 8 March 2018. Available at [http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/WebAttachments.nsf/\(\\$vLookupByConstructedKey\)/dail-20180308/\\$File/Daily%20Book%20Writtens%20Unrevised.pdf?openelement](http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/WebAttachments.nsf/($vLookupByConstructedKey)/dail-20180308/$File/Daily%20Book%20Writtens%20Unrevised.pdf?openelement)

¹⁵ For more information see *Written Answers – Commercial Rates*. Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy). 13 December 2017. Available at <https://www.kildarestreet.com/wrns/?id=2017-12-13a.633#g635.r>

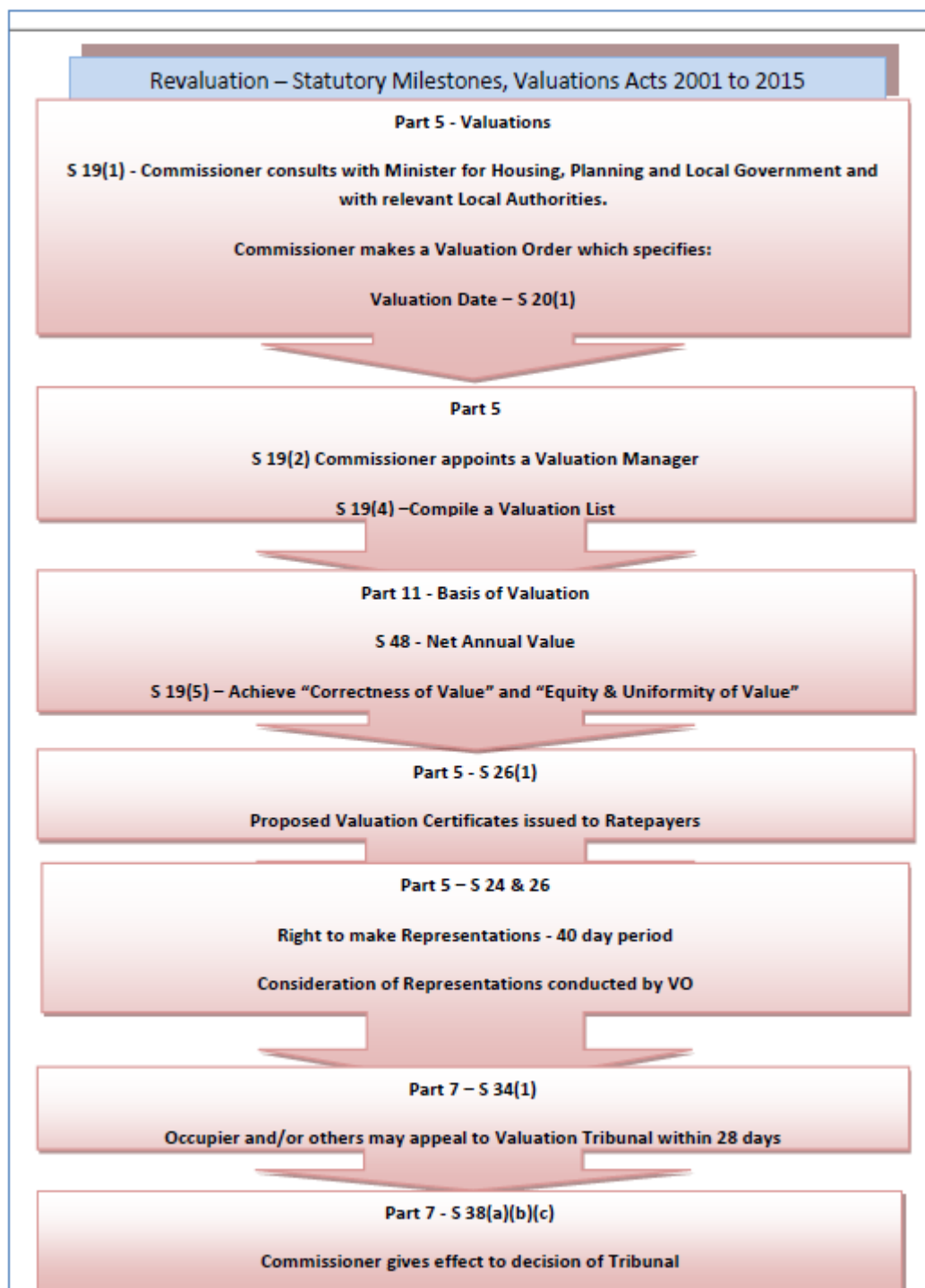
¹⁶ Commissioner of Valuation (2018) *Comptroller & Auditor General Report 2016 Chapter 11: The National Property Revaluation Programme Appropriation Accounts 2016 Vote 16: Valuation Office, Briefing Material for Committee of Public Accounts from the Commissioner of Valuation in respect of meeting on 25th January 2018*. Available at <http://www.oireachtas.ie/parliament/media/committees/pac/correspondence/2018meetings/meeting69-25012018/PAC32-R-1030-A-Briefing-material-from-Valuation-Office.pdf>

