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# ACQUISITION OF LAND BILL 2023

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## CONTENTS

Section

### PART 1

#### Preliminary and general

1. Short title and commencement
2. Definitions
3. Regulations
4. Time periods
5. Particulars of claim
6. Service of notices and vesting order
7. Time limit for claiming compensation
8. Withdrawal of notice to treat
9. Agreement between parties
10. Repeals and revocations
11. References
12. Transitional arrangements

### PART 2

#### Vesting orders

##### Chapter 1

##### Procedure

13. Making and effect of vesting order
14. Service of a vesting order
15. No service of vesting order where notice to treat served
16. Form of vesting order
17. Provision of particulars of claim to acquiring authority
18. Vesting date
19. Compulsory purchase order of no effect where vesting date later than 6 months from vesting order
20. Publication of service of vesting order
21. Registration of vesting order
22. Amendment of vesting order

##### Chapter 2

Persons who cannot be found or ascertained, or who fail to provide evidence of title

23. Application of this Chapter
24. Definitions (Chapter 2)

25. Payment of moneys into court in respect of a relevant person
26. Reasoned statement (moneys paid into court)
27. Application to Court for release of moneys
28. Application to Tribunal by relevant person
29. Costs and expenses in respect of application by relevant person
30. Release and repayment of moneys
31. No interest payable on payment into court

### PART 3

#### Advance payment

32. Right to advance payment of compensation
33. Advance payment conditional on satisfactory demonstration of title
34. Offer of advance payment does not prejudice certain matters
35. Request for advance payment
36. Reasoned statement (advance payment)
37. Time within which advance payment to be made where request made within 10 weeks
38. Time within which advance payment to be made where request made after 10 weeks
39. Repayment of advance payment
40. Conditions for advance payment in respect of mortgaged land
41. Land subject to more than one mortgage
42. Mortgage exceeding 90 per cent of estimated or agreed compensation

### PART 4

#### Compensation

43. Application of this Part

#### Chapter 1

##### Determination of compensation by Tribunal

44. Applicant
45. Compensation to be determined by the Tribunal
46. Application to Tribunal
47. Form and content of application
48. Power of the Tribunal to order a stay
49. Consolidation of claims
50. Composition of Tribunal
51. Basis of determination
52. Procedures of the Tribunal
53. Determination should be made within 6 months
54. Publication of reasons for determination

55. Interim determination by the Tribunal
56. Appeal to Court
57. Costs before the Tribunal
58. Time limit for payment of compensation
59. Enforcement of compensation determination

## Chapter 2

### Principles of compensation

60. Definitions and interpretation (Chapter 2)
61. Entitlement to compensation
62. No allowance for acquisition being compulsory
63. Award of compensation
64. Relevant dates for assessment of compensation
65. Market value
66. Reduction in value of retained land
67. Reduction in value of land other than retained land
68. Consequential losses
69. Equivalent reinstatement
70. Value owing to unlawful or unauthorised use or structure
71. Duty to mitigate losses
72. New interests or enhancements
73. Disregard of change in value owing to reservation for particular purpose
74. No-scheme rule
75. Interference with other legal interests
76. Land below the surface

## Chapter 3

### Interest

77. Principal sum
78. Rate of interest
79. Interest after vesting order made
80. Interest on late payment of compensation as determined by the Tribunal
81. Interest on late advance payment

## ACTS REFERRED TO

Acquisition of Land (Assessment of Compensation) Act 1919 (9 & 10 Geo.) c. 5

Companies Act 2014 (No. 38)

Debtors (Ireland) Act 1840 (3 & 4 Vict.) c. 105

Lands Clauses Consolidation Act 1845 (8 & 9 Vict.) c. 18

Land and Conveyancing Law Reform Act 2009 (No. 27)

Legal Services Regulation Act 2015 (No. 65)

Planning and Development Act 2000 (No. 30)

Property Values (Arbitrations and Appeals) Act 1960 (No. 45)

State Property Act 1954 (No. 25)

Valuation Act 2001 (No. 13)

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ACQUISITION OF LAND BILL 2023

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# Bill

*entitled*

An Act to provide for the assessment of compensation payable on account of the compulsory acquisition of land; to provide for the acquisition of land by vesting order; to provide for the making of advance payments to owners, lessees and occupiers on account of compensation owed to them as a consequence of the compulsory acquisition of land; to provide for the transfer of functions relating to the assessment of compensation for compulsorily acquired land to the Valuation Tribunal; for those purposes to repeal the Acquisition of Land (Assessment of Compensation) Act 1919; and to provide for related matters.

