



An Bille Airgeadais (Cáin Mhaoine Áitiúil) (Leasú), 2021
Finance (Local Property Tax) (Amendment) Bill 2021

Meabhrán Miniúcháin
Explanatory Memorandum



**AN BILLE AIRGEADAIS (CÁIN MHAOINE ÁITIÚIL)
(LEASÚ), 2021
FINANCE (LOCAL PROPERTY TAX) (AMENDMENT) BILL 2021**

EXPLANATORY MEMORANDUM

Introduction

The Finance (Local Property Tax) (Amendment) Bill 2021 primarily amends the Finance (Local Property Tax) Act 2012 but also makes a small number of local property tax (LPT) related amendments to other Acts.

The main purpose of this Bill is to provide for:

- a revaluation of residential properties on 1 November 2021,
- the bringing of certain currently exempted and excluded properties within the scope of LPT,
- the ongoing bringing of new properties within the scope of LPT, and
- a revised method for calculating LPT liabilities.

A new exemption is being introduced for properties that are eligible for the remediation scheme provided for under the *Dwellings Damaged by the Use of Defective Concrete Blocks in Construction (Remediation) (Financial Assistance) Regulations 2020 (S.I. 25 of 2020)*. Other exemptions are being terminated or phased out. Exemptions will no longer be available for a full valuation period where the qualifying conditions for the exemption cease to be met during this period.

The annual income thresholds below which LPT liabilities can be deferred are being increased. The annual rate of interest charged on deferred liabilities is being reduced from 4 per cent to 3 per cent.

There are also a number of amendments of an administrative or technical nature.

The amendments being made, unless otherwise stated, are to the Finance (Local Property Tax) Act 2012 (as amended).

Provisions of Bill

Part 1

Section 1 contains the Short Title for the Bill which is the Finance (Local Property Tax) (Amendment) Act 2021.

Section 2 contains definitions of “Principal Act” (i.e. the Finance (Local Property Tax) Act 2012) and “Act of 1997” (i.e. the Taxes Consolidation Act 1997) for the purposes of this Bill.

Section 3 sets out when the various provisions in the Bill will come into operation. The provisions specified in paragraphs (a) to (h) are to apply in respect of the year 2022 and for each subsequent year. All other provisions are to come into effect on the passing of the Bill.

Part 2

Section 4 amends section 2, which is an interpretation section.

Paragraph (a) inserts new definitions for “approved housing body” (i.e. in accordance with the Housing (Miscellaneous Provisions) Act 1992), “valuation date” (to be construed in accordance with section 13(1)) and “valuation period” (to be construed in accordance with section 13(1A), which section is inserted by this Bill).

Paragraph (b) substitutes the definition of “residential property” (to be construed in accordance with section 2A - inserted by this Bill).

Section 5 inserts a new section 2A in Part 1. This section restructures the existing definition of “residential property” to make it clearer and provides that, in the case of properties exceeding an area of 0.4047 hectares (one acre), the part exceeding this area that is to be valued with the dwelling is the part that is most suitable for occupation and enjoyment with the dwelling.

Part 3

Section 6 amends section 3 so that the section is now subject to sections 3A to 10D instead of being confined to the existing sections 4 to 10B. This amendment is required to take account of the new sections 3A, 10C and 10D inserted by this Bill.

Section 7 inserts a new section 3A, which makes the application of the exemptions under sections 4, 5, 7, 7A and 10A to 10D subject to a claim being made on a return submitted to Revenue.

Sections 4, 5, 7, 7A, 10A and 10B are amended (by sections 8, 9, 11, 12, 16 and 17, respectively) to expand the provisions of the Finance (Local Property Tax) Act 2012 that apply to exempt properties. Currently, exempt properties are not subject to, for example, provisions relating to the submission of returns. The amendment, by substituting specific references to section 16(1) of the Finance (Local Property Tax) Act 2012 (which imposes the charge to LPT) for references to the Act in its entirety, provides for an exemption while requiring that other provisions of the Act will continue to apply.

Section 9 amends section 5 to allow a property that has been vacated by a liable person due to long term mental or physical infirmity to be occupied by another person, who is not a liable person in relation to the property, without losing the exemption.

Section 10 amends section 6 to specify the liability dates for which the exemption for the unsold properties held as trading stock of builders/ developers in May 2013 can apply (i.e. liability dates for LPT payable for the years 2013 to 2021). This exemption will not be available after 2021.

Section 13 amends section 8(1) to extend the liability dates for which the exemption for ‘first-time buyers’ applies (i.e. liability dates for the years 2013 to 2021). This exemption will not be available after 2021.