¹⁷ Commissioner of Valuation (2018) *Comptroller & Auditor General Report 2016 Chapter 11: The National Property Revaluation Programme Appropriation Accounts 2016 Vote 16: Valuation Office, Briefing Material for Committee of Public Accounts from the Commissioner of Valuation in respect of meeting on 25th January 2018*. Available at <http://www.oireachtas.ie/parliament/media/committees/pac/correspondence/2018meetings/meeting69-25012018/PAC32-R-1030-A-Briefing-material-from-Valuation-Office.pdf>

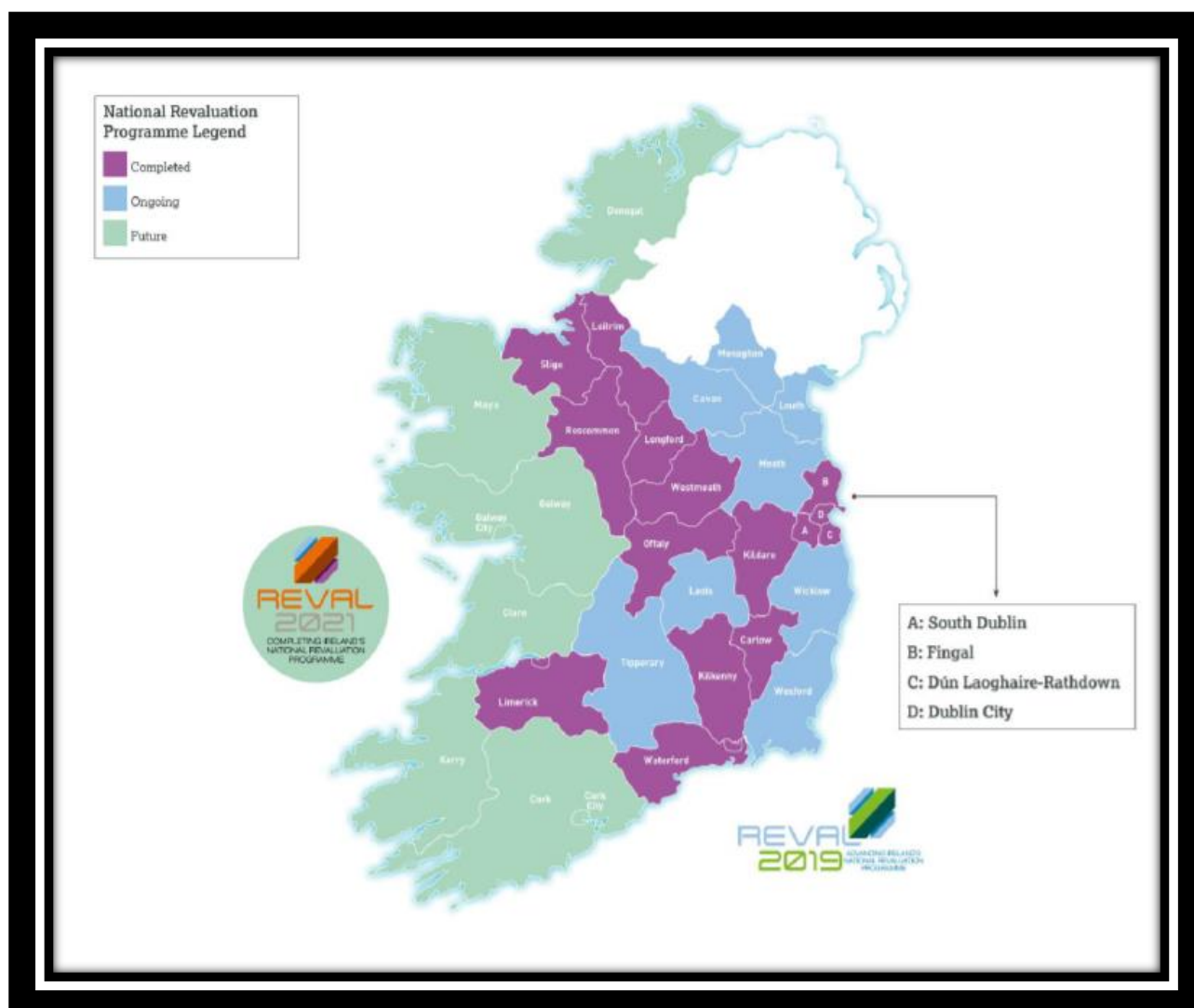
¹⁸ Valuation Office webpage, *Reval 2019: Next Phase of National Revaluation Programme Now Under Way*. Available at http://www.valoff.ie/en/Latest_News/Next_Phase_of_National_Revaluation_Programme_Now_Under_Way.html

