

Advice received  
June 2016.

**-OPINION-**

**AGENT:** *Yvonne Kelly, Senior Executive Solicitor, Dublin City Council*

**CLIENT:** *Dublin City Council*

**SUBJECT:** *Renaming of Streets Legislation*

*Legal  
Opinion*

**I PRELIMINARY**

1. Advices are sought regarding the correct statutory procedure to rename a lane in Donnybrook.

**II BACKGROUND**

2. An application has been received by Querist to name / rename a lane in Donnybrook. The request originally came from Cllr. Dermot Lacey on behalf of the Belmont Group. There appears to be no record of the laneway having been formally named before but it is commonly known as Belmont Court and is named as such in the Thoms Directory, Voters' Register and Google maps.
3. Querist has consulted with the neighbours who back and front on the lane and are currently receiving submissions from the residents, some of whom agree with the idea and others who do not. Querist has outlined that the procedure for renaming involves getting a plebiscite and then if approved by residents bringing it to the city council, but they are not clear on who should be consulted.
4. Agent has noted that Part 18 of the Local Government Act 2001 concerns "Placenames". Section 48 of the Environment (Miscellaneous Provisions) Act 2011 inserted a brand new "Part 18 – Placenames" into the Local Government Act 2001. SI 446 of 2011 provided for the commencement of some of those provisions. The new Sections 188, 191 and 194(3) have been commenced. However the other sections in Part 18 have not yet been commenced. Agent has also draw attention to the fact that section 78 of the Local Government Act 1946 has been used in the past for the purposes of holding a plebiscite to establish the wishes of residents to decide on

renaming a road. Agent has also noted that section 78 has been amended on a number of occasions – section 53(3) Local Government Act 1955, section 67 Local Government Act 1994. However, it also noted that the 1946 Act is listed for repeal under the Local Government Act 2001 albeit subject to a saver. It is also noted that there are regulations – S.I. 31/1956 Local Government (Changing of Place Names) Regulations, 1956 which do not appear to have been repealed.

5. In the circumstances of the above, advises are therefore sought on the correct procedure for the renaming of a street / laneway. With respect to – S.I. 31/1956 Local Government (Changing of Place Names) Regulations, 1956 the query has been raised regarding the status of the regulations if the parent legislation has been repealed and the effect of the “saver” if any on the use of Section 78 of the 1946 Act. The query has further been raised that if it is not possible to use the legislation outlined, whether there are any other suitable procedures or powers of which the Council may avail to change a place name.

### **III APPLICABLE LEGISLATION**

6. As noted by Agent Part 18 of the Local Government Act 2001 is entitled ‘Changing of Names of Areas and Display of Names of Streets, etc.’ and contains sections 188 to 197. Section 188 is a definitions provision, while sections 189 and 190 of the Local Government Act 2001 contain a procedure for the changing of placenames. Section 191 to 195 concerns changing the name of a townland situated in one local authority or in more than one county or local authority. Section 196 is a general provision, while section 197 concerns the display of the name of a street. However, the only provisions in Part 18 of the 2001 Act which have commenced are section 188 relating to certain definitions and sections 191, 194(3) and 197. Furthermore, Part 18 of the 2001 Act was entirely substituted under section 48 of the Environment (Miscellaneous Provisions) Act 2011 (with sections 195 to 197). However, these substituted provisions have commenced only in relation to sections 188, 191 and 194 (3) of the Local Government Act 2001 (No. 37 of 2001). The upshot of all this is that the procedures for changing placenames under section 189 and 190 have not commenced and so cannot be utilised in the present instance.