Section 14 amends section 9 in two ways.

Paragraph (a) extends the end date for the exemption from “31 October 2019” to “31 October 2021”. This exemption, for properties which were

unsold trading stock of builders/developers in May 2013 and which were subsequently sold, will not be available after 2021.

Paragraph (b) amends the terminology in section 9 to ensure consistency with terminology used elsewhere in the Finance (Local Property Tax) Act 2012.

Section 15 amends section 10 to specify the liability dates for which the exemption for unfinished housing estates can apply (i.e. liability dates for the years 2013 to 2021). This exemption will not be available after 2021.

Section 16 makes several amendments to section 10A which provides for an exemption for properties damaged by pyrite.

Paragraphs (c)(i) and (d) make subsections (4) and (4B)(c) subject to subsection (6A) (inserted by this Bill) in addition to subsection (5), as is currently the case.

Paragraph (e) inserts a new subsection (6A) which provides for the phasing out of the exemption, which will cease to apply for new applicants after the end of the 2-year period following the enactment of this Bill.

Section 18 inserts two new sections.

A new section 10C provides for an exemption for residential properties owned by a North-South Implementation Body within the meaning of the British-Irish Agreement Act 1999.

A new section 10D provides for an exemption for properties that are eligible for the remediation scheme provided for under the *Dwellings Damaged by the Use of Defective Concrete Blocks in Construction (Remediation) (Financial Assistance) Regulations 2020 (S.I. 25 of 2020)*. This exemption will be available for a fixed period of 6 years.

Part 4

Section 19 amends section 11 in two ways.

Paragraph (a) inserts a new subsection (1A) which provides that where a local authority or approved housing body leases a residential property from the owner of the property for a period of at least 20 years, then it is the owner/lessor of that property and not the local authority or approved housing body, as would otherwise be the case, who is the liable person in relation to that property.

Paragraph (b) corrects a minor typographical error.

Part 5

Section 20 amends section 13 in two ways.

Paragraph (a) inserts a new subsection (1A) with a definition of “valuation period” that will be used in other provisions in the Finance (Local Property Tax) Act 2012. This period is the range of years for which a particular valuation date applies.

Paragraph (b) modifies subsection (2) to:

- retrospectively include the year 2021 (previously extended by Ministerial Order) in the range of years for which 1 May 2013 is the valuation date,
- specify 1 November 2021 as the next valuation date for the years 2022 to 2025, and
- provide for 4-year valuation periods after the year 2025.

Section 21 inserts a new section 13A to provide for the valuation of properties which were not “residential properties” on the preceding valuation date (due to the fact that their construction, or refurbishment to a habitable condition, had not been completed), but which become residential properties after that date. The new section provides that such properties are to be valued at the notional value that would have applied at the preceding valuation date had the property been a residential property on that date.

Section 22 makes several amendments to section 14 in relation to changes in liable persons between consecutive valuation dates.

Paragraph (a) makes subsection (1) subject to a new subsection (1A) in addition to subsection 35(5A), as currently applies.

Paragraph (b) inserts a new subsection (1B) which disapplies subsection (1) in certain circumstances. Subsection (1) provides for an unchanged valuation where a property is transferred to another liable person during a valuation period. The new subsection disapplies this treatment where a property is sold by a local authority or an approved housing body. In such cases the band 1 valuation that applies to all properties owned by a local authority or social housing body (under section 17(6)) will no longer apply and a purchaser of such a property will have to pay LPT based on the actual value of the property which may not be in band 1.

Paragraph (c) deletes the reference to consecutive three-year periods after the year 2019 from subsection (2) to allow for newly completed and refurbished properties to become chargeable during future valuation periods.

Section 23 deletes section 15 which commits Revenue to accepting all self-assessments in respect of properties valued at under €1 million that were valued in accordance with published Revenue guidance. Future LPT self-assessments will be subject to the usual Revenue compliance regime that applies to other self-assessed taxes.

Section 24 replaces the current section 17 to provide for a revised charging methodology involving wider value bands and three rates of LPT instead of two rates. Band 1 is widened from €1 to €200,000 and band 2 now contains values between €200,000 and €262,500. Fixed LPT charges are introduced for bands 1 and 2 of €90 and €225, respectively. A 75 per cent increase in band width is applied to the remaining bands 3 to 19.

The calculation of LPT for bands 3 to 11 is to be determined by charging the mid-point of the band at the rate of 0.1029 percent. For properties in bands 12 to 19, that part of the mid-point value which is below €1,050,000 is charged at the rate of 0.1029 percent and that part of the mid-point value which is above €1,050,000 is charged at the higher rate of 0.25 percent, with both amounts aggregated to determine the LPT liability.