The main processes and statutory milestones are set out in Figure 1 below and Figure 2 overleaf summarises the up-to-date position as of January 2018.

Figure 1: Main steps and statutory processes associated with a revaluation



Source: Commissioner of Valuation (2018) *Comptroller & Auditor General Report 2016 Chapter 11: The National Property Revaluation Programme Appropriation Accounts 2016 Vote 16: Valuation Office, Briefing Material for Committee of Public Accounts from the Commissioner of Valuation in respect of meeting on 25th January 2018.* Available at <http://www.oireachtas.ie/parliament/media/committees/pac/correspondence/2018meetings/meeting69-25012018/PAC32-R-1030-A-Briefing-material-from-Valuation-Office.pdf>

Figure 2: National Revaluation Programme, position at January 2018

Source: Commissioner of Valuation (2018) *Comptroller & Auditor General Report 2016 Chapter 11: The National Property Revaluation Programme Appropriation Accounts 2016 Vote 16: Valuation Office, Briefing Material for Committee of Public Accounts from the Commissioner of Valuation in respect of meeting on 25th January 2018.* Available at <http://www.oireachtas.ie/parliament/media/committees/pac/correspondence/2018meetings/meeting69-25012018/PAC32-R-1030-A-Briefing-material-from002DValuation-Office.pdf>

The Commissioner for Valuation has provided the following information regarding the programme:

“In September 2017, revaluation was completed in the County Council areas of Carlow, Kildare, Kilkenny, Leitrim, Longford, Offaly, Roscommon, Sligo and Westmeath and a second revaluation of South Dublin was also concluded. In keeping with the Valuation Office’s Strategic Plan 2017-2019, the Commissioner of Valuation signed valuation orders on 6th October 2017 mandating revaluation in the Cavan, Fingal (second revaluation), Louth, Meath, Monaghan, Tipperary, Wexford and Wicklow local authority areas. This current phase of the overall National Revaluation programme is known as REVAL2019 and the new valuation lists for these local authorities will be published on 17th September 2019.”¹⁹

¹⁹ Commissioner of Valuation (2018) *Comptroller & Auditor General Report 2016 Chapter 11: The National Property Revaluation Programme Appropriation Accounts 2016 Vote 16: Valuation Office, Briefing Material for Committee of Public Accounts from the Commissioner of Valuation in respect of meeting on 25th January 2018.* Available at

More information is available on the Valuation Office website and is reproduced in Text Box 2 below.

