

PART 19

BYE-LAWS

Interpretation
(Part 19).

198.—(1) In this Part, except where the context otherwise requires—

“appropriate Minister”, in relation to any matter, means the Minister of the Government on whom functions stand conferred or who has general responsibility in respect of or connected to the matter in question;

F250[‘functional area’ means as respects—

- (a) a city council, the city,
- (b) a county council, the county,
- (c) a city and county council, the city and county;]

(2) In this Part, except where the context otherwise requires, a reference to a bye-law is a reference to a bye-law made, or deemed to have been made, under this Part.

Annotations**Amendments:**

F250 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(1) and sch. 1 part 1 ref. 159, S.I. No. 214 of 2014.

Power to make
bye-law.

199.—(1) Subject to *subsection (7)*, a local authority may make a bye-law for or in relation to the use, operation, protection, regulation or management of any land, services, or any other matter provided by or under the control or management of the local authority, whether within or without its functional area or in relation to any connected matter.

(2) (a) Subject to this subsection and *subsection (7)*, a local authority may make a bye-law where in its opinion it is desirable in the interests of the common good of the local community—

(i) that any activity or other matter should be regulated or controlled by bye-law, or

(ii) that any nuisance should be controlled or suppressed by bye-law.

(b) A bye-law may not be made under this subsection for a purpose as respects which provision for that particular purpose is made by or under any other enactment or may be made under such enactment.

(3) Any bye-law may include such provisions as the local authority considers appropriate for its effective application, operation and enforcement and generally to achieve the purposes for which it is made, including—

(a) its application at all times or at specified times;

(b) its application throughout the functional area of the local authority or in any specified part of that functional area;

(c) the prohibition of any activity, matter or thing;

(d) the prescription of specified standards or requirements for, or in relation to, specified activities, matters or things;

(e) the exception of classes of persons or things from the bye-law either subject to or without compliance with specified conditions;

(f) the conduct of persons at specified places or in specified circumstances;

(g) the issue of licences or other authorisations by the local authority subject to or without condition and to have effect permanently or for a specified period;

(h) the payment of a fee or charge at a specified time by any person in respect of any specified matter governed by a bye-law;

(i) the specification of a fine for a contravention of a specified provision of a bye-law as provided by *section 205*;

(j) the specification of a fixed payment as an alternative to a prosecution for a contravention of a specified provision of a bye-law as provided for by *section 206*.

(4) (a) A local authority may, subject to this Part, amend any bye-law made by it.

(b) A local authority may revoke any bye-law made by it with effect from such day as is specified in the resolution.

(5) The approval of a draft bye-law, the consideration of submissions in relation to such draft bye-law and the making, amendment or revocation of a bye-law, are each reserved functions.

(6) The power of a local authority to make a bye-law in respect of its functional area includes a power to make a bye-law in respect of the foreshore and of coastal waters adjoining that functional area and with the agreement of any other local authority, of the coastal waters adjoining the functional area of that other local authority.

(7) The appropriate Minister may by regulation prescribe matters or classes of matters in respect of which local authorities are not entitled to make a bye-law.

(8) (a) Where, for given reasons, the appropriate Minister considers that a bye-law or any provision of it is objectionable and so notifies the local authority in writing then, if the local authority does not revoke or amend the bye-law in conformity with the notice, that Minister may by order under this subsection do so with effect from a specified day.

(b) Section 4(4)(c) applies to an order made under paragraph (a).

Procedure for making bye-law.

200.—(1) Not less than 2 months before a local authority makes a bye-law, the local authority shall publish a notice in one or more newspapers circulating in the area to which the proposal relates—

(a) indicating that it is proposed to make a bye-law and stating its general purpose and where appropriate, that provision is to be made for the imposition of fixed payments in accordance with section 206,

(b) indicating the times at which and the period, which shall be not less than one month, during which a copy of the draft bye-law will be available for public inspection, at such place as is specified in the notice,

(c) stating that a copy of the draft bye-law will be given to any person applying for it on payment of such specified sum, if any, as the local authority may have fixed,

(d) stating that the local authority will consider any submissions in relation to the draft which are submitted to the authority in writing by any person before such date as may be specified, not being less than 7 days after the end of the period for inspection of the draft bye-law, and

(e) where a bye-law is subject to the approval of the appropriate Minister the notice shall comply with section 201(2)(b).