**Be it enacted by the Oireachtas as follows:**

## PART 1

### PRELIMINARY AND GENERAL

#### **Short title and commencement**

- (1) This Act may be cited as the Acquisition of Land Act 2023.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

#### **Definitions**

- In this Act—

“acquiring authority” means any body corporate, unincorporated body of persons or individual that has granted to it by any enactment a power to compulsorily acquire relevant land or a relevant interest;

“advance payment” has the meaning given to it by *section 32*;

“award of compensation” is to be construed in accordance with *section 63*;

“Board” means An Bord Pleanála;

“compulsory purchase order” means any instrument, scheme or order made under or pursuant to a provision of any enactment that authorises an acquiring authority to acquire compulsorily relevant land or a relevant interest described in, or designated by, that instrument, scheme or order;

“consequential loss” has the meaning given to it by *section 68*;

“costs and expenses” includes—

- (a) legal and professional fees, and
- (b) costs incurred by the execution or production of necessary documents;

“Court” means the High Court;

“lessee” means the person, including a sublessee, in whom a tenancy created by a lease is vested;

“Minister” means the Minister for Housing, Local Government and Heritage;

“notice to treat” means—

- (a) a notice described as a “notice to treat” under any other enactment, or
- (b) a notice, other than a notice in *paragraph (a)*, issued by an acquiring authority pursuant to any enactment stating that authority’s willingness to treat for the purchase of relevant land or a relevant interest that is subject to a compulsory purchase order;

“occupier”, in relation to land, means—

- (a) any person in or entitled to immediate use or enjoyment of the land,
- (b) any person entitled to occupy the land, and
- (c) any other person having, for the time being, control of the land;

“owner” means—

- (a) a person, other than a mortgagee not in possession, who is, whether in his or her own right or as trustee or agent for any other person, for the time being entitled to dispose of—
  - (i) in the case of relevant land, the fee simple of the land, or
  - (ii) in the case of a relevant interest, the fee simple of the land to which the interest relates,whether in possession or reversion, and
- (b) a person who holds or is entitled to the rents and profits of—
  - (i) in the case of relevant land, the land, or
  - (ii) in the case of a relevant interest, the land to which the interest relates,under a lease or agreement, the unexpired term of which exceeds 3 years;

“particulars of claim” has the meaning given to it by *section 5*;

“person” includes an individual, a company and any other body of persons;

“relevant interest” means, in relation to relevant land, an easement, profit a prendre, public or private right of way, wayleave or any other like right or interest, in, over or relating to the land;

“relevant land” includes—

- (a) any estate or interest in or over land other than a relevant interest,
- (b) any estate or interest, other than a relevant interest, in, over or relating to the substratum below the surface or any part thereof whether or not owned in horizontal, vertical or other layers apart from the surface of the land,

- (c) mines, minerals and other substances in the substratum below the surface, whether or not owned in horizontal, vertical or other layers apart from the surface of the land,
- (d) land covered by water,
- (e) buildings or structures of any kind affixed to land and any part of them, whether the division is made horizontally, vertically or in any other way,
- (f) the airspace above the surface of land or above any building or structure on land which is capable of being or was previously occupied by a building or structure and any part of such airspace, whether the division is made horizontally, vertically or in any other way,
- (g) any part of land;

but does not include—

- (i) “state land”, within the meaning of section 2(1) of the State Property Act 1954,
- (ii) land owned by a “state authority” within the meaning of section 2(1) of the State Property Act 1954,
- (iii) any part of the maritime area;

“Tribunal” means the Valuation Tribunal;

“vesting date” means the date specified in a vesting order as the date on which the estates and interests in land specified in that order are to vest in the acquiring authority;

“vesting order” has the meaning given to it by *section 13*.

### **Regulations**

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary, or expedient for the purposes of the regulations.
- (3) Every regulation made under *subsection (1)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 3 weeks on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

### **Time periods**

4. In relation to a time period referred to in this Act, the Minister may by regulation, where it appears to him or her to be necessary to do so for reasons of public importance in connection with the scale and complexity of a category of acquisition, vary or modify a time period in relation to such class of acquisitions as may be prescribed other than that provided for this Act, and the reference to such time periods shall be read in accordance with the time periods so prescribed.

