

General Scheme of Finance (Local Property Tax) (Amendment) Bill 2021

The General Scheme of Finance (Local Property Tax) (Amendment) Bill 2021 is proposed following a review of the LPT in 2019 which involved a public consultation, in light of the Programme for Government 2020 commitments in relation to the tax and the reports of the Oireachtas Budgetary Oversight Committee on the tax following engagement with them by the Minister for Finance following the 2019 Review.

The Finance (Local Property Tax) (Amendment) Bill 2021 *inter alia* provides for:

- a revised method for calculation liabilities on the basis of fairness and that most homeowners will face no increase;
- the bringing of certain currently exempted and excluded properties into the taxation system; and
- the implementation of recommendations of the 2019 Inter-departmental review of the LPT Review in relation to
 - Regularly bringing new properties within the LPT charge
 - Providing that property valuations to be reviewed every four years
 - Ending certain exemptions (first-time buyers and unsold trading stock)
 - Cessation of exemptions between valuations
 - Modifying the exemption for properties vacated by persons due to illness
 - Increased income thresholds for deferrals
 - Reduction in the deferral rate of interest
 - Changing the Local Adjustment Factor (LAF) notification date
 - A number of administrative and technical reforms

Finance (Local Property Tax) (Amendment) Bill 2021 – Heads of Bill

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(Note: Detailed consideration of any legal issues and any further legislative amendments of a consequential or technical nature will be further examined in consultation with the Office of the Parliamentary Counsel.)

Head 1 Short title, collective citation and commencement

To provide that:

(1) This Act may be cited as the Finance (Local Property Tax) (Amendment) Act 2021.

Explanatory Note:

This is a standard provision.

Head 2 Interpretation

To provide that:

For the purposes of this Bill, the “Finance (Local Property Tax) Act 2012 (as amended)” is referred to as “the Principal Act”.

Explanatory Note:

This is the standard ‘interpretation’ provision for a Bill.

“Principal Act” is the only definition contained in this Act. This is a standard provision in Bills. All references (especially with the amendments being made) to the Principal Act are to be read as references to the Finance (Local Property Tax) Act 2012 (as amended). Other LPT definitions are contained in the Finance (Local Property Tax) Act 2012 (as amended) itself.

Head 3 Definitions

To provide that:

The definition of “residential property” will be amended in Section 2 of the Principal Act.

The definition of “residential property” will be amended in three ways. Firstly, the part of the adjoining land to be valued with the house, where that land exceeds one acre, will be specified to be that part that is most suitable for occupation and enjoyment with the house. Secondly, the reference to “acre” is being changed to “hectare”, in compliance with EU standards. Thirdly, a definition of ‘co-living’ developments will be included to come within scope of ‘residential property’.

Explanatory note:

The chargeable value of a residential property is based on the house itself, any associated buildings/structures such as sheds and garages and any adjoining outdoor areas such as yards and gardens. However, where the area occupied by the elements other than the house exceeds one acre, it is only the area up to one acre that must be valued. Currently, the definition of “residential property” leaves open the question of the part of the allowable acre to be valued. This is at variance with the treatment applied in relation to the capital gains tax exemption (Taxes Consolidation Act 1997 (section 604(2)) for the disposal of a person’s principal private residence and the definition of “residential property” for stamp duty purposes (Stamp Duties Consolidation Act 1999, section 1). In these cases, the part of the acre to be exempted (capital gains tax) or treated as residential property (stamp duty) is the part that is most suitable for occupation and enjoyment with the residence. This would typically be the part that is closest to the house, but not necessarily so, depending on the particular facts and circumstances. The LPT treatment is being changed to align it with capital gains tax and stamp duty.

Statutory references to the measurement of land in acres are not in line with EU standards. The correct current measurement for land is hectares. The hectare equivalent of one acre is 0.404686 hectares.

‘Co-living’ developments will be defined to ensure that they are regarded as suitable for use as ‘dwelling houses’ and so come within the definition of “residential accommodation”.

Head 4 Amendments to Part 2 of the Principal Act (Residential Property)

Head 4 makes several amendments to Part 2 (residential property) of the Principal Act. Part 2 provides for a number of exemptions from the charge to LPT.

To provide that:

- Section 3 provides the basis for the exemption of certain properties from LPT, which are further described in sections 4-10B. Section 3 is amended to allow for the inclusion of two additional exemptions to be provided for in new sections 10C and 10D.
- Section 3 is also amended so that it also has to take account of the new section 41A in Part 7 (in addition to the exemption sections 4 to 10D) to make qualification for an exemption under any of these sections dependent on compliance with section 41A.
- Section 4 (properties fully subject to commercial rates) is amended so that the purpose for which the exempted property is treated as not being a relevant residential property is for the purpose of section 16(1) only (charge to LPT) instead of being for the broader purposes of the full LPT Act.
- Section 5 is amended so that a property that is vacated by a person with a long term mental or physical infirmity can be occupied by another person without losing eligibility for the exemption. Section 5 is also amended so that the purpose for which the exempted property is treated as not being a relevant residential property is for the purpose of section 16(1) only (charge to LPT) instead of being for the broader purposes of the full LPT Act.
- Section 6 is amended to end the exemption (with effect from the year 2022 onwards) for properties that had been completed by a builder or developer but that had not yet been sold or occupied when LPT was introduced in 2013.
- Section 7 (special needs accommodation) is amended so that the purpose for which the exempted property is treated as not being a relevant residential property is for the purpose of section 16(1) only (charge to LPT) instead of being for the broader purposes of the full LPT Act.
- Section 7A (charities using properties for recreational purposes) is amended so that the purpose for which the exempted property is treated as not being a relevant residential property is for the purpose of section 16(1) only (charge to LPT) instead of being for the broader purposes of the full LPT Act.
- Section 8 is amended to end the exemption (with effect from the year 2022 onwards) for properties purchased in 2013 by ‘first-time buyers’ and to give retrospective statutory effect to the exemption for the years 2020 and 2021.
- Section 9 is amended to end the exemption (with effect from the year 2022 onwards) for properties qualifying for exemption under section 6 that were subsequently sold and to give statutory effect to the exemption for the years 2020 and 2021.
- Section 10 is amended to end the exemption (with effect from the year 2022 onwards) for properties situated in unfinished housing estates.
- Section 10A is amended to phase out the exemption for properties damaged by pyrite.
- New section 10C provides for a temporary exemption from LPT for properties eligible for remediation under the Defective Concrete Blocks grant scheme.
- New Section 10D provides a statutory basis for the exemption for residential properties owned by [North-South Implementation Bodies \(i.e. those bodies defined in the British-Irish Agreement Act 1999 as implementation bodies\)](#).

Explanatory Note:

Part 2 of the Principal Act contains the provisions that exempt several types of residential property from the charge to LPT. Section 3 specifies that where a building is a residential property on a liability date, it is a relevant residential property and thus chargeable to LPT. However, this provision is made subject to the exemption sections in Part 3, currently sections 4 to 10B but being extended to 10D to take account of two additional exemptions being inserted (Section 10D Residential Properties Owned by a North-South Implementation Body and Section 10C a temporary exemption from LPT for properties that are remediated under the *Dwellings Damaged by the Use of Defective Concrete Blocks in Construction (Remediation) (Financial Assistance) Regulations 2020* [S.I. 25 of 2020]).

Section 3 is now being made subject to another new section 41A which provides that a property will not be exempt unless the particular exemption is claimed on a return delivered to Revenue.

An exemption from the charge to LPT is provided for by stating that “A residential property shall not, for the purposes of this Act, be regarded as a relevant residential property where.....” the particular qualifying conditions are satisfied. In relation to each of the exemptions that will continue under this Act, the reference to “for the purposes of this Act” is being narrowed to “for the purpose of section 16(1)”. This is the provision that charges a property to LPT so that the exemption will continue to apply. However, the exempted properties will be subject to other requirements of the full LPT Act such as the delivery of a return and the declaration of a value for the property. This will enable exempt properties which cease to qualify for exemptions between valuation dates to be charged to LPT on the basis of a declared valuation at the preceding valuation date.

The amendments include modifying existing exemptions, ending some exemptions and introducing two new exemptions.

The exemption provided for by **section 4** relates to properties that are fully chargeable to commercial rates. Section 4 is being amended to make the exemption applicable only for the purpose of the charge to LPT imposed by section 16(1) instead of the current broader purposes of the full LPT Act.

The exemption provided for by **section 5** relates to the vacating of a property by an elderly or infirm person on a long-term basis. To qualify for exemption, the vacant property must not be occupied by any other person. This condition is being modified to allow occupation of the vacant property without losing the exemption. Section 5 is also being amended to make the exemption applicable only for the purpose of the charge to LPT imposed by section 16(1) instead of the current broader purposes of the full LPT Act.

The exemption provided for by **section 6** relates to properties that had been completed by a builder or developer but still held as trading stock when LPT commenced in May 2013. Qualification for the exemption required that the property remained unoccupied. This exemption is being terminated in relation to years after 2021 by inserting a reference to the period of the exemption: i.e. for the years 2013 to 2021.

The exemption provided for by **section 7** relates to properties that are used for the provision of “special needs accommodation” by charities or public bodies. This section is being amended to make the exemption applicable only for the purpose of the charge to LPT imposed by section 16(1) instead of the current broader purposes of the full LPT Act.

The exemption provided for by **section 7A** relates to properties that are used by charities for the facilitation of recreational activities. This section is being amended to make the exemption applicable

only for the purpose of the charge to LPT imposed by section 16(1) instead of the current broader purposes of the full LPT Act.

The exemption provided for by **section 8** relates to properties that were purchased during 2013 by a 'first-time buyer'. This exemption is being terminated in relation to years after 2021 by inserting a reference to the period of the exemption: i.e. for the years 2013 to 2021. The amendment also gives retrospective statutory effect to the exemption for the years 2020 and 2021 when the exemption was allowed by Revenue on an administrative basis pending the opportunity to amend the LPT Act accordingly.