(2) (a) During the period indicated under subsection (1)(b), the local authority shall keep a copy of the draft bye-law open for public inspection, during ordinary office hours at the place specified in the notice and any person may apply for a copy of it.

(b) A copy of the draft bye-law may be obtained by any person on the payment to the local authority concerned of such fee (if any) as the local authority fixes not exceeding the reasonable cost of copying it.

(3) A local authority shall on, or as soon as may be after, the publication by it of a notice under subsection (1), send a copy of such notice together with a copy of the relevant draft bye-law to such persons as may be prescribed by regulations made by the Minister and different provisions may be prescribed for different classes of bye-law.

(4) The local authority shall consider any submissions made to it under subsection (1) and not withdrawn and may then—

(a) make the bye-law either in accordance with the draft or subject to such changes as the local authority may, at its discretion, determine, or

(b) not make the bye-law.

(5) (a) A bye-law made by a local authority, other than a bye-law to which *section 201* applies, shall come into force on such date as shall be specified in the bye-law, which is not less than 30 days after its making.

(b) A bye-law to which *section 201* applies shall not come into force unless approved by the appropriate Minister under that section.

Annotations

Editorial Notes:

E253 Power pursuant to section exercised (10.07.2006) by *Local Government Act, 2001 (Bye-Laws) Regulations 2006* (S.I. No. 362 of 2006).

Certain bye-laws to be submitted to appropriate Minister.

201.—(1) This section applies to a bye-law which by virtue of regulations under *subsection (2)* is required to be submitted to the appropriate Minister.

(2) (a) The appropriate Minister may make regulations under this section for the purpose of designating any matter or classes of matters in relation to which a bye-law requires the approval of that Minister and any such bye-law made subsequent to the commencement of such regulations shall not come into operation unless so approved.

(b) Subject to this section, *section 200* applies to a bye-law to which this section applies but a notice to be published by the local authority under *section 200(1)* shall state that the bye-law to be made by the local authority is subject to the approval of the appropriate Minister and that the authority is required to submit all submissions which it receives to that Minister together with its comments (if any) on them.

(3) A local authority shall, as soon as may be after the making under *section 200* of a bye-law to which this section applies, submit a copy to the appropriate Minister together with a copy of any submissions made to the authority under *section 200(1)* and not withdrawn and any comments which it may wish to make on those submissions.

(4) The appropriate Minister, having considered the documents submitted by the local authority under *subsection (3)*, may—

(a) approve the bye-law, or

(b) approve the bye-law subject to such amendments as that Minister may incorporate in it, or

(c) refuse to approve the bye-law.

(5) The appropriate Minister shall in approving a bye-law under this section endorse on it a statement that the bye-law has been so approved and shall specify the date on which it shall come into operation.

Publication of bye-law.

202.—(1) Notice of the making of a bye-law, or approval in the case of a bye-law to which *section 201* applies, and of the place where copies of the bye-law may be purchased or inspected shall be published in the *Iris Oifigiúil* and in one or more newspapers circulating in the area to which the bye-law relates.