### **Particulars of claim**

5. (1) An owner, lessee or occupier shall, in making a claim under this Act for—
- (a) compensation in respect of relevant land or a relevant interest,
  - (b) an advance payment of such compensation, or
  - (c) both compensation in respect of a relevant land or relevant interest and an advance payment of such compensation,
- provide the acquiring authority, and the Tribunal where the matter is referred to the Tribunal, with particulars (in this Act referred to as “particulars of claim”) in accordance with this section.
- (2) The particulars of claim shall include:
- (a) evidence of the exact nature of the owner, lessee or occupier’s interest in land subject to the compulsory acquisition, and
  - (b) details of the compensation claimed.
- (3) The Minister shall prescribe the form of particulars of claim to be submitted by the owner, lessee or occupier, where his or her land or interest is acquired using the vesting order procedure under this Act.

### **Service of notices and vesting order**

6. (1) Where a notice or a vesting order is required to be served on a person under this Act, it shall be addressed to him or her and shall be served on him or her in one of the following ways:
- (a) where it is addressed to him or her by name, by delivering it to him or her;
  - (b) by leaving it at the address at which he or she ordinarily resides or, in a case in which an address for service has been furnished, at that address;
  - (c) by sending it by post in a prepaid registered letter addressed to him or her at the address at which he or she ordinarily resides or, in a case in which an address for service has been furnished, at that address;
  - (d) where the address at which he or she ordinarily resides cannot be ascertained by reasonable inquiry by delivering it to some person over sixteen years of age resident or employed on such land or premises or by affixing it in a conspicuous position on or near such land or premises.
- (2) Where a notice or vesting order is required to be served on an owner or occupier under this Act and the name of the owner or occupier cannot be ascertained by reasonable inquiry, it may be addressed to “the owner” or “the occupier”, as the case may require, without naming him or her.
- (3) For the purposes of this section, a company within the meaning of the Companies Act 2014, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.



### **Time limit for claiming compensation**

7. (1) Subject to *subsection (2)*, a claim for compensation under this Act shall be brought by a person within 20 years from:
- (a) in case a notice to treat was served, or deemed to have been served, on him or her, the date on which the acquiring authority entered into possession of the land;
  - (b) in case a copy of a vesting order was served, or deemed to have been served, on him or her, the vesting date;
  - (c) in any other case, the date on which the acquiring authority entered into possession of the land.
- (2) Where a claim for compensation relates to moneys paid into Court under *section 25*, that claim must be brought by a person within 25 years from the date on which those moneys are paid into Court.

### **Withdrawal of notice to treat**

8. (1) Where under any enactment a notice to treat has, after the commencement of *section 10*, been served on a person the provisions of this section apply.
- (2) An acquiring authority may, within six weeks from the receipt of particulars of claim from an owner, lessee or occupier, withdraw a notice to treat that was served on that owner, lessee or occupier.
- (3) Where an acquiring authority withdraws a notice under *subsection (2)* it shall be liable to pay compensation to the owner, lessee or occupier for any loss or expenses reasonably incurred by him or her as a result of the notice to treat having been given to him or her and withdrawn.
- (4) Compensation awarded under this section shall, in default of agreement, be determined by the Tribunal.

### **Agreement between parties**

9. Nothing in this Act shall prevent the acquiring authority and the owner, lessee or occupier coming to an agreement on the acquisition of relevant land or a relevant interest or the compensation payable, and interest attaching to such compensation, for that land or interest by means of a process provided for other than in this Act.

### **Repeals and revocations**

10. (1) The Acts referred to in *column (2)* of *Schedule 1* are repealed to the extent specified in *column (3)* of that Schedule.
- (2) The instruments referred to in *column (2)* of *Schedule 2* are revoked to the extent specified in *column (3)* of that Schedule.

### **References**

11. (1) A reference in any enactment or instrument made under any enactment, other than this Act, to:
- (a) a property arbitrator or official arbitrator appointed by the Land Values Reference Committee, shall be construed as a reference to the Tribunal;

- (b) the Acquisition of Land (Assessment of Compensation) Act 1919 shall be construed as a reference to this Act.
- (2) A reference in the European Communities (Assessment and Management of Flood Risks) Regulations 2010 (S.I. No. 122 of 2010) to a Panel of Property Arbitrators shall be construed as a reference to the Tribunal.

### **Transitional arrangements**

12. Notwithstanding the repeal of a provision by *section 10(1)* or the revocation of a provision by *section 10(2)*, where, prior to that repeal or revocation, an acquiring authority, the Board, a property arbitrator or other person as the case may be, has taken any step or exercised any power or function under any such enactment in respect of any relevant property, that Act and applicable regulations, shall continue to apply until the completion of any process for the compulsory acquisition of such relevant property set out in such enactment.