The exemption provided for by **section 9** relates to properties that qualified for exemption under section 6 (unsold trading stock of builders and developers in May 2013) that were sold after 1 May 2013. The exemption continues for the purchaser after the sale of the property. This exemption is being terminated in relation to years after 2021 by inserting a reference to the period of the exemption: i.e. for the years 2013 to 2021. The amendment also gives retrospective statutory effect to the exemption for the years 2020 and 2021 when the exemption was allowed by Revenue on an administrative basis pending the opportunity to amend the LPT Act accordingly.

The exemption provided for by **section 10** relates to properties that were situated in those 'unfinished housing estates' that were prescribed in Regulations made by the then Minister for the Environment, Community and Local Government. This exemption is being terminated in relation to years after 2021 by inserting a reference to the period of the exemption: i.e. for the years 2013 to 2021.

The exemption provided for by **section 10A** relates to properties that were damaged by the presence of pyrite. This exemption is to be phased out and will cease to apply in respect of property owners meeting the current eligibility conditions after the end of the 2-year period following the enactment of the LPT amending legislation.

A new **section 10C** provides for a temporary exemption from LPT for residential properties (in counties Mayo and Donegal) damaged by the use of defective concrete blocks in their construction, who become eligible for the Defective Concrete Blocks scheme. The exemption is similar to the temporary LPT exemption currently available for properties in certain counties that have been shown to have a significant level of damage arising from the presence of pyrite in their foundations (pyritic heave).

A new **section 10D** provides for an explicit exemption for properties owned by a North-South Implementation Body as defined in the British-Irish Agreement Act 1999. This exemption has been allowed on an administrative basis by Revenue in respect of relevant properties owned by one of the bodies concerned namely Waterways Ireland pending the opportunity to amend the LPT Act accordingly. Section 10D will ensure that relevant properties owned by any of the North South Implementation Bodies will be exempt from LPT which is consistent with the British-Irish Agreement Act 1999.

Head 5 Amendment of Part 3 (liable person) of Principal Act

To provide that:

- In section 11, a new subsection (1A) is inserted after subsection (1) to provide that, in the case of certain long leases of residential property to a local authority or a social housing provider, the lessor will remain the liable person notwithstanding that the length of the lease would be sufficient to make the lessee the liable person.
- In section 11(2)(b) to substitute “rights in a relevant residential property” for “rights in relevant residential property”.

Explanatory note

Leasing is one of a range of options available to local authorities to supplement delivery of social housing. The Enhanced Leasing Scheme and the Long-Term Leasing Scheme are two of the main leasing options available to local authorities to secure high quality social housing on a long-term basis. Under ‘enhanced’ leasing arrangements, the property may be leased for up to 25 years with the owner/lessor retaining the management and maintenance responsibility, and is paid up to 95 per cent of the market rent by the local authority. Under long term leasing the property owner is paid 80% of market rent, or 85% in managed developments. Where a private owner of a residential property leases the property under a 20+ year lease to a local authority for social housing purposes the owner ceases to be the liable persons for LPT purposes. Instead, by virtue of the long lease, the local authority becomes the liable person. The result is that such properties, regardless of their actual market value, become chargeable at the lowest rate of LPT, i.e. €90. The amendment being made provides that, in the case of such long leases to a local authority or a social housing body, the lessor remains the liable person.

This second amendment is a very minor technical amendment to insert the missing indefinite article “a” before “relevant residential property”.

Head 6 Amendments to Part 4 of the Principal Act (Charging Provisions)

To provide that:

- Section 13 of the Principal Act is amended to include the year 2021 in the years for which 1 May 2013 is the valuation date, to specify 1 November 2021 as the next valuation date for the years 2022 to 2025 and to provide for 4-year valuation periods thereafter.
- A new section 13A is inserted to provide for the valuation of a property that is completed, or refurbished to a habitable standard, after the valuation date.
- Section 14 is amended by inserting a new subsection (1B) to provide that, in the case of a property that is sold by a local authority or a social housing body, a purchaser of such a property will have to pay LPT based on the actual value of the property. Another amendment to subsection (2) deletes the reference to consecutive 3-year valuation periods.
- Section 15 is deleted.
- Section 17 is amended to change the rates of LPT and to change the valuation bands to which these rates are applied.
- Section 20(1) is amended to update the reference to the relevant Minister to the Minister for Housing, Local Government and Heritage.
- Section 21(1) is amended to change the date by which a variation in the standard rate of LPT is to be notified to Revenue by a local authority.

Explanatory Note:

Part 4 of the Principal Act provides for the methodologies for valuing properties and charging LPT, including the adjustment of LPT rates by local authorities.

The current valuation procedures will, for the most part, continue; i.e. the valuation for a property declared on the valuation date (1 November 2021) will continue until the following valuation date (1 November 2025), regardless of what happens to the property in the intervening period. However, properties that are newly completed, or refurbished to a habitable condition, between valuation dates will now be chargeable to LPT as they are completed/refurbished with a retrospective valuation to the preceding valuation date.

There are several amendments to Part 4 involving, inter alia, the length of valuation periods, tax rates, valuation bands and the timeframe for decisions on local authority rate adjustments.