(2) The notice referred to in *subsection (1)* shall include—

- (a) a statement of the general purposes for which the bye-law was made,
 - (b) the date on which it comes into force,
 - (c) a statement that a copy of the bye-law may be inspected, during ordinary office hours, at the principal offices of the local authority, and
 - (d) a statement that a copy of the bye-law will be given to any person applying for it on payment of a specified fee, not exceeding the reasonable cost of making such copy.
- (3) (a) The local authority shall keep a copy of the bye-law open for public inspection during ordinary office hours at the principal offices of the local authority and any person may apply for a copy of it.
- (b) A copy of the bye-law may be obtained by any person on the payment to the local authority concerned of such fee (if any) as the local authority fixes not exceeding the reasonable cost of the making of a copy.
- (4) Failure to publish notice of the making of, or as appropriate, the approval of, or to make available a copy of, any bye-law does not invalidate that bye-law.
- (5) (a) Where a bye-law relates to the use, regulation or management of land provided by a local authority, a local authority shall endeavour to keep a notice displayed at or near such land that a bye-law applies to it.
- (b) Failure to provide or to keep a notice under *paragraph (a)* is not a defence in any prosecution for contravention of a provision of a bye-law.
- (6) A local authority shall maintain a register of bye-laws made by it under this Part and under Part VII of the Local Government Act, 1994, and the register shall—
- (a) be available for public inspection at the principal offices of the local authority during normal office hours, and
 - (b) include the date of the coming into operation, the area of application, and an indication of the subject matter of all bye-laws made by the authority.

Proof of bye-law. **203.**—Whenever required so to do by any court, it is the duty of a local authority, to produce to that court a true copy of any bye-law and to verify the copy to that court by having endorsed on the copy a certificate signed by an employee (whose official position it is not necessary to prove) of the local authority, by which the bye-law was made and that court shall receive the copy in evidence and, accordingly, the copy as so certified is evidence of the bye-law unless the contrary is shown.

Obstruction, etc. of authorised person. **204.**—(1) In this section “authorised person” means a person authorised in writing by a local authority for the purpose of this section or, except in the case of *subsection (4)*, a member of the Garda Síochána.

(2) An authorised person may request any person who appears to be contravening or to have contravened a provision of a bye-law relating to any land, service or any other thing provided by or under the control or management of the local authority to leave such land or to refrain from any activity and may remove any person failing to comply with such request.

(3) (a) A person who obstructs or impedes or refuses to comply with a request of an authorised person acting in the exercise of the functions conferred on an authorised person by this Part is guilty of an offence.

(b) Where an authorised person is of the opinion that a person is committing or has committed an offence to which this section or *section 205* relates, the authorised person may demand the name and address of such person and if

that demand is refused or the person gives a name or address which is false or misleading, that person is guilty of an offence.

(c) A person who is convicted of an offence under this subsection is liable on summary conviction to a fine not exceeding £1,500.

(d) Where a member of the Garda Síochána is of the opinion that a person is committing or has committed an offence to which this section or *section 205* relates, that member may arrest the person without warrant.

(4) A person is not bound to comply with a request of an authorised person under this section unless the authorised person produces, if requested by the person, evidence of appointment as an authorised person for the purpose of this Part.

Bye-law offences and penalties.

205.—(1) A person who contravenes a provision of any bye-law is guilty of an offence and is liable on summary conviction to a fine not exceeding £1,500 or such lesser amount as may be specified in the bye-law in respect of such contravention.

(2) If the contravention of a provision of a bye-law is continued after conviction, the person causing the contravention is guilty of an offence on each day on which that contravention continues and is liable on summary conviction for each such offence to a fine not exceeding £100 or such lesser amount as may be specified in the bye-law in respect of such contravention.

Fixed payment notices.

206.—(1) A bye-law may provide for a person to be served with a notice, specifying a fixed payment, not exceeding such amount as may be prescribed by regulations made by the Minister, in respect of a contravention of a bye-law as an alternative to a prosecution for the contravention and where the bye-law so provides it shall specify—

(a) the amount of the fixed payment, and

(b) the period within which it must be paid in order to avoid prosecution.

(2) A notice referred to in *subsection (1)* shall specify—

(a) the name and address of the alleged offender,

(b) in general terms the nature of the contravention alleged to have been committed,

(c) the date and place of the alleged contravention,

(d) the amount of the payment,

(e) the period within which and the place where the fixed payment may be made, and

(f) that the alleged offender is entitled to disregard the notice and defend a prosecution of the alleged contravention in court.