Text Box 2: Explanation of Reval 2019 and the National Revaluation Programme

The next phase of the National Revaluation Programme - known as *Reval 2019* – is now well underway. In accordance with the Valuation Office's Strategic Plan 2017-2019, the Commissioner of Valuation signed valuation orders on 6th October 2017 mandating revaluation in the Cavan, Fingal (second revaluation), Louth, Meath, Monaghan, Tipperary, Wexford and Wicklow local authority areas. The new valuation lists for these local authorities will be published on 17th September 2019.

The purpose of revaluation is to bring increased transparency and equity to the local authority rating system. Following revaluation, there is a much closer and uniform relationship between the current rental values of rateable properties and their commercial rates liability. Following the first revaluation, subsequent revaluations of each rating authority area will then be carried out on a cyclical basis no sooner than five years and no later than ten years after the first revaluation, in accordance with Section 25 of the Valuation Act 2001.

Rates are a charge on the occupation of commercial and industrial property. Neither residential property nor agricultural lands are rateable and consequently **are not affected** by the revaluation.

The new valuations for the seven areas named above will be published in 2019 (hence the "*Revaluation 2019*" project name) and become effective for rates purposes from 2020 onwards.

The final phase of the National Revaluation Programme, to be known as *Reval 2021*, will begin in 2019 and will cover properties in Clare County Council, Cork City Council, Cork County Council, Donegal County Council, Galway City Council, Galway County Council, Kerry County Council and Mayo County Council. A second revaluation of the rating authority area of Dun Laoghaire-Rathdown County Council will also be completed at that stage.

Source: Valuation Office webpage, *Reval 2019: Next Phase of National Revaluation Programme Now Under Way*. Available at

http://www.valoff.ie/en/Latest_News/Next_Phase_of_National_Revaluation_Programme_Now_Under_Way.html

Statistics on commercial rates

Table 5 below sets out the different sources and relative percentages of budgeted current income for local authorities over the period 2015 to 2017. It shows that commercial rates accounted for 35 per cent of their income in the 2017 budget. Budgeted income from rates in the same year amounted to €1.47 billion.

Table 5: Sources and relative percentages of budgeted current income, 2015 - 2017

	2015 Budget		2016 Budget		2017 Budget	
	€'m	% of income	€'m	% of income	€'m	% of income
Government Grants/subsidies	780	20%	979	24%	1,159	27%
Goods / Services Charges (i.e. Planning application fees, parking, etc.)	1,167	30%	1,186	30%	1,233	29%
Commercial Rates	1,491	38%	1,471	37%	1,475	35%
Pension related deduction	73	2%	61	2%	2	N/A
Local Property Tax (LPT)	369	10%	312	8%	393	9%

Source: Department of Housing, Planning and Local Government (n.d.) *Local Authority Budgets 2017*. Available at https://www.housing.gov.ie/sites/default/files/publications/files/final_local_authority_budget_publication_2017.pdf

Further information on commercial rates in 2017 is provided in the [Local Authority Budgets 2017](#) report published by the Department of Housing, Planning and Local Government (including on pages 18-19).

In research published by publicpolicy.ie, concerning 2016 data, Table 6 overleaf presents the breakdown of commercial rates by local authorities in 2016. Over €1.6 billion in rates were due to be collected by Councils in 2016.²⁰ Accounting for specific doubtful arrears the amount collected was €1.3 billion, an 84 per cent collection rate.

²⁰ This figure differs from the €1.47 billion figure contained in Table 6 as Table 6 contains the budgeted income of local authorities in 2016 and Table 7 contains the total available for collection and amount collected in 2016.