For properties valued at over €1,750,000, that part of the value below €1,050,000 is charged at the rate of 0.1029 percent, that part of the value between €1,050,000 and €1,750,000 is charged at the rate of 0.25 percent and that part of the value exceeding €1,750,000 is charged at the rate of 0.3 percent, with the three amounts aggregated to determine the LPT liability.

Subsection (8) retains a current provision whereby properties in respect of which a local authority or an approved housing body is the liable person are deemed to be in band 1, irrespective of the market value of those properties.

Section 25 amends section 19 in relation to the adjustment that local authorities may make each year to the standard rate(s) of LPT. Such adjustment of rates will continue and, for this purpose, the amendment

takes account of the three new rates of LPT and the fixed LPT charge in bands 1 and 2.

Section 26 amends section 20 in two ways. Firstly, the definition of “Minister” in subsection (1) is updated to refer to the Minister for Housing, Local Government and Heritage. Secondly, the reference to “rate of local property tax” is modified to refer to the fixed LPT charge in bands 1 and 2 (as set out in sections 17(2) and (3)) which do not require the application of a rate of tax.

Section 27 amends section 21 in relation to the date by which local authorities must notify Revenue of the adjusted rates of LPT. Instead of 30 September in each year, the notification date will be 31 August in a year in which there is a valuation date and 15 October in any other year.

Part 6

Section 28 amends section 34 in relation to the basis on which a person, who does not consider himself or herself to be a liable person, can apply for a Revenue determination on the matter of liability. This is a minor technical amendment necessitated by the specific right of appeal being provided for in the new section 41B against Revenue’s refusal of a claim for exemption.

Section 29 amends several subsections in section 35 and inserts some new subsections in relation to a liable person’s obligation to prepare and deliver a return. The amendments take account of the new arrangements for dealing with changes that happen during a valuation period; for example, newly completed properties becoming chargeable and exempt properties losing their exemption.

Subsection (2) relieves liable persons of the obligation to deliver a return every year where they have delivered a return in respect of the first liability date in a valuation period, which return includes a self-assessment and where LPT is being paid in accordance with the selected payment method. Subsection (3) provides for the same LPT liability to be payable each year in a valuation period and for the same payment method to be used. Subsection (4) modifies these provisions in relation to properties that are completed during a valuation period. Subsection (5B) requires a person who purchases a property from a local authority under section 14(1B) to deliver a return following the change of ownership. Subsections (6) and (7) modify the provisions in the case of deferrals and exemptions in relation to the requirement to pay LPT in accordance with a selected payment method.

Section 30 amends section 38 in relation to the surcharge for the late submission of income tax and corporation tax returns. Currently, the surcharge is capped at the amount of a person’s LPT liability where that person becomes LPT-compliant after the surcharge has been imposed. The amendment to subsection (4) reduces the cap to 50 percent of the LPT liability.

Section 31 inserts a new section 39A in relation to the collection of certain information about the occupation of properties on a valuation date: the use of a property as a person’s principal residence, whether the property is occupied and if the property is not occupied, the period during which it has not been occupied and the reason for this. The information to be collected is restricted to its use in the compilation of statistical information.

Section 32 inserts two new sections into Part 7.

A new section 41A relates to the requirement for returns to be delivered in respect of exempt properties. This section requires that liable persons who are eligible for one of the exemptions specified in Part 2 must claim the particular exemption on a return.

A new section 41B provides for the making of a Revenue determination that an exemption does not apply. Revenue must notify the liable person of its determination and the liable person then has a right of appeal against the determination to the Appeal Commissioners.

Section 33 amends section 43 to provide a right of appeal to the Appeal Commissioners against a Revenue specification that a person is the designated liable person in relation to a property for which there is more than one liable person.

Part 7

Section 34 amends section 47 which allows Revenue to make an estimate of an amount of LPT in relation to a liability date. A reference to “relevant residential property” in subsection (1) is being changed to “residential property” to clarify that a Revenue estimate can be issued in advance of a liability date.

Section 35 amends section 59 to provide for new arrangements for appeals relating to the valuation of properties. Such appeals will now be decided by a specialist body called the Land Values Reference Committee instead of by the Appeal Commissioners. Appeals against LPT assessments relating to non-valuation disputes will continue to be decided by the Appeal Commissioners.

Part 8

Section 36 replaces section 129 in relation to tax clearance certificates and deferred LPT. The section currently provides that a person will be regarded as being compliant with the requirements of section 1095(3)(a) of the Taxes Consolidation Act 1997 if the only amount of LPT which has not been paid is an amount that has been deferred. The replaced section 129 is restructured to also take account of similar provisions contained in the Standards in Public Office Act 2001.