## PART 2

### VESTING ORDERS

#### *Chapter 1*

#### *Procedure*

### **Making and effect of vesting order**

13. (1) Where a compulsory purchase order in respect of relevant land or a relevant interest becomes operative, the acquiring authority may by order (in this Act referred to as a “vesting order”) acquire the relevant land or relevant interest.
- (2) The effect of a vesting order shall be to vest any relevant land or relevant interest to which it relates in the acquiring authority in fee simple free from encumbrances and all estates, rights, titles and interests of whatsoever kind on the vesting date.
- (3) An acquiring authority shall not, without the consent, expressed in writing, of each owner, lessee or occupier that would be affected by the order, make a vesting order in respect of relevant land or a relevant interest at any time after the period of 12 months has elapsed from the date on which the compulsory purchase order authorising acquisition of that land or interest becomes operative.

### **Service of a vesting order**

14. Where the acquiring authority makes a vesting order under *section 13(1)*, it shall serve, no later than one week after the order was made, on any owner, lessee or occupier of land whose land or interest is included in the vesting order—
- (a) a copy of the order, and
- (b) a notice informing the owner, lessee or occupier of his or her—
- (i) obligation under *section 17* to provide particulars of claim to the acquiring authority, and

- (ii) entitlement to receive an advance payment under *section 32*.

**No service of vesting order where notice to treat served**

15. An acquiring authority shall not serve a copy of a vesting order on an owner, lessee or occupier if it has served a notice to treat on that owner, lessee or occupier and has not validly withdrawn that notice.

**Form of vesting order**

16. A vesting order shall be in a form to be prescribed, provided that such order shall—
- (a) state the effect of the vesting order,
  - (b) state clearly the vesting date, and
  - (c) have attached to it a map showing the land to which it relates.

**Provision of particulars of claim to acquiring authority**

17. A person on whom a copy of a vesting order is served shall, within 10 weeks from the date of service, provide to the acquiring authority such particulars of claim as shall be prescribed.

**Vesting date**

18. (1) The vesting date shall be—
- (a) a date that both the owner, lessee or occupier and acquiring authority agree in writing to designate as the vesting date, or
  - (b) a date—
    - (i) no earlier than 3 months, and
    - (ii) no later than 6 monthsfrom the date on which the copy of the vesting order was served on the owner lessee or occupier.
- (2) The acquiring authority shall be deemed to have taken possession on the vesting date and shall be liable to pay interest from that date in accordance with *section 79*.

**Compulsory purchase order of no effect where vesting date later than 6 months from vesting order**

19. Where the vesting date does not fall within the period specified in *section 18(1)(b)*, the compulsory purchase order in pursuance of which the vesting order was made shall cease to have effect unless the owner, lessee or occupier and acquiring authority agree another vesting date.

### **Publication of service of vesting order**

20. Within one week from the date on which it makes the vesting order, an acquiring authority shall publish in one or more newspapers circulating within the State or the area to which the compulsory purchase order relates, and in *Iris Oifigiúil*, a notice stating that the order has been made, describing the land that shall be vested in the acquiring authority on the vesting date and naming a place where a copy of the order may be seen at all reasonable times.

### **Registration of vesting order**

21. Where an acquiring authority makes a vesting order in relation to relevant land or a relevant interest, it shall send the order to the Property Registration Authority and the Property Registration Authority shall cause the acquiring authority to be registered as owner of the land or interest in accordance with the order.

### **Amendment of vesting order**

22. (1) Where an acquiring authority is satisfied that the order contains a minor error, a misdescription or omission, whether occasioned by the acquiring authority by whom such vesting order was made or otherwise, the acquiring authority may, by order, amend such a vesting order, provided that the error or mistake may be rectified without injustice to any person.
- (2) Where an acquiring authority makes an order under this subsection amending a vesting order, the Property Registration Authority shall, on the lodgement with them of a copy of such amending order, rectify the register in such manner as may be necessary to make the register conformable with such amending order.

## *Chapter 2*

*Persons who cannot be found or ascertained, or who fail to provide evidence of title*

### **Application of this Chapter**

23. This Chapter applies where an acquiring authority—
- (a) has made a compulsory purchase order that has become operative, and
  - (b) intends to make a vesting order in accordance with *section 13*.

### **Definitions (Chapter 2)**

24. In this Chapter—

“moneys” includes, where the moneys are invested, the sum of the principal moneys invested and any gain or loss arising from that investment;

“relevant person” means—

- (a) an owner, lessee or occupier who holds title to relevant land or a relevant interest that is subject to a vesting order made by an acquiring authority and who cannot be found or ascertained after reasonable inquiry by that authority, and

- (b) a person served with a copy of a vesting order who claims to hold title to relevant land or a relevant interest but who fails to provide evidence to the satisfaction of the acquiring authority of such title.