7. As regards section 78 of the Local Government Act 1946, the original unamended provision provided that the appropriate authority may, with the consent of not less than four-sevenths of the ratepayers in a street, change the name of the street. However, section 5(1) of the Local Government Act 2001 provides that an Act specified in the first and second columns of Part 1 of Schedule 3 is repealed to the extent specified in the third column of that Part opposite the references in the first and second columns. Part 1 of Schedule 3 of the 2001 includes the entire of the Local Government Act 1964. It may be noted that there are numerous commencement orders with respect to repeals under section 5(1) of the 2001 Act. As regards the 1946 Act, these include:

- S.I. No. 507/2002 - Local Government Act, 2001 (Commencement) (No. 5) Order, 2002 which repealed sections 7 to 9, 15 to 17, 22, 26 and 27, 34, 64 and 65, 80 and 81.
- S.I. No. 65/2002 - Local Government Act, 2001 (Commencement) Order, 2002 which commenced the repeal of sections 62, 63 and 66 of the 1946 Act.
- S.I. No. 588/2001 - Local Government Act, 2001 (Commencement) (No. 3) Order, 2001 which commenced the repeal of section 25, Part III (insofar as it is not already repealed) and Part IV and sections 70, 71, 73, 82, 83, 95 and 98.

However, the above list of sections under the 1946 Act whose repeal has commenced does not include section 78 of the 1946 Act. It therefore follows that section 78 of the 1946 Act remains in force, as indeed does the Local Government (Changing of Place Names) Regulations, 1956.

### **III PROCEDURE FOR CHANGING OF PLACEMENT**

8. It therefore follows from the above that the procedure to be followed for the proposed change of name is that set out in section 78 of the Local Government Act 1946 as amended and also S.I. 31/1956 Local Government (Changing of Place Names) Regulations, 1956. The original section 78 of the 1946 Act states:

*"The appropriate authority may, with the consent of not less than four-sevenths of the ratepayers in a street, change the name of the street.*

*(2) The power conferred by subsection (1) of this section shall be a reserved function.*

*(3) The Minister may make regulations prescribing the procedure to be followed by the appropriate authority in ascertaining for the purposes of this section whether not less than four-sevenths of the ratepayers in a street consent to the name of the street being changed.*

*(4) The appropriate authority may cause the name of a street to be displayed on a conspicuous part of any convenient building or other erection.*

*(5) In this section—*

*the word "street" includes part of a street and also the whole or part of any road, square, lane or other public place;*

*the expression "the appropriate authority" means—*

*(a) as respects a street in a county or other borough, the corporation of the borough,*

*(b) as respects a street in an urban district, the council of the urban district,*

*(c) as respects a street in a town, the commissioners of the town, and*

*(d) as respects any other street, the council of the county in which the street is situate".*

9. Section 78 of the 1946 Act was amended by section 55 of the Local Government Act, 1955 which included certain provisions relating to ratepayers and also made certain amendments to the definition of "street" and "appropriate authority". Section 67 of the Local Government Act 1994 further amended section 78 by substituting "qualified electors" for "ratepayers" and providing:

*"(a) "the majority of the qualified electors" for "four-sevenths of the ratepayers", and*

*(b) "qualified electors" for "ratepayers",*

*wherever the expressions occur in the said sections.*

*(2) For the purposes of the said sections, "qualified electors" means every person who in relation to the urban district, town, townland, non-municipal town, street or locality, as the case may be—*

*(a) is registered as a local government elector in the register of local government electors for the time being in force, or*

*(b) not being so registered is the rated occupier of a hereditament other than a hereditament the valuation of which attracts an allowance equal to full abatement of rates pursuant to section 3 of the Local Government (Financial Provisions) Act, 1978”.*

10. Article 5 of the S.I. No. 31/1956 - Local Government (Changing of Place Names) Regulations, 1956 states

*“5. The procedure to be followed by the appropriate authority in ascertaining—*

*(a) for the purposes of sections 76 and 77 of the Act whether not less than four-sevenths of the ratepayers of a district consent to an application being made to the Government for an order changing the name of the district, and*

*(b) for the purposes of sections 78 and 79 of the Act whether not less than four-sevenths of the ratepayers of an area consent to the name of the area being changed,*

*shall be the procedure specified in Part I of the Schedule to these Regulations”*

Schedule 1 therefore sets out the procedures to be followed.