Part 9

Section 37 amends section 131(1) by replacing paragraph (b) in relation to the interest to be charged on the deferred amount of LPT. The amendment changes an incorrect reference to “due date” to “payable date”, which is the date from which interest on late payments is calculated, and reduces the deferral interest rate from the current daily rate of 0.011 percent (annual rate of 4 percent) to 0.008 percent (annual rate of 3 percent) in respect of LPT liabilities deferred for the year 2022 and subsequent years.

Section 38 amends section 132 in relation to the annual income thresholds below which a liable person is eligible for a deferral.

Paragraph (a) raises the income threshold for a single person from €15,000 to €18,000.

Paragraph (b) raises the income threshold for a married or co-habiting couple from €25,000 to €30,000.

Paragraph (c) increases the marginal relief thresholds for owner-occupiers whose income is not more than €10,000 above the standard thresholds to allow deferrals of up to 50 percent of the LPT liability from €25,000 to €30,000 for a single person and from €35,000 to €42,000 for a married or co-habiting couple.

Section 39 amends section 133 which applies an adjusted income threshold for owner-occupiers who have an outstanding mortgage, where a person’s annual income less 80 percent of mortgage interest paid is less than the standard thresholds (currently €15,000 and €25,000). Marginal relief of

50 percent also applies where a person's adjusted income is not more than €10,000 above the adjusted standard income thresholds (currently €25,000 and €35,000). The amendment phases out this deferral option so that it will only be available after 31 December 2020 for owner-occupiers who are already eligible for it.

Part 10

Section 40 amends section 149 which deals with interest on unpaid LPT. The LPT interest rate is being linked directly to the interest rate provided for in section 1080(2)(c) of the Taxes Consolidation Act 1997 so that any future changes to this rate will automatically apply to LPT without the need for a separate legislative amendment for LPT.

Part 11

Section 41 amends section 959AF of the Taxes Consolidation Act 1997 which provides for appeals against Revenue assessments. A person who is non-compliant in relation to the LPT requirements to deliver a return and pay LPT is liable to a surcharge of 10 percent of the amount of tax contained in an income tax or corporation tax assessment where the person is also chargeable to those taxes. Finance Act 2020 (section 58) amended the Taxes Consolidation Act 1997 in section 959AF(1A) to specify the grounds of appeal that would be relevant for a non-LPT related appeal against an income tax or corporation tax assessment containing a surcharge. The corresponding LPT provision is now being inserted in section 959AF.

Section 42 amends section 991B of the Taxes Consolidation Act 1997 (inserted by the Financial Provisions (Covid-19)(No. 2) Act 2020) which provides for 'debt warehousing' for income tax and universal social charge liabilities deducted by employers from their employees' salaries. The amendment includes LPT deducted from salaries in these 'debt warehousing' provisions.

Section 43 expands references to the Finance (Local Property Tax) Act 2012 in various sections of the Taxes Consolidation Act 1997 by including a reference to "enactments amending or extending that Act". This will take account of any amendments to this 2012 LPT Act.

Part 12

Section 44 amends section 1 of the Standards in Public Office Act to include the Finance (Local Property Tax) Act 2012 in the definition of "Acts". The Taxes Consolidation Act 1997 already includes the Finance (Local Property Tax) Act 2012 in the list of Tax Acts for the purposes of sections 1094(1) and 1095(1). This ensures that a liable person must be in compliance with his or her LPT obligations to obtain a tax clearance certificate. However, as the tax clearance provisions for certain public appointees are instead contained in the Standards in Public Office Act 2001, this Act is now being amended to include the requirement for LPT compliance.

Section 45 amends section 101 of the Ministers and Secretaries (Amendment) Act 2011 which provides for the independence of Revenue in the performance of its functions. The definition of "relevant enactment" in that section lists the various tax and duty Acts placed under Revenue's care and management but does not include the Finance (Local Property Tax) Act 2012. This Act is now being included in the definition of "relevant enactment".

Section 46 amends section 55 of the Housing (Miscellaneous Provisions) Act 2014 which provides for the exchange of information between housing

authorities and specified persons and bodies. The information that can be exchanged is that required for the purpose of enabling housing authorities to perform their functions under the Housing Acts 1966 to 2014 and other specified persons and bodies to perform their functions under specified enactments. While the Revenue Commissioners are specified, the definition of “specified enactment” does not include a reference to the Finance (Local Property Tax) Act 2012. A reference to this Act is now being included.

*An Roinn Airgeadais,
Iúil, 2021.*