#### **Payment of moneys into court in respect of a relevant person**

- 25. Where the acquiring authority is satisfied that a person whose land or interest it seeks to compulsorily acquire is a relevant person, and an application has not been made to the Tribunal under *section 46(1)*, it shall estimate the compensation payable in respect of the land or interest compulsorily acquired and shall pay moneys equal to the amount of that estimate into Court within 2 months of the vesting date.

#### **Reasoned statement (moneys paid into court)**

- 26. The acquiring authority shall produce and preserve a reasoned statement of the estimate under *section 25* and shall, where requested to do so, give a copy of the statement to the relevant person to whom the estimation relates.

#### **Application to Court for release of moneys**

- 27. (1) A relevant person may, subject to this section, apply to the Court to have moneys paid into Court under *section 25* released to him or her where those moneys were paid in respect of land or an interest to which he or she claims to hold, or have held, title on—
  - (a) the date on which the application to Court is made, or
  - (b) the date immediately before the vesting date,whichever is earlier.
- (2) A relevant person shall, at the same time as making the application under *subsection (1)*, provide evidence to the Court of his or her title to the land or interest concerned, along with any other particulars as may be set out in rules of court.
- (3) On the application of a relevant person or several relevant persons under *subsection (1)* claiming any part of the moneys paid into Court, the Court shall, where satisfied as to the title of the relevant person or persons, order the distribution of the moneys as compensation according to the estate, title or interest of the relevant person or the respective estates, titles or interests of the several relevant persons.
- (4) Where moneys are paid into Court under *section 25* by the acquiring authority, any costs and expenses payable by or to the acquiring authority or the relevant person or persons shall be at the discretion of the Court.

### **Application to Tribunal by relevant person**

28. (1) Where the Court has ordered the distribution to a relevant person of money paid into Court in accordance with *section 27(3)* and the relevant person considers that the moneys so distributed do not provide him or her with full compensation for the land or interest compulsorily acquired, he or she may make an application, on notice to the acquiring authority, to the Tribunal within one month of the date on which the Court ordered the distribution of the moneys as compensation under *section 27(3)*, to determine whether the moneys paid into Court are sufficient or whether a further or lesser sum of compensation ought to be paid.
- (2) Where an application is made to the Tribunal under *subsection (1)*, the Tribunal shall:
- (a) where it determines that a further sum of compensation ought to be paid to the relevant person, order the acquiring authority to pay the person the further sum no later than 2 months after the determination of the Tribunal;
  - (b) where it determines that a lesser sum of compensation ought to be paid to the relevant person, order the relevant person to repay the excess amount to the acquiring authority no later than 2 months after the determination of the Tribunal.

### **Costs and expenses in respect of application by relevant person**

29. (1) Where a relevant person applies to the Tribunal for a determination under *section 28*, the reasonable costs and expenses, properly incurred by the relevant person or the acquiring authority, in respect of the determination by the Tribunal under this section shall be borne by—
- (a) where the Tribunal determines that the moneys paid into Court are sufficient to compensate the relevant person, either or both of the relevant person and acquiring authority as the Tribunal may determine,
  - (b) where the Tribunal orders the acquiring authority to pay a further sum to the relevant person, the acquiring authority, or
  - (c) where the Tribunal determines that the relevant person is entitled to a sum lower than that which was paid into Court, the relevant person,
- and the Tribunal may determine the amount of such costs and expenses.
- (2) Where the Tribunal orders the relevant person to pay the costs and expenses, or any part of the costs and expenses, of the acquiring authority, the acquiring authority may deduct, where possible, the amount so payable by such person, from the amount of compensation payable to him or her by the acquiring authority.

### **Release of moneys to acquiring authority**

30. Where moneys paid into Court under *section 25* are not claimed within the period specified in *section 7(c)*, the acquiring authority may make an application, on notice to the relevant person where he or she is known to the acquiring authority, to the Court to have the moneys released to him or her.

### **No interest payable on moneys paid into Court**

31. The acquiring authority shall not be liable to pay interest on any moneys paid into Court, or any further sum as determined by the Tribunal, from the date it pays the moneys into Court.