11. By way of summary the procedure to be followed includes the steps as set out below.

- (1) A list of qualified electors (as defined in section 67 of the 1994 Act) in respect of the street (or in the present instance the lane) must be prepared by the local authority.
- (2) The local authority must by advertisement in one or more than one, newspaper circulating in the functional area of the appropriate authority, and if they think fit, by the display of posters in or near the place, cause notice to be given that the list of qualified electors has been prepared and is open for inspection at the offices of the authority. This notice/advertisement must invite submissions regarding the list of qualified electors.
- (3) The local authority must have regard to any submissions or objections in writing received within three weeks of the publication of the advertisement giving notice of the preparation of the list of qualified electors.
- (4) A plebiscite of the qualified electors in the place shall be held by the local authority and the secretary or clerk of the local authority shall be the returning officer.

- (5) The returning officer shall prepare an electoral roll containing the name of each person who is on the list of qualified electors in the place and the address at which each such person ordinarily resides
  - (6) The returning officer shall send by ordinary post to every person whose name is on the electoral roll at the person's address in that roll a ballot paper and a postage prepaid envelope addressed to the returning officer.
  - (7) The ballot paper must be in the form prescribed under the 1956 Regulations
  - (8) Completed ballot papers may be returned by ordinary post or otherwise to the returning officer who shall place them in a sealed ballot box.
  - (9) The returning officer having counted the valid votes and ascertained the number of votes consenting and the number of votes dissenting to the proposed application or the proposed change, shall declare the result of the plebiscite in the prescribed form.
  - (10) The local authority may with the consent of a majority of the qualified electors as determined under the plebiscite change the name of the street. This decision is a reserved function.
11. The above is a summary of the main steps although there are certain additional details regarding the plebiscite process stated in Schedule 1 of the 1956 Regulation and the same should be followed. This includes where the street or lane falls within the functional area of two local authorities.

## **CONCLUSION**

12. The procedure to be followed for the change of name is that set out in section 78 of the Local Government Act 1946 as amended and under Schedule 1 of S.I. 31/1956 Local Government (Changing of Place Names) Regulations, 1956. Although the 1946 Act is listed for repeal under the Local Government Act 2001, the provision repealing the same has not been commenced and so the 1946 Act and the 1956 Regulations remain in force.

**STEPHEN DODD BL**

Home > Statutory Instruments > 1956 >

S.I. No. 31/1956 - Local Government (Changing of Place Names) Regulations, 1956.

## S.I. No. 31/1956 - Local Government (Changing of Place Names) Regulations, 1956.

S.I. No. 31 of 1956.

LOCAL GOVERNMENT (CHANGING OF PLACE NAMES) REGULATIONS, 1956.

The Minister for Local Government in exercise of the powers conferred on him by sections 4 , 76 , 77 , 78 and 79 of the Local Government Act, 1946 (No. 24 of 1946) as amended by section 53 of the Local Government Act, 1955 (No. 9 of 1955) hereby makes the following Regulations :—

1. These Regulations may be cited as the Local Government (Changing of Place Names) Regulations, 1956.

2. In these Regulations—

" the Act " means the Local Government Act, 1946 ;

" the Act of 1955 " means the Local Government Act, 1955 ;

" appropriate authority " means—

(a) as respects an urban district, the council of the urban district ;

(b) as respects a town, the town commissioners ;

(c) as respects a townland or non-municipal town situate wholly within one county, the council of that county ;

(d) as respects part of a townland or of a non-municipal town situate in a county, the council of that county ;

(e) as respects a street, the authority specified in subsection (6) (added by section 53 of the Act of 1955) of section 78 of the Act ;

(f) as respects a locality, the authority specified in subsection (5) of section 79 of the act ;

" area " means a street or a locality ;

" district " means an urban district, town, townland or non-municipal town ;

" the Minister " means the Minister for Local Government ;

" place " means the district or area in respect of which a local authority propose to hold a plebiscite and

## SCHEDULE

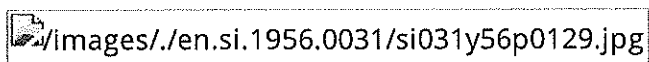
## PART I.