(3) A fixed payment shall not exceed the maximum fine duly provided for in respect of the alleged contravention concerned.

(4) Where a fixed payment has been duly paid in respect of an alleged contravention by a person, no proceedings shall be instituted against the person in respect of the alleged contravention.

Annotations**Editorial Notes:**

E254 Power pursuant to section exercised (10.07.2006) by *Local Government Act, 2001 (Bye-Laws) Regulations 2006* (S.I. No. 362 of 2006).

Prosecution of offences (*Part 19*).

207.—An offence under this Part may be prosecuted by the local authority which made the relevant bye-law, by any other local authority acting on its behalf or by a member of the Garda Síochána.

Payments of fines and fixed payments.

208.—All fines in respect of offences under this Part and all fixed payments to which *section 206* relates shall be paid to the local authority by which the relevant bye-law was made.

Continuation in force of existing bye-laws, etc.

209.—(1) Every bye-law made under Part VII of the Local Government Act, 1994, and subsisting at the commencement of this provision, shall continue in force as if made under this Part and may be amended or revoked as if made under this Part.

(2) Without prejudice to section 20 of the Interpretation Act, 1937, references in—

(a) section 35 of the Waste Management Act, 1996,

(b) section 89 of the Harbours Act, 1996,

(c) section 13 of the Control of Horses Act, 1996, and

(d) section 21(3) of the Litter Pollution Act, 1997,

to Part VII of the Local Government Act, 1994, or any section of that Part shall be read as a reference to *Part 19* of this Act or to the corresponding section of *Part 19*, as the case may be.

(3) Notwithstanding the repeal by this Act of the Towns Improvement (Ireland) Act, 1854, sections 78 to 88 of that Act shall continue to apply and have effect and for that purpose any reference to bye-laws in the said section 88 shall be read as reference to a bye-law made under this Part.

(4) Every bye-law made under section 30, 41 or 42(2) of the Local Government (Sanitary Services) Act, 1948, or under section 88 of the Towns Improvement (Ireland) Act, 1854, and subsisting at the commencement of this provision shall continue in force as if made under this Part and may be amended or revoked as if made under this Part.

(5) For the avoidance of doubt it is hereby declared that any matter capable of being governed by a bye-law referred to in *subsection (4)* may be the subject of a bye-law made under this Part.

(6) In so far as certain bye-laws continue to apply for certain purposes under section 22(2) of the Building Control Act, 1990, such bye-laws continue to so apply in accordance with that section.

Power to apply (*Part 19*).

210.—(1) Without prejudice to *section 3* or *4* the Minister may by regulations under this section in relation to any provision of any enactment which confers on a local authority a power to make bye-laws apply some or all of this Part and any such bye-law is subject to such provisions as are so applied and the provision of the relevant enactment shall be read accordingly.

(2) The Local Government Act, 1994 (Bye-Laws) Regulations, 1999 (S.I. No. 78 of 1999), shall continue in force as if made under the corresponding provisions of this Act and may be amended or revoked accordingly.

Amendment of
Control of Dogs
Act, 1986.

211.—(1) Section 17 of the Control of Dogs Act, 1986, as amended by the Control of Dogs (Amendment) Act, 1992, is hereby amended by the substitution for that section of the following—

“17.—(1) A local authority may make bye-laws relating to the control of dogs within its functional area.

(2) A bye-law under subsection (1) shall, subject to subsection (3), be made in accordance with, and read as if it was made under *Part 19* of the *Local Government Act, 2001*.

(3) Section 27(1)(d) and section 30 shall apply in respect of a bye-law under subsection (1) and paragraphs (h) and (i) of section 199(3) of the *Local Government Act, 2001*, and sections 205 to 208 of that Act shall not apply in respect of such bye-law.