## PART 3

### ADVANCE PAYMENT

#### **Right to advance payment of compensation**

32. (1) An acquiring authority shall make a payment (in this Act referred to as an “advance payment”) to an owner, lessee or occupier on account of compensation payable by it for the compulsory acquisition of relevant land or a relevant interest if the owner, lessee or occupier has made a request to it under *section 35* and—
- (a) the authority has made or intends to make a vesting order under *section 13* in respect of the land or interest, or
  - (b) the authority has served or intends to serve a notice of entry onto the relevant land or the land to which the interest relates following the service of a notice to treat under any other enactment.
- (2) Subject to *section 42*, the amount of an advance payment shall be no less than 90 per cent of:
- (a) where the acquiring authority and owner, lessee or occupier agree on—
    - (i) an award of compensation, or
    - (ii) an amount of one or more of the several amounts constituting an award of compensation,the agreed award of compensation or the amount of that part of the award, as the case may be;
  - (b) where the acquiring authority and owner, lessee or occupier do not agree on—
    - (i) an award of compensation, or
    - (ii) the amount of one or more of the several amounts constituting that award,the acquiring authority’s estimate, based on the information available to it, of the award of compensation, or amount of that part of the award, likely to be awarded to the owner, lessee or occupier by the Tribunal.

#### **Advance payment conditional on satisfactory demonstration of title**

33. (1) Where the acquiring authority is satisfied as to the title of an owner, lessee or occupier, having regard to any evidence in support of the owner, lessee or occupier’s claim to title that may be offered by him or her, including by submission of particulars of claim, the acquiring authority shall pay that owner, lessee or occupier an advance payment.

- (2) Where the acquiring authority is not satisfied that the person upon whom the copy of the vesting order or the notice to treat is served has established title to its satisfaction, the acquiring authority shall not pay that person an advance payment and shall, where the person was served with a copy of a vesting order, treat him or her as a relevant person within the meaning of *section 24*.

#### **Offer of advance payment does not prejudice certain matters**

- 34.** An offer by the acquiring authority, and receipt or rejection of that offer by the owner, lessee or occupier, of an advance payment is without prejudice to:
- (a) the entitlement of either party to make an application to the Tribunal to determine a claim for compensation;
  - (b) the validity of the vesting order, a copy of which was served on the owner, lessee or occupier.

#### **Request for advance payment**

- 35.** (1) Where—
- (a) a copy of a vesting order, or
  - (b) a notice to treat,
- has been served on an owner, lessee or occupier, he or she may request, by submitting to the acquiring authority such form as may be prescribed, that the acquiring authority make an advance payment to him or her.
- (2) Subject to *subsection (3)*, an owner, lessee or occupier shall make a request for advance payment no later than 10 weeks from the date on which either—
- (a) the copy of the vesting order, or
  - (b) the notice to treat,
- was served on him or her.
- (3) Where an owner, lessee or occupier has not made a request for advance payment within the time provided under *subsection (2)*, he or she may do so at any time up to the determination of compensation by the Tribunal pursuant to the provisions of this Act.
- (4) Within one month of receiving a request for an advance payment, the acquiring authority shall determine whether it has enough information available to it to make an advance payment, and, if it determines that it requires more information, it shall require the owner, lessee or occupier to provide such further information as it requires.

#### **Reasoned statement (advance payment)**

- 36.** In making an advance payment, an acquiring authority shall, upon the owner, lessee or occupier's request, provide to him or her a reasoned statement for the amount of the advance payment.



**Time within which advance payment to be made where request made within 10 weeks**

37. Provided an owner, lessee or occupier has made a request for advance payment not later than 10 weeks from the date on which either the copy of the vesting order or the notice to treat has been served, an advance payment requested under *section 32* to which the owner, lessee or occupier is entitled shall be made before the end of—

- (a) the day on which the authority takes possession, or is deemed to have taken possession, of the land, or
- (b) the period of 2 months beginning with the day on which the authority received any further information requested by it under *section 35(4)*,

whichever date is later.

**Time within which advance payment to be made where request made after 10 weeks**

38. Where an owner, lessee or occupier has not made a request for advance payment within the time provided under *section 35(2)*, an advance payment requested under *section 35* which the owner, lessee or occupier is entitled shall be made before the end of the period of 2 months beginning with the day on which the authority received—

- (a) the request for the advance payment, or
- (b) any further information requested by it under *section 35(4)*,

whichever date is later.

**Repayment of advance payment**

39. (1) Where the amount of any advance payment made on the basis of the acquiring authority's estimate of the compensation exceeds the compensation finally determined by the Tribunal or agreed between the parties, the owner, lessee or occupier shall repay the excess amount to the acquiring authority.
- (2) If, after any advance payment has been made to a person, it becomes apparent to the acquiring authority that the person was not entitled to the advance payment, the person shall be required to repay a sum equivalent to the amount of the payment in full to the acquiring authority.
- (3) Any repayment to which an acquiring authority is entitled under this section shall be recoverable as a simple contract debt in a court of competent jurisdiction.