Section 13 specifies the valuation date and the range of years for which this date is to apply (subsection (2)). It also allows the valuation date to be changed by Ministerial Order (subsection (3)). Firstly, the amendment to this section retrospectively includes the year 2021 (extended by Ministerial Order) in the range of years for which 1 May 2013 is the valuation date. Secondly, it specifies 1 November 2021 as the next valuation date for the years 2022 to 2025. Thirdly, it provides for 4-year valuation periods (in line with the recommendation of the 2019 Report of the Interdepartmental Review of LPT) after the year 2025 instead of the current provision for 3-year periods after the year 2020.

A new **section 13A** is inserted that provides for the valuation of properties that were not “residential properties” on the preceding valuation date because they were completed, or refurbished to a habitable condition, after that date. Such properties are to be valued at the notional value that would have applied at the preceding valuation date. Revenue will publish guidance to facilitate liable persons

in carrying out this valuation. This valuation method will take account of general movements in property values since the valuation date and ensure equity vis-a-vis other properties that are already chargeable to LPT. On the following valuation date, all current properties will then be revalued on the same basis.

Section 14 (with some exceptions) allows for the position, in relation to property valuation and exemptions, that pertains on a valuation date to continue until the following valuation date.

Subsection (1) provides for an unchanged valuation where a property is transferred to another liable person during a valuation period. This treatment is being disapplied in the case of a property that is sold by a local authority or a social housing body. Instead of the Band 1 valuation that applies (under section 17(6)) to all properties owned by a local authority or social housing body, 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). A new subsection (1B) inserted in section 14 provides for this treatment.

Subsection (2) provides for the duration of exemptions from the charge to LPT. Other than the exemption for 'first-time buyers' in section 8, a property that is exempt on the valuation date continues to be exempt until the following valuation date even if it ceases to satisfy the qualifying conditions for the exemption in the intervening period. This section is amended to delete the reference to valuation periods after 2021 to allow for exempt properties to come within the charge to LPT from the time that they cease to satisfy the qualifying conditions for the exemption, with effect from the next valuation date (1 November 2021) onwards.

Section 15 provided a commitment for liable persons (with property valued at under €1m) that Revenue would accept their self-assessments at 'face value' where they were valued in accordance with Revenue guidance. This commitment was made in the 2013 context of an inactive property market and the introduction of a totally new and unfamiliar tax. It is considered that this context no longer applies and it is appropriate to make LPT self-assessments subject to the usual Revenue compliance checks that apply for other self-assessed taxes.

Section 17 provides for the methodology for charging LPT. This comprises the use of a formula applying the tax rate to an amount that is the mid-point of a particular valuation band. In the case of properties valued at over €1million, the actual value is used instead of valuation bands. The standard tax rate of 0.18% is applied to the amount up to €1million and a higher tax rate of 0.25% is applied to the amount over €1million. The amendment to section 17 involves the substitution of a revised tax rate and the table containing the valuation bands with a series of wider bands.

The number of bands is maintained at 20. Band 1 is expanded from €1 to €200,000 and Band 2 contains values in the range €200,000 to €262,500. The LPT charge is fixed at the current charge for Bands 1 & 2 (€90 and €225 respectively).

The other bands are widened by 75% to create bands of €87,500 (increased from the current range of €50,000). For properties in bands 3-19, a mid-point rate of 0.1029% is charged. Properties in bands 12-19 (between €1m and €1.75m) are charged a mid-point rate of 0.1029% on the first €1.05m and 0.25% on balance over €1.05m.

Properties in Band 20 are charged on individual property price as before, with a higher rate of 0.3 per cent applied on the value in excess of €1.75million (0.1029 per cent on first €1.05m, 0.25 percent

between €1.05m and €1.75m, and 0.3 per cent on the balance).

	Current Band Structure	New Option - €200k Band 1 + 75% <i>(includes higher midpoint rate for bands 12-19)</i>	
		Band	Charge
1	0 – 100,000	1 -200,000	90
2	100,001 – 150,000	200,000 -262,500	225
3	150,001 – 200,000	262,501 - 350,000	315
4	200,001 – 250,000	350,000 -437,500	405
5	250,001 – 300,000	437,501- 525,000	495
6	300,001 – 350,000	525,001-612,500	585
7	350,001 – 400,000	612,501 - 700,000	675
8	400,001 – 450,000	700,001- 787,500	765
9	450,001 – 500,000	787,501 – 875,000	855
10	500,001 – 550,000	875,001 – 962,500	945
11	550,001 – 600,000	962,501 – 1,050,000	1,035
12	600,001 – 650,000	1,050,001 – 1,137,500	1,190
13	650,001 – 700,000	1,137,501 – 1,225,000	1,409
14	700,001 – 750,000	1,225,001 – 1,312,000	1,627
15	750,001 – 800,000	1,312,501 – 1,400,000	1,846
16	800,001 – 850,000	1,400,001 – 1,487,500	2,065
17	850,001 – 900,000	1,487,501 – 1,575,000	2,284
18	900,001 – 950,000	1,575,001 – 1,662,500	2,502
19	950,001 – 1,000,000	1,662,501 – 1,750,000	2,721
20	Over €1m	1,750,001+	2,830+
		Rate = 0.1029% (fixed charge in first and second bands)	

Section 20 provides for the adjustment of the standard LPT rate (0.1029%) by local authorities. Where the LPT rate is to be adjusted for a year, a local authority must notify Revenue of the adjusted rate on or before 30 September in the preceding year. This timeframe is required to allow Revenue to notify liable persons about their adjusted tax liability and to put payment arrangements in place for the following January, including payroll deductions by employers and pension providers. Because of the additional work for Revenue involved in a valuation year (2021), it is necessary to bring this

notification date forward to 31 August 2021. However, the notification date is being extended to 15 October in a non-valuation year (2022 to 2025 and onwards).