1. Before adopting a list of ratepayers in a place under sections 76, 77, 78 and 79 of the Act (as amended by section 53 of the Act of 1955), the appropriate authority shall, by advertisement in one or more than one, newspaper circulating in the functional area of the appropriate authority, and if they think fit, by the display of posters in or near the place, cause notice to be given that the list of ratepayers has been prepared and is open for inspection at the offices of the authority.
2. The appropriate authority shall, in adopting the list of ratepayers, have regard to any objections in writing received within three weeks of the publication of the advertisement giving notice of the preparation of the list of ratepayers.
- 3.—(1) Save where the place is a townland or non-municipal town situate partly in one county and partly in another county, a plebiscite of the ratepayers in the place shall be held by the appropriate authority and the secretary or clerk of the appropriate authority shall be the returning officer.  
  
(2) Where the place is a townland or non-municipal town situate partly in one county and partly in another county, a plebiscite of the ratepayers in the place shall be held by the council of the county which contains the greater number of the ratepayers in the place. In case each county contains an equal number of the said ratepayers, a plebiscite shall be held by the council of such of the counties as may be determined by the Minister. The Secretary of the council holding the plebiscite shall be the returning officer.
4. The returning officer shall prepare an electoral roll containing the name of each person who is on the list of ratepayers in the place and the address at which each such person ordinarily resides or the address at which demand for payment of rates by such person is made. The names on the roll shall be numbered consecutively.
5. The returning officer shall send by ordinary post to every person whose name is on the electoral roll at the person's address in that roll a ballot paper and a postage prepaid envelope addressed to the returning officer. The returning officer shall post the ballot papers in the presence of the chairman or such other member or members of the local authority as may be authorised by that authority to witness such posting.
6. If the place is a district the ballot paper shall be in the form set out in Form I of Part II of this Schedule.
7. If the place is an area the ballot paper shall be in the form set out in Form II of Part II of this Schedule.
8. Every ballot paper shall have a number printed on it and shall have attached a counterfoil with the same number printed on the face thereof.
9. A ratepayer shall have one vote only in a plebiscite notwithstanding that he is rated in respect of more than one hereditament in the place.



The.....at a meeting on the.....passed a resolution proposing that a plebiscite be taken to ascertain whether four-sevenths of the ratepayers in the.....consent to an application being made to the Government for an order changing the name of.....to.....

As a ratepayer concerned in the proposed application you are requested to indicate whether you consent to the application being made. In the presence of a witness to whom you are known personally you should place the mark " X " opposite the word " Yes " below if you consent or opposite the word " No " if you do not consent. This ballot paper must be signed in the presence of the witness who must also sign in the appropriate place. It should be returned so as to reach the address on the enclosed envelope before.....o'clock on the.....



Signature of Ratepayer.....

Address.....

Date.....

The above-named, who is personally known to me, has marked and signed this ballot paper in my presence.

Signature of Witness.....

Address.....

Note : The occupier of a small dwelling within the meaning of the Local Government (Rates on Small Dwellings) Act, 1928 , is, for the purposes of this plebiscite, regarded as the ratepayer.

BALLOT PAPER.

Form II.

No.....

To.....

.....

.....

Counterfoil Number.....(This number should correspond with that on the ballot paper).

The.....at a meeting on the.....passed a resolution proposing that a plebiscite be taken to ascertain whether four-sevenths of the ratepayers in.....consent to a change in the name of.....to.....

I, the undersigned, being the returning officer at the plebiscite held to ascertain whether not less than four-sevenths of the ratepayers in ..... consent to the name of.....being changed to.....hereby declare the result of the said plebiscite as follows :—

Number of ratepayers in place.....

Number of votes in favour of the said change being made.....

Dated this.....

.....

Returning Officer.

GIVEN under the Official Seal of the Minister for Local Government this first day of March, One Thousand Nine Hundred and Fifty-six.

PATRICK O'DONNELL,

Minister for Local Government.