(4) Bye-laws under subsection (1) may, without prejudice to the generality of that subsection or of section 199(3) of the *Local Government Act, 2001*, make provision for all or any of the following matters:

(a) specify areas in such part of the functional area of the local authority as may be specified in the bye-laws in which the person in charge of a dog shall be required to keep the dog on a leash,

(b) specify areas in such part of the functional area of the local authority as may be specified in the bye-laws in which a dog, other than a dog being used by a blind person or by a person whose eyesight is so defective that the person is unable to find his or her way without guidance, shall not be allowed.

(5) Bye-laws made under this section shall not apply to a dog being used—

(a) in the execution of his or her duty by a member of the Garda Síochána, or

(b) for such other purpose as the Minister may prescribe.”.

(2) Section 27 of the Control of Dogs Act, 1986, as substituted by section 9 of the Control of Dogs (Amendment) Act, 1992, is amended by the substitution in subsection (2) of that section of “£1,500” for “£1,000”.

(3) Section 28 of the Control of Dogs Act, 1986, as amended by section 10 of the Control of Dogs Act, 1992, is amended by the substitution in subsections (1) and (3) of “paragraph (a), (b), (c) or (d) of section 27(1) of this Act” for “paragraph (a), (b) or (c) of section 27(1) of this Act”.

(4) Section 30 of the Control of Dogs Act, 1986, is amended by the addition of the following subsection:

“(3) All fines in respect of offences under this Act shall be paid to the local authority in whose area the offence was committed.”.

(5) Any bye-laws made under section 17 of the Control of Dogs Act, 1986, before the commencement of this provision shall continue in force and shall be deemed to have been made under section 17 of that Act as substituted by this section and may be amended or revoked accordingly.

ENTRY YEAR PROPERTY LEVY

Definitions. **211A.**— In this Part:

‘entry date’, in relation to qualifying property, means the date on which the first rateable valuation for that property is entered on the valuation list;

‘entry year’, in relation to qualifying property, means the financial year in which the property is first entered on a valuation list;

‘levypayer’, in relation to qualifying property, means the person liable to pay the levy in respect of that property under section 211B(6);

‘post-entry year’ means the financial year following the entry year for a qualifying property;

‘qualifying property’ means property that is subject to the levy under section 211B(1);

‘rating authority area’ has the same meaning as in the Valuation Act 2001;

‘relevant property’ has the same meaning as in the Valuation Act 2001.]

Annotations

Amendments:

F251 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

F252[Entry year property levy.

211B.— (1) When newly erected or newly constructed relevant property comes into being in a rating authority area and the property is first entered on the valuation list relating to that area, the rating authority concerned shall impose and collect a levy in respect of that property in accordance with this section.

(2) Property that is not rateable pursuant to section 15(2), (3) or (4) of the Valuation Act 2001 is not subject to the levy under subsection (1) of this section.

(3) Subject to subsection (4), the amount of the levy under subsection (1) is to be determined by the formula

$$(A \times B) \times (C/D)$$

where

A is the annual rate on valuation that was determined by the rating authority for the entry year pursuant to section 103(7)(b)(i),

B is the rateable valuation of the property,

C is the number of days remaining in the entry year, beginning with the entry date, and

D is the total number of days in the entry year.

(4) If qualifying property is unoccupied on the entry date, the amount of the levy is to be determined by applying the formula set out in subsection (3) and dividing that result by 2.

(5) Notice of the levy shall be sent by post or otherwise delivered to the person liable to pay the levy for the qualifying property under subsection (6) (the ‘levypayer’) and the notice shall include the following information:

- (a) the amount of the levy;
- (b) the date by which the levy is due and payable and the manner in which it is to be paid.
- (6) The following are liable to pay the levy under this section:
- (a) the person who is in occupation of the qualifying property on the entry date;
- (b) if the qualifying property is unoccupied on the entry date, the person who owns the property on that date.
- (7) The date specified under subsection (5)(b) may not be less than 14 days from the date that the notice is sent under that subsection.
- (8) The levypayer shall pay the full amount of the levy to the rating authority by the date specified under subsection (5)(b).
- (9) The levy for which a levypayer is liable under this section is recoverable as a simple contract debt in any court of competent jurisdiction and, if there is more than one levypayer in respect of the qualifying property, those levypayers are jointly and severally liable for that levy.
- (10) A levy is not invalidated by any error or defect in the statement of the name of the levypayer in the notice under subsection (5) or by the use of the description 'the owner' or 'the occupier' without any name or addition, and the levy is recoverable from the levypayer notwithstanding any such error or defect or the use of any such description.
- (11) For the purposes of this section and section 211E, qualifying property is 'unoccupied' if the person who owns the property on the entry date (the 'owner') satisfies the rating authority that—
- (a) the owner was not occupying the property on that date,
- (b) no other person was entitled to the use or enjoyment of the property on that date, and
- (c) acting in good faith, the owner was genuinely unable to find a suitable tenant for the property at a reasonable rent.]

Annotations

Amendments:

F252 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

F253 [Recalculation of levy in event of total destruction or demolition of property.

211C.— (1) If during the entry year qualifying property is demolished or destroyed to the extent that it is incapable of rateable occupation by the owner of the property, the levypayer may apply in writing to the rating authority concerned for a refund or credit on the amount of the levy paid or payable under section 211B.

(2) On receiving the application and being satisfied that the condition described in subsection (1) has been met, the rating authority shall prorate the amount of the levy that was paid or is payable for that portion of the entry year during which the property is incapable of rateable occupation and that prorated amount shall be—

- (a) refunded to the applicant levypayer, in the case where the levy has already been paid in full,

(b) refunded to the applicant levypayer to the extent that any partial payment of the levy that has been made would result in an overpayment because of the application of this subsection, or

(c) if paragraphs (a) and (b) do not apply, credited to the account of the applicant levypayer.]

Annotations

Amendments:

F253 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

F254 [Recalculation of entry year levy if rateable valuation amended.

211D.— (1) This section applies if—

(a) the levypayer has paid the levy payable in respect of qualifying property under section 211B,

(b) the rateable valuation of the property changes during the entry year because of amendment to the valuation list described in section 28 of the Valuation Act 2001, and

(c) the levypayer has not received a refund or credit under section 211C in respect of the property.

(2) As soon as reasonably practicable after amendment of the rateable valuation of the property described in subsection (1), the entry-year levy for that property shall be recalculated by the rating authority under section 211B(3) or (4), as the case may be, using the same annual rate on valuation but the amended rateable valuation for the property, and the recalculated amount shall be prorated based on the number of days remaining in the entry year, beginning with the date that the rateable valuation is amended.

(3) If, as a result of the recalculation under subsection (2), the payment of the levy described in subsection (1)(a) involved an overpayment, then the rating authority shall pay to the levypayer a refund in the amount of that overpayment.

(4) If, as a result of the recalculation under subsection (2), the payment of the levy described in subsection (1)(a) involved an underpayment, then—

(a) the levypayer is liable for the balance owing,

(b) the balance owing may be recovered from the levypayer by the same means provided under section 211B, and

(c) the provisions of section 211B(5) to (10) apply for the purposes of that recovery.

(5) If—

(a) the amended rateable valuation for the property referred to in subsection (2) is consequently the subject of an appeal under Part 7 of the Valuation Act 2001, and

(b) after all appeals under that Part have been exhausted, the final rateable valuation of the property for the entry year is different than it was for purposes of the recalculation under subsection (2),

the rating authority shall recalculate the entry-year levy for that property under section 211B(3) or (4), as the case may be, using the same formula applied in those

provisions except where 'B' is now the final rateable valuation for the property referred to in paragraph (b) of this subsection.

(6) If, as a result of recalculation under subsection (5), the amount of money paid by the levypayer in respect of the entry-year levy involved an overpayment or an underpayment, then—

(a) in the case of an overpayment, subsection (3) applies, and

(b) in the case of an underpayment, subsection (4) applies.]

Annotations

Amendments:

F254 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

F255 [Post-entry year property levy in specified circumstances.