Head 7 Amendments to Part 7 of the Principal Act (Returns)

To provide that:

- Section 34(1) is amended to provide a more specific reference to the provisions of the LPT Act that are relevant in relation to making a case to Revenue that a person is not a liable person; i.e. change reference in paragraph (c) to “section 3” instead of “Part 2”.
- Section 35 is amended -
 - in subsection (2) to provide a retrospective statutory basis for not requiring a return to be delivered to Revenue in respect of the liability dates in the years 2019 and 2020,
 - in subsection (3) to provide for future 4-year consecutive valuation periods instead of 3-year periods in relation to the treatment specified in subsection (2),
 - in subsection (4) to provide a retrospective statutory basis for requiring the same payment of LPT and payment method in respect of the liability dates in the years 2019 and 2020, and
 - in subsection (5) to provide a retrospective statutory basis for a person acquiring an exempt property from a ‘first-time buyer’ to deliver a return to Revenue in respect of the liability dates in the years 2019 and 2020.
- A new subsection (1A) is inserted to provide for the relevant return date for properties that become relevant residential properties after the valuation date and to provide that references to the first liability date in a valuation period in section 35 shall be read as references to the relevant later liability date in relation to such properties.
- New subsections (2A) and (7) are inserted, as consequential technical amendments arising from the requirement for returns to be delivered in respect of exempt properties, in relation to the relaxation of the requirement to deliver annual returns where LPT has been or is being paid.
- A new subsection (5B) is inserted to provide that a person who purchases a property from a local authority or an approved housing body is not required to comply with the requirements of subsection (5A).
- Section 38 is amended to cap the amount of an income tax or corporation tax surcharge (imposed because of LPT non-compliance) at 50% of the LPT liability.
- A new section 39A is inserted to provide for the inclusion on a return to be delivered to Revenue of specified information about vacant properties.
- A new section 41A is inserted to provide that a liable person who is eligible for an exemption under Part 2, and wants to be exempted, must claim the exemption on a return. The standard right of appeal to the Tax Appeals Commission is given where Revenue decides to refuse the claim.
- Section 43 is amended to provide for a notification to be given to each liable person in relation to a single property, where Revenue designates one of the liable persons as being responsible for preparing and delivering the return for the property. Provision is also made for an appeal to the Tax Appeals Commission where any of the liable persons is aggrieved by the Revenue designation.

Explanatory Note:

Part 7 contains provisions relating to the requirement to deliver LPT returns to Revenue and the frequency and contents of those returns. The general rule is that where a return was delivered in respect

of the first liability date of 1 May 2013, a return doesn't have to be delivered for subsequent years where it contained a self-assessed LPT liability that has been paid, or is being paid. There is also provision for the carry forward from year to year (in the absence of a revised request) of a liable person's payment method that was selected in the return.

Under section 34, a person who has been given a notice to deliver a return, but who does not consider that he or she is a liable person, can make a case to Revenue for a determination that the person is not a liable person. Paragraph (c) of subsection (1) requires that the case made relates to the provisions of Part 2 or Part 3 of the LPT Act. Part 2, in section 3, makes a property that is a residential property on a liability date a relevant residential property and thus chargeable to LPT. But Part 2 also contains all the sections that provide for the various exemptions. As a consequence of the requirement for liable persons in relation to exempt properties to deliver a return and claim an exemption, it is no longer appropriate for section 34 to refer to Part 2 of the LPT Act as it is only section 3 of that Part that will now be relevant. Leaving the reference to Part 2 (in its entirety) unchanged would potentially cause confusion in view of the specific right of appeal against a Revenue refusal of a claim for exemption being given in the new section 41A.

There are several amendments being made to section 35.

It is necessary to take account of the change whereby properties that are newly completed, or refurbished to a habitable condition, between valuation dates will now be chargeable to LPT as they are completed/refurbished instead of waiting until the next valuation date. The new subsection (1A) provides that the liable persons in relation to such properties will be required to deliver returns to Revenue on or before the next return date (7 November) following their completion or refurbishment. It also provides that the corresponding liability date (1 November) in the same year, will apply instead of any references to the liability date of 1 November 2021 in section 35 in relation to not having to deliver returns each year where a return was already delivered in relation to the first liability date in the particular valuation period.

The amendments to subsections (2), (3) and (5) are similar to amendments made in relation to Part 4 (charging provisions). These take account of the extension of the first valuation period beyond the original intended year (i.e. 2017 to 2021). In general, Revenue has not required any new returns since May 2013 and has done this on an administrative basis for the years 2020 and 2021. Amendments give retrospective statutory effect to this treatment for those years. A consequential amendment is also required to change the reference to the originally proposed 3-year valuation period to the new 4-year period provided for by amendments to Part 4.