Table 6: Collection of commercial rates (%), 2016

	Total for collection - €m	Amount collected - €m	Closing arrears 31/12/2016 €m	% Collected
Fingal	119.0	110.9	8.0	96
Kilkenny	17.1	16.0	1.1	94
Roscommon	10.4	8.2	2.2	91
Dublin City	344.2	303.1	41.1	90
Meath	33.8	29.8	4.0	89
Carlow	12.9	11.1	1.8	88
Cork	135.3	117.8	17.5	88
Offaly	14.4	12.2	2.2	87
Dún Laoghaire Rathdown	91.8	73.8	18.0	85
Galway	27.6	21.2	6.3	84
Clare	48.3	37.2	11.1	84
Longford	8.5	6.5	2.0	84
Kildare	63.0	50.9	12.1	83
Cavan	15.0	11.4	3.6	83
South Dublin	127.2	104.0	23.1	83
Mayo	24.6	19.4	5.2	82
Monaghan	14.0	10.1	3.9	82
Waterford	36.5	28.3	8.2	81
Kerry	42.1	33.7	8.4	81
Leitrim	6.6	4.2	2.4	81
Tipperary	34.1	26.4	7.7	81
Westmeath	16.3	12.6	3.7	81
Wicklow	32.3	24.0	8.3	79
Wexford	38.2	29.8	8.4	79
Cork City	79.6	60.4	19.2	79
Limerick	67.9	49.1	18.8	77
Sligo	14.3	10.4	3.9	76
Laois	12.8	9.6	3.2	76
Galway City	46.2	34.2	12.0	75
Donegal	40.1	24.8	15.3	68
Louth	41.9	27.2	14.7	68
Total	1,615.7	1,318.4	297.3	84

Source: PublicPolicy.ie (2017) *Commercial Rates*. Available at <http://www.publicpolicy.ie/wp-content/uploads/Commercial-Rates-2016-note-1-1.pdf>

According to the Public Policy study, only four local authorities had collection rates at or above 90 per cent in 2016: Fingal (96 per cent), Kilkenny (94 per cent), Roscommon (91 per cent) and Dublin City (90 per cent). Eighteen councils collected between 80 per cent and 89 per cent of their rates, seven collected between 70 per cent and 79 per cent, and two collected less than 70 per cent – Donegal and Louth (both 68 per cent).²¹

²¹ Information in this paragraph is adapted or reproduced *verbatim* from PublicPolicy.ie (2017) *Commercial Rates*. Available at <http://www.publicpolicy.ie/wp-content/uploads/Commercial-Rates-2016-note-1-1.pdf>

Retail Ireland/IBEC have raised concerns that “the high level of non-compliance and the inefficiency of rate collections is putting unnecessary pressure on compliant retailers and reduces the ability of local authorities to invest in the streetscape and commercial vitality of towns and city centres”.²² Furthermore, the Public Policy study states that outstanding year end arrears for 2016 were over €297m, double the arrears found in 2008 (€137.2m) [see Table 7 below].²³ End of year arrears increased three fold between 2008 and 2012 by €294m.²⁴

Table 7: Year end commercial rates arrears, 2008-2016

	2008	2009	2010	2011	2012	2013	2014	2015	2016
Closing Arrears - €m	137.2	231.7	324.9	391.3	430.8	423.7	394.3	337.0	297.3
Y-on-Y Variance - €m		94	93	66	40	-7	-29	-57	-40
Y-on-Y % Variance		69	40	20	10	-2	-7	-15	-12

Source: PublicPolicy.ie (2017) *Commercial Rates*. Available at <http://www.publicpolicy.ie/wp-content/uploads/Commercial-Rates-2016-note-1-1.pdf>

²² Retail Ireland/Ibec (2017) *Tackling the rates burden*. Available at [http://www.retailireland.ie/Sectors/RI/RI.nsf/vPages/Services_and_Information~Research_and_Data~shaping-the-future-of-irish-retail-2020/\\$file/Retail+Ireland+-+Tackling+the+rates+burden+-+Policy+Paper.pdf](http://www.retailireland.ie/Sectors/RI/RI.nsf/vPages/Services_and_Information~Research_and_Data~shaping-the-future-of-irish-retail-2020/$file/Retail+Ireland+-+Tackling+the+rates+burden+-+Policy+Paper.pdf)

²³ PublicPolicy.ie (2017) *Commercial Rates*. Available at <http://www.publicpolicy.ie/wp-content/uploads/Commercial-Rates-2016-note-1-1.pdf>

²⁴ PublicPolicy.ie (2017) *Commercial Rates*. Available at <http://www.publicpolicy.ie/wp-content/uploads/Commercial-Rates-2016-note-1-1.pdf>

Principal provisions

The [Local Government \(Rates\) Bill 2018](#) consists of 24 sections. The primary purpose of the Bill is to:

*“revise the law relating to the collection of rates in relation to certain properties, to provide for the establishment and maintenance of a database of those properties in the State, to provide for the amendment and repeal of certain enactments...”*²⁵

This section of the Digest will focus on the following core themes identified in the Bill:

- Annual rate on valuation (ARV);
- Collection and management of rates;
- Unpaid rates; and
- Abatement and waiver of rates.