**Conditions for advance payment in respect of mortgaged land**

40. (1) This section applies if—
- (a) the acquiring authority is required to make an advance payment, and
  - (b) the owner, lessee or occupier's land is subject to a mortgage the principal of which does not exceed 90 per cent of the value of compensation agreed upon or estimated.

- (2) The advance payment due to an owner, lessee or occupier shall be reduced by the amount the acquiring authority thinks will be required by it to secure the release of the interest of each mortgagee.
- (3) The acquiring authority shall pay to the mortgagee the amount the acquiring authority thinks will be required by it to secure the release of the mortgagee's interest, if—
  - (a) the owner, lessee or occupier of the mortgaged land so requests, and
  - (b) the mortgagee consents to the making of the payment.
- (4) If there is more than one mortgagee in respect of the land—
  - (a) *subsection 40(3)* applies to each mortgagee individually, but
  - (b) payment shall not be made to a mortgagee before the interest of each mortgagee whose interest has priority to his or her interest is released.
- (5) The amount of the advance payment made to the owner, lessee or occupier and the amount of the payments made to mortgagees under this section shall not in aggregate exceed 90 per cent of the value of compensation.

#### **Land subject to more than one mortgage**

- 41.** If relevant land is subject to more than one mortgage, the reference in *sections 40(1)(b), 42(1)(c) and 42(4)(b)* to the principal is to the aggregate of all mortgagees' principals.

#### **Mortgage exceeding 90 per cent of estimated or agreed compensation**

- 42.** (1) This section applies if—
- (a) the acquiring authority would be required by *section 32* to make the advance payment if it were not for this section,
  - (b) the owner, lessee or occupier makes a request for an advance payment under *section 35* in respect of his or her land, and
  - (c) the land is subject to a mortgage the principal of which exceeds 90 per cent of the value of compensation agreed upon or estimated.
- (2) Where this section applies, no advance payment is to be made to the owner, lessee or occupier in respect of relevant land or a relevant interest acquired.
- (3) But the acquiring authority shall pay to the mortgagee the amount specified in *subsection (4)*, if—
- (a) the owner, lessee or occupier so requests, and
  - (b) the mortgagee consents to the making of the payment.
- (4) The amount is whichever is the lesser of—
- (a) 90 per cent of the value of the land;
  - (b) the principal of the mortgagee's mortgage.
- (5) The value of the land is the value—
- (a) agreed by the owner, lessee or occupier and the acquiring authority, or
  - (b) in the absence of such agreement, estimated by the acquiring authority.

- (6) For the purposes of *subsection (5)* the value of the land is to be calculated in accordance with provisions of *Chapter 2 of Part 4* of this Act.
- (7) If there is more than one mortgagee, payment shall not be made to a mortgagee until the interest of each mortgagee whose interest has priority to their interest is released.
- (8) But the total payments shall not, in any event, exceed 90 per cent of the value of the land.

## PART 4

### COMPENSATION

#### **Application of this Part**

- 43.** This Part applies to any compulsory acquisition of relevant land or a relevant interest under any enactment, whether enacted before or (save where the application of this Act is expressly disappplied) after this Act.

#### *Chapter 1*

##### *Determination of compensation by Tribunal*

#### **Applicant**

- 44.** In this Chapter, “applicant” means the owner, lessee or occupier or the acquiring authority, as the case may be, who makes an application to the Tribunal under *section 46*.

#### **Compensation to be determined by the Tribunal**

- 45.** (1) Where, under any enactment, relevant land or a relevant interest is authorised to be compulsorily acquired the compensation payable for that acquisition shall, in default of agreement, be determined by the Tribunal in accordance with this Act.
  - (2) The Tribunal shall, subject to this Act, be independent in the performance of its functions under this Act.

#### **Application to Tribunal**

- 46.** (1) An application to the Tribunal to determine a claim for compensation shall be made in writing and may be made by the applicant—
  - (a) where the owner, lessee or occupier submitted particulars of claim to the acquiring authority, at any time after the expiration of one month from the date the acquiring authority receives the particulars of claim, or
  - (b) where the owner, lessee or occupier did not submit particulars of claim within the period within which the copy of the vesting order or notice to treat, as the case may be, required him or her to submit particulars of claim to the acquiring authority, one month after the expiry of that period.