The payment requirements are disapplied where a liable person has elected to defer the payment of LPT. Similar provisions are now being included in relation to exempt properties (new subsections (2A) and (7)).

The new subsection (5B) relates to the purchase of a property from a local authority or a social housing body, which property would have been valued in Band 1 under section 17(6). Such a purchaser is required to deliver a return but is not required to form a view about the reasonableness of the value declared in a return delivered to Revenue by the seller in May 2013, as is the requirement for other purchasers under subsection (5A).

The new subsection (7) is a consequence of the requirement for returns to be delivered in respect of exempt properties. It is now necessary to specifically exclude the associated liable persons from the provision that requires the same LPT liability to be paid in respect of the liability date in each year of a

valuation period. A similar exclusion from payment is currently contained in subsection (6) in respect of liable persons who have claimed a deferral.

Under section 38, a person who is non-compliant in relation to LPT requirements to file a return and pay LPT is liable to a surcharge of 10% of the amount of tax contained in an income tax or corporation tax assessment where the person is also chargeable to those taxes (surcharge charged under section 1084(2) TCA 1997). Where the person subsequently becomes LPT-compliant, the surcharge is capped at the amount of the LPT liability. The surcharge will, instead, be capped at 50% of that LPT liability.

The new section 39A provides for information in relation to vacant properties (that come within the definition of “residential property”) to be included on a return. It is considered that the current provision (section 39(i)) allowing for “*any other particulars that may be indicated in the return as being required for the purposes of determining a person’s liability to local property tax*” may not be sufficiently wide to allow for the request for information about vacant properties to be included in a return.

The new section 41A relates to the requirement for returns to be delivered in respect of exempt properties. Associated liable persons who are eligible for one of the exemptions specified in Part 2 must claim the particular exemption on the return for the exemption to apply. Should Revenue then decide that the exemption does not apply, it is to issue a refusal notification to the liable person who is given a right of appeal against the refusal to the Tax Appeals Commission. The liable person is allowed the standard 30 days allowed for other types of appeal from the date of the refusal notification to make an appeal. Currently, where Revenue decides that a liable person is not eligible for an exemption, the right of appeal is given under section 34(3) against a determination that the person is a liable person. This determination is no longer appropriate where a person who holds the required interest in a property that is exempt is nevertheless treated as a liable person for the purposes of the LPT Act other than for section 16(1) (charge to tax).

Section 43 contains provisions in relation to returns to be delivered in respect of a property that has more than one liable person, such as a jointly owned property. Only one return, containing a self-assessed value, can be delivered for the property. To deal with a situation where more than one value might be declared, there are rules for designating the liable person to deliver the return. Revenue has the discretion to designate a liable person for this purpose if this should prove necessary. The amendment provides that, should Revenue exercise this discretion, that it must notify all the liable persons of the designation. The liable persons are being given a right to appeal against a designation to the Tax Appeals Commission.

Head 8 Amendments to Part 8 of the Principal Act (Revenue Estimates and Assessments)

To provide that:

- Section 49 of the Principal Act is amended to provide for a return containing a claim for exemption or deferral so that the amount of the Revenue estimate notified to a liable person does not become due and payable by default notwithstanding that a return contains such a claim.
- Section 59 of the Principal Act is amended to provide for a right of appeal to the Land Values Reference Committee instead of the Tax Appeals Commission where a dispute relates to the value of property.

Explanatory Note:

When sending out returns to liable persons, Revenue includes an amount called a 'Revenue estimate' in relation to the property. This is not an estimate of a person's LPT liability as such, but an amount that becomes payable by default if the liable person doesn't deliver a return containing a self-assessment of the property's value and an election for a particular payment method. Currently, the only exceptions made to these requirements in section 49 relate to where it is determined, by Revenue or the Appeal Commissioners, that a person is not a liable person (section 51) or where Revenue makes its own assessment of liability (section 55). Section 49 is being amended to include situations where a liable person delivers a return containing a self-assessment (but not a payment method) and claims either an exemption or deferral. The reference to an exemption is required as a consequence of the requirement for returns to be delivered in respect of exempt properties (similar to amendments to section 35 in Head 7). The reference to deferral was previously inadvertently overlooked and is now being rectified.

When LPT was introduced, provision was made for appeals against Revenue assessments of LPT to be made to the Tax Appeals Commission. However, it would have been more appropriate for certain appeals, i.e. those relating to disputes about the value of property, to be made to a specialist valuation appellate body called the Land Values Reference Committee. This is the situation that pertains in relation to valuation appeals for capital gains tax, capital acquisitions tax and stamp duty disputes. LPT is now being aligned with the treatment for these other taxes. Appeals against LPT assessments relating to non-valuation disputes will continue to be made to the Tax Appeals Commission.

Head 9 Amendments to Part 11 of the Principal Act (Collection and Enforcement)

To provide that:

- Section 129 of the Principal Act is amended, to confirm that the LPT compliance required for a tax clearance certificate by a person subject to the Standards in Public Office Act 2001 is not adversely affected where an LPT payment deferral arrangement is in place.