It does not examine each provision contained in the Bill, however, a glossary of terms is set out in Table 1 and a brief description of all sections in the Bill is set out in Table 3 (Table of provisions) in the Summary section at the start of this Digest.

While the [Explanatory Memorandum](#) for the Bill states that the Bill will “form the basis for greater enforcement powers by local authorities in their collection of rates”, the Bill does not contain any specific enforcement provisions other than those relating to the appointment of authorised officers under section 15.

Annual rate on valuation (ARV)

Section 4 of the Bill provides that every local financial year, a charge (‘rate’) must be levied by each rating authority on each relevant property (as defined by the [Valuation Act 2001](#)).

The amount of the rate levied will be calculated by the following formula.

$$A \times B$$

Where:

- A is the rateable valuation of the relevant property; and
- B is the annual rate on valuation (ARV) determined by the rating/local authority.

The person liable for payment of the rate is the current occupier of the property; or if unoccupied, the owner of the property.

²⁵ Taken from the Bill.

A notice must be delivered to the liable person containing the amount of the rate, the date on which it is due, the address of the relevant property, and the rateable valuation of the relevant property.

Any rates owed to the local authority by a liable person can be offset against an amount that the local authority owes to that person as provided for in section 6 of the Bill. The offsetting of rates was previously undertaken by local authorities on a casual basis, but this Bill, if enacted, will put this practice into law.

Section 3 of the Bill provides that a local authority must at a local authority budget meeting determine, by resolution, the annual rate on valuation (ARV) to be applied in the calculation of commercial rates under section 4. The ARV must be determined in accordance with the local authority budget adopted and any direction by the Minister limiting the amount of the ARV under section 5.

Section 5 of the Bill provides that the Minister may (with the consent of the Minister for Public Expenditure and Reform) give a **direction** (in writing) to a local authority (before a budget meeting) **limiting the amount of annual rate on valuation** (ARV) that may be determined by the local authority. A local authority must comply with any such direction. However, in circumstances where a direction is not complied with, any determination made by the local authority will not be invalidated but rather it will be substituted by the amount set out in the Minister's direction.

The chief executive of a local authority must, where the Minister has issued a direction limiting the annual rate on valuation to be determined, prepare a statement for the local authority indicating the effect of the direction on the draft local authority budget. Where a direction is not complied with the chief executive must certify in writing to the Minister the extent to which any limit is exceeded. Where the local authority has determined an ARV in contravention of a direction by the Minister, the chief executive must as soon as possible amend the budget adopted by the local authority to reflect the direction.

Collection and management of rates

Section 7 of the Bill provides that it will be a function of a local authority to manage and collect rates and interest due.

Section 9 provides for the establishment and maintenance of a database of information to be known as the Database of Relevant Properties ('the database') by each local authority. The database will act as a replacement for the rates book that was previously used by local authorities when collecting and maintaining information.

The database must contain the following information for each relevant property:

- The name of the occupier;
- The address of the property;
- Any unique reference number assigned to the property;
- The nature of business undertaken at the property; and
- Any other information considered appropriate by the local authority.

This section also provides that a local authority may delegate the establishment and maintenance of the database to the Local Government Management Agency (LGMA).²⁶ Section 9(8) provides however that the delegated function will be a concurrent function of the local authority and the LGMA.

Section 10 provides that when a property is transferred, it will be the duty of the owner of the property **to notify** the relevant rating authority **in writing**, of the transfer in ownership **no later than 2 weeks after such transfer**. Section 10 also places a duty on the person transferring the property (be it the owner or occupier) to discharge all rates for which he/she is liable before the sale of the property.

However, the owner of a property may be liable for a charge (equivalent to no more than 2 years of outstanding rates) from a previous occupier where:

- The owner did not notify the rating authority of the transfer; and
- The rates were not paid.