211E.— (1) If qualifying property is first entered on the valuation list relating to a rating authority area after the rating authority concerned determines the annual rate on valuation for the post-entry year pursuant to section 107(3)(b)(i), the rating authority shall impose and collect an additional levy in respect of that property in accordance with this section.

(2) Subject to subsection (3), the amount of the levy under subsection (1) is to be determined by the formula

$$A \times B$$

where

A is the annual rate on valuation that was determined by the rating authority for the post-entry year pursuant to section 103(7)(b)(i), and

B is the rateable valuation of the property.

(3) If the property referred to in subsection (1) is unoccupied on the entry date, the amount of the levy is to be determined by applying the formula set out in subsection (2) and dividing that result by 2.

(4) Notice of the levy shall be sent by post or otherwise delivered to the levypayer and the notice shall include the following information:

(a) the amount of the levy;

(b) the date by which the levy is due and payable and the manner in which it is to be paid.

(5) The date specified under subsection (4)(b) may not be less than 14 days from the date that the notice is sent under that subsection.

(6) The levypayer shall pay the full amount of the levy to the rating authority by the date specified under subsection (4)(b).

(7) The provisions of section 211B(9) and (10) apply for purposes of recovery of the levy under this section and any references in those provisions to section 211B shall be construed as references to this section.

(8) The provisions of section 211C apply in respect of a qualifying property that may be subject to the post-entry year levy under this section and, for that purpose, the following rules of construction apply:

- (a) any references in those provisions to section 211B shall be construed as references to this section;
- (b) any references in those provisions to 'entry year' shall be construed as references to 'post-entry year'.

Annotations

Amendments:

F255 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.

F256 [Recalculation of post-entry year levy if rateable valuation amended.]

211F.— (1) This section applies if—

- (a) the levypayer has paid the levy payable in respect of qualifying property under section 211E,
- (b) the rateable valuation of the property changes during the post-entry year because of amendment to the valuation list described in section 28 of the Valuation Act 2001, and
- (c) the levypayer has not received a refund or credit in respect of the property pursuant to section 211E(8).

(2) As soon as reasonably practicable after amendment of the rateable valuation of the property described in subsection (1), the post-entry year levy for that property shall be recalculated by the rating authority under section 211E(2) or (3), as the case may be, using the same annual rate on valuation but the amended rateable valuation for the property, and the recalculated amount shall be prorated based on the number of days remaining in the post-entry year, beginning with the date that the rateable valuation is amended.

(3) If, as a result of the recalculation under subsection (2), the payment of the levy described in subsection (1)(a) involved an overpayment, then the rating authority shall pay to the levypayer a refund in the amount of that overpayment.

(4) If, as a result of the recalculation under subsection (2), the payment of the levy described in subsection (1)(a) involved an underpayment, then—

- (a) the levypayer is liable for the balance owing,
- (b) the balance owing may be recovered from the levypayer by the same means provided under section 211E, and
- (c) the provisions of section 211E(4) to (7) apply for the purposes of that recovery.

(5) If—

- (a) the amended rateable valuation for the property referred to in subsection (2) is consequently the subject of an appeal under Part 7 of the Valuation Act 2001, and
- (b) after all appeals under that Part have been exhausted, the final rateable valuation of the property for the post-entry year is different than it was for purposes of the recalculation under subsection (2),

the rating authority shall recalculate the post-entry year levy for that property under section 211E(2) or (3), as the case may be, using the same formula applied in those provisions except where 'B' is now the final rateable valuation for the property referred to in paragraph (b) of this subsection.

(6) If, as a result of recalculation under subsection (5), the amount of money paid by the levypayer in respect of the post-entry year levy involved an overpayment or an underpayment, then—

(a) in the case of an overpayment, subsection (3) applies, and

(b) in the case of an underpayment, subsection (4) applies.]

Annotations

Amendments:

F256 New Part 19A (ss. 211A-211F) inserted (24.12.2006) by *Local Government (Business Improvement Districts) Act 2006* (42/2006), s. 7, commenced on enactment.