Explanatory Note:

This amendment is associated with a more substantive amendment in Head 11. The necessity for LPT liable persons to have a tax clearance certificate in many situations is one of a variety of compliance tools available to Revenue. A liable person must be in compliance with his or her LPT obligations (i.e. delivery of returns and payment of LPT) to obtain a tax clearance certificate. The statutory basis for this is the inclusion of the Finance (Local Property Tax) Act 2012 in the list of tax Acts contained in sections 1094(1) and 1095(1) of the Taxes Consolidation Act 1997, which sections provide for the issue of tax clearance certificates. Tax clearance provisions for certain public appointees are not contained in the Taxes Consolidation Acts but are included in the Standards in Public Office (SiPO) Act 2001.

Subsection (3) of section 1095 TCA 1997, which specifies the tax obligations that must be complied with, is already referenced in section 129. The purpose of section 129 is to provide that the deferral of payment of an eligible person's LPT liabilities is not to be treated as non-compliance for the purposes of section 1095(3) TCA 1997. A similar reference to compliance with tax obligations under the Standards in Public Office Act 2001 is now being included.

Head 10 Amendments to Part 11 of the Principal Act (Deferred Payment of Local Property Tax)

To provide that:

- Section 131 is amended in subsection (1)(b) to reduce the rate of interest charged on deferred LPT liabilities from a daily rate of 0.011% to a daily rate of 0.008%.
- Section 132 is amended in subsections (1) and (2) to increase the annual income thresholds below which a liable person can opt to defer the payment of LPT for both single people (increase from €15,000 to €18,000) and for married and co-habiting couples (increase from €25,000 to €30,000). The annual thresholds for a partial 50% deferral are also increased in subsection (3) - increase from €25,000 to €30,000 and from €35,000 to €42,000, respectively.
- Section 133 is amended to phase out the deferral available where the standard income thresholds, adjusted by 80% of mortgage interest payments, are below the standard income thresholds by restricting the deferral to those liable persons who are already eligible for it.
- A couple of minor technical amendments are made to subsection (1) to substitute “payable date” for “due date” and to section 132(1) to delete the reference to “from all sources”.

Explanatory note

Liable persons with annual income below specified thresholds can claim a deferral of their LPT liability on their LPT return. LPT can be deferred until such time as the property is sold or otherwise transferred. The liable person can, of course, decide to pay LPT at any stage. Deferred LPT is subject to annual simple interest of 4%.

The daily rate of interest on deferred LPT liabilities is provided for by section 131(1)(b). This is currently 0.011% (annual rate of 4%) and is being reduced to 0.008% (annual rate of 3%) in respect of liabilities deferred for the year 2022 onwards.

The current income thresholds are €15,000 for a single person and €25,000 for a married or co-habiting couple. These thresholds are being increased to €18,000 and €30,000, respectively. Marginal relief applies for owner-occupiers whose income is not more than €10,000 more than the standard thresholds to permit deferrals of up to 50% of the LPT liability. The current marginal relief thresholds are €25,000 for a single person and €35,000 for a married or co-habiting couple. These thresholds are being increased to €30,000 and €42,000, respectively.

For owner-occupiers who have an outstanding mortgage, an adjusted income limit applies where a person’s annual income less 80% of mortgage interest paid is less than the standard thresholds of €15,000 and €25,000. Marginal relief of 50% also applies where a person’s adjusted income is not more than €10,000 more than the adjusted standard income thresholds; i.e. €25,000 and 35,000. This option was originally available until the end of 2019 but is currently being applied on an administrative basis by Revenue at the Minister’s request. It is now being phased out. Those owner-occupiers who are already eligible for the deferral can continue to avail of it, subject to not exceeding the annual income thresholds, but the deferral will not be available to owner-occupiers taking out a new mortgage loan.

The first minor technical amendment to subsection (1) is to amend the incorrect reference to the date from which interest on late payment is charged; i.e. the “payable date” instead of the “due date”.

The second minor technical amendment deletes a superfluous reference in section 132(1)(b) to “from all sources” in relation to a person’s gross income in a relevant year. The definition of “gross income” in section 130 refers to income “from all sources”.

Head 11 Amendments to Part 14 of the Principal Act (Offences and Penalties)

To provide that

- Part 14 of the Principal Act is amended in section 149 to directly link the interest rate charged on the late payment of LPT to the rate charged for the direct taxes by section 1080 Taxes Consolidation Act 1997.

Explanatory note:

Interest on overdue tax is charged on a standalone basis by section 149 at the current daily rate of 0.0219% charged in respect of some other taxes, such as income tax, by the TCA 1997 (section 1080(2)). It is considered that, instead of a standalone basis, the LPT interest rate should be directly linked to the TCA 1997 provision. This would 'future-proof' the LPT interest rate, without the need for separate legislative amendment, in case of any changes made to the standard TCA rate.