Section 12 provides that the owner of a relevant property must pay any rates **and interest due** in relation to that property prior to the sale of the property. The local authority must provide the person liable with confirmation of any unpaid rates and interest at the date of sale or confirmation that there is no outstanding amounts payable.

Sections 15 and 16 of the Bill provide the chief executive of a local authority with the power to appoint authorised officers and provides an authorised officer with the necessary powers to carry out certain duties under the Bill.

Section 16 provides that for the purpose of assessing an application for abatement of rates (see section on Abatement and Waiver of Rates overleaf) an authorised officer has the power to:

- Enter any relevant property and inspect the property;
- Inspect and take copies of any books, records or other documents that are discovered during the course of the inspection;

²⁶ The [Local Government Management Agency](#) is a state agency of the Department of Housing, Planning and Local Government that provides a range of services to the Local Government Sector.

- Remove any such books, documents or records from the property and retain them for a period of time that he or she considers necessary;
- Require any person at the relevant property to give the authorised officer such information and assistance as reasonably necessary for the authorised officer to complete their functions.

An authorised officer can only enter a dwelling with the consent of the occupier or with a warrant issued by a judge of the District Court.

This section makes it an offence, punishable by a class A fine [i.e. up to €5,000] and/or imprisonment not exceeding 6 months, for a person to obstruct or interfere with an authorised officer or a member of the Garda Síochána in the course of exercising their duties or to fail to comply with a requirement of an authorised officer or member of the Garda Síochána or to provide false or misleading information.

Unpaid rates

Section 11 of the Bill provides for the levying of interest on any overdue rates. This section provides that any rates levied by a rating authority will carry interest from the first day of January in the following year in the event of failure to pay. This is a new provision which was not provided for in previous commercial rates legislation.

The amount of interest will be determined by the following formula:

$$T \times D \times R$$

Where:

- T is the total amount of rates that remain unpaid;
- D is the number of days for which the rates remain unpaid;
- R is the rate of 0.0219 per cent.

Section 13 provides that any unpaid rates or accrued interest on a property will be a charge on the property. The charge will continue to apply without a time limit until such time as it is paid in full. This does not however affect the liability of any previous occupier for any outstanding rates for which he or she is liable. The general 12 year recovery period provided under [section 36](#) of the *Statute of Limitations 1957* does not apply in these circumstances.

Abatement and Waiver of Rates

Section 8 of the Bill provides local authorities with the power to make a scheme providing for the abatement of rates due by liable persons in respect of **vacant** properties. The scheme must be approved at the local authority budget meeting concerning the local financial year to which the

scheme will apply. This section standardises previous provisions regarding abatements for vacant properties.

The making of a scheme is a reserved function [i.e. elected members] and any scheme must be published on the local authority website.

The Minister may make regulations in respect of this provision relating to one or more of the following:

- The maximum amount of abatement of rates that may be granted;
- The rateable valuation threshold below which the maximum amount does not apply;
- The conditions and circumstances under which an abatement of rates can be granted;
- The financial considerations and administrative and other procedures to apply in making the scheme;
- Any other matters that the Minister deems necessary for the purposes of this section.

The provision allowing the Minister to regulate for the maximum amount of abatement of rates is a new provision not included in previous legislation.

If a scheme made by a local authority provides for an amount of abatement lower than the maximum amount then any additional income accruing to the local authority must be added to the general municipal allocations of the municipal districts or added to the budget of the local authority if the authority consists of one or no districts.

Section 14 provides local authorities with the power to make a scheme providing for the waiver of all or a portion of the rates due to it by liable persons in order to support the following:

- The implementation of the [National Spatial Strategy](#);
- The implementation of a development plan;
- The implementation of a local area plan;
- The implementation of a local economic and community plan.

The making of a scheme under this section is a reserved function [i.e. elected members] and a local authority can not make a scheme under this section until the adjustment period (which cannot be greater than 10 years) ceases for each specified area within its administrative area.

The Minister may make regulations for the purposes of this section relating to one or more of the following matters:

- The maximum percentage of rates that can be waived by a local authority;
- The period in which a scheme can be made;
- Any other matter that the Minister deems necessary for the purposes of this section.



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