Head 12 Consequential Amendments to Sections 959AF(1A), 991B and 997A Taxes Consolidation Act

To provide that:

- **Section 959AF(1A)** of the Taxes Consolidation Act 1997 is amended to provide that appeals against income tax and corporation tax assessments can be appealed to the Tax Appeals Commission where an assessment contains a surcharge imposed because of non-compliance with a liable person's Local Property Tax requirements.
- **Section 991B** of the Taxes Consolidation Act 1997 is amended to provide for the Covid-19 'warehousing' of Local Property Tax liabilities deducted by an employer from a liable person's salary or pension on the same basis as income tax, universal social charge and PRSI.
- **Section 997A** of the Taxes Consolidation Act 1997 is amended to extend to Local Property Tax the restrictions on credit allowed for tax deductions from salaries of proprietary directors of companies where deductions are not actually paid over to Revenue.

Explanatory note

A person who is non-compliant in relation to LPT requirements to file a return and pay LPT is liable to a surcharge of 10% of the amount of tax contained in an income tax or corporation tax assessment where the person is also chargeable to those taxes (surcharge charged under section 1084(2) TCA). Where the person subsequently becomes LPT-compliant, the surcharge is capped at the amount of the LPT liability.

Finance Act 2020 (section 58) amended the TCA in section 959AF to specify the grounds of appeal that would be relevant for an appeal against an income tax or corporation tax assessment containing a surcharge. It was not possible to include the corresponding LPT provision because of the Money Bill status of a Finance Bill. Section 959AF is now being amended in this LPT Bill to provide for an appeal against an assessment containing a surcharge because of non-compliance with LPT.

The Financial Provisions (Covid-19)(No. 2) Act 2020 introduced 'warehousing' provisions for certain tax liabilities deducted by employers from their employees' salaries. These were income tax and universal social charge. Provision was also made for the 'warehousing' of PRSI deductions. It was not possible to provide for LPT deductions in this Act because it was a Money Bill. This situation is now being addressed in this LPT Bill with the amendment of section 991B TCA to include LPT liabilities deducted from salaries.

In accordance with section 997A TCA 1997, directors of companies who have a 'material interest' in the company (known as proprietary directors) are not given credit for income tax, universal social charge and PRSI deducted from payments made to them by the company unless there is evidence that the tax has actually been remitted to Revenue. When LPT was introduced, the inclusion of a similar provision for LPT deducted by a company was inadvertently overlooked. This omission is now being addressed in this LPT Bill by amending section 997A.

Head 13 Consequential Amendments to other Acts

To provide that:

- The Standards in Public Office Act 2001 is amended in section 1 by including the Finance (Local Property Tax) Act 2012 (as amended) in the list of tax Acts with which a liable person, within the ambit of the 2001 Act, must comply to be eligible for a tax clearance certificate from Revenue.
- The Ministers and Secretaries (Amendment) Act 2011 is amended, in section 101(3) to include the Finance (Local Property Tax) Act 2012 (as amended) in the list of tax Acts in relation to which the Revenue Commissioners are to be independent in the performance of their functions.
- The Housing (Miscellaneous Provisions) Act 2014 is amended, in section 55(2) in the definition of “specified enactment” to include the Finance (Local Property Tax) Act 2012 (as amended) in the list of enactments in relation to which a housing authority may be required to provide information to Revenue in order to enable the performance of functions under that enactment.

Explanatory note

The necessity for LPT liable persons to have a tax clearance certificate in many situations is one of a variety of compliance tools available to Revenue. A liable person must be in compliance with his or her LPT obligations (i.e. delivery of returns and payment of LPT) to obtain a tax clearance certificate. The statutory basis for this is the inclusion of the Finance (Local Property Tax) Act 2012 in the list of tax Acts contained in sections 1094(1) and 1095(1) of the Taxes Consolidation Act 1997, which sections provide for the issue of tax clearance certificates. However, when these TCA sections were being amended in 2012, it was inadvertently overlooked that the tax clearance provisions for certain public appointees (such as politicians, judges) were not contained in the TCA but in the Standards in Public Office (SiPO) Act 2001. It was intended that the necessary provision would be contained in the successor Act – the Public Sector Standards (PSS) Bill 2015. As this Bill has not yet been enacted, the provision is being introduced by way of an amendment to the SiPO Act by this LPT Act.

The Ministers and Secretaries (Amendment) Act 2011, in section 101, provides for the independence of Revenue. This section states that “*The Revenue Commissioners shall be independent in the performance of their functions under, or for the purposes of, a relevant enactment.*”. The definition of “relevant enactment” contains a list of all the various tax and duty Acts placed under Revenue’s care and management. However, when the Finance (Local Property Tax) Act 2012 was being drafted, the inclusion of the required amendment to the Ministers and Secretaries Act (Amendment) 2011 was inadvertently overlooked. This omission is now being rectified in this LPT Act.

Section 55 of the Housing (Miscellaneous Provisions) Act 2014 provides for data sharing and exchange between housing authorities and specified persons and bodies of information required for the purpose of enabling housing authorities to perform their functions under the Housing Acts 1966 to 2014 and the specified persons and bodies to perform their functions under specified enactments. Subsection (2) specifies the Minister for Social Protection, the Private Residential Tenancies Board and the Revenue Commissioners for the purposes of the section. It is proposed to add the Finance (Local Property Tax) Acts to the list of specified enactments.