- (2) Where the applicant makes an application under *subsection (1)*, the applicant shall, as soon as may be after making the application, send a copy of the application alongside all other necessary documents to any relevant parties to the application.
- (3) No application shall be made to the Tribunal to determine a claim for compensation under *subsection (1)* where money has been paid into Court by the acquiring authority pursuant to *section 25*.
- (4) The Minister shall prescribe the fees payable to the Tribunal in relation to the making of an application under this section.

#### **Form and content of application**

- 47.** (1) An application made under *section 46(1)* shall include—
- (a) a statement of estimate as defined in *subsection (3)*, and
  - (b) any other information or documents as may be specified by the Tribunal under *section 52(1)*.
- (2) The Tribunal shall specify the form and content of an application in rules made by it under *section 52(1)*.
- (3) In this section, “statement of estimate” means—
- (a) in case the owner, lessee or occupier submitted particulars of claim to the acquiring authority, those particulars of claim, or
  - (b) in case the owner, lessee or occupier did not submit particulars of claim to the acquiring authority—
    - (i) where the application is made by the owner, lessee or occupier, a statement containing the owner, lessee or occupier’s estimate of the compensation owed to him or her, or
    - (ii) where the application is made by the acquiring authority, a statement containing the authority’s estimate of the compensation owed to the owner, lessee or occupier.

#### **Power of the Tribunal to order a stay**

- 48.** (1) Where a dispute as to title arises between the parties before the Tribunal, the Tribunal shall, upon the application of the acquiring authority, stay the determination process.
- (2) Where the Tribunal orders a stay of the determination, in accordance with *subsection (1)*, the person claiming compensation may make an application to the Court to determine title.
- (3) An application under *subsection (2)* shall be made in accordance with such rules of court as may be made.

#### **Consolidation of claims**

- 49.** (1) An applicant may make an application to the Tribunal to consolidate claims related to—

- (a) more than one interest in or attaching to the same land, where applications have been made to the Tribunal under *section 46(1)* in respect of each interest in the land, or
  - (b) land held with other land, in circumstances where determining an award of compensation in respect of each claim would cause serious and unfair prejudice to the awards if done in respect of each claim separately.
- (2) An application under *subsection (1)*, shall be made on notice to—
- (a) where the application is made by any owner, occupier or lessee, the acquiring authority, and
  - (b) all parties whose land or interest would be affected, for the purposes of determining an award of compensation, by the consolidation of claims.
- (3) A person notified under *subsection (2)* may make submissions to the Tribunal in respect of an application to consolidate the claims and the Tribunal shall have regard to any such submission in making a determination under *subsection (3)*.
- (4) Where an application is made to it under *subsection (1)*, the Tribunal shall determine whether it is expedient and appropriate for it to consolidate and determine together some or all of the claims in respect of which the application is made.

### **Composition of Tribunal**

- 50.** Notwithstanding paragraph 3(4) of Schedule 2 of the Valuation Act 2001, the composition (including the number of members) of any division of the Tribunal to determine a claim for compensation under this Act, shall be at the discretion of the chairperson of the Tribunal and in establishing a division, the chairperson shall have regard to—
- (a) the need for expertise in determining compensation for land compulsorily acquired,
  - (b) the complexity of the anticipated proceedings,
  - (c) the potential for a balance of skills in the division, and
  - (d) the need for consistent decision-making.

### **Basis of determination**

- 51.** (1) The Tribunal may determine compensation under this Part by way of—
- (a) an oral hearing, or
  - (b) subject to *subsection (2)*, a document-based determination.
- (2) The Tribunal may, on its own motion or on an application by any party to proceedings before it, determine compensation based on written documentation submitted to it, provided that the Tribunal shall direct that submissions be made by the parties on the question of whether the determination should proceed on the basis of written documentation.
- (3) The Tribunal shall take into consideration any submissions made by the parties pursuant to *subsection (2)*, before it decides to proceed with a document-based determination.

- (4) An oral hearing before the Tribunal shall be held in public, unless the Tribunal, on its own motion or on application by either party, determines that due to the existence of special circumstances, the hearing or part of the hearing should be held otherwise than in public.

### **Procedures of the Tribunal**

- 52.** (1) The procedures of the Tribunal in determining compensation under this Part shall, subject to this Act, be determined by the Tribunal by rules made by it, with the consent of the Minister, provided such procedures provide for—
- (a) the information and documents to be included with an application in accordance with *section 47(1)(b)*,
  - (b) the form and content of the application in accordance with *section 47(2)*,
  - (c) notifying the owner, lessee or occupier and the acquiring authority of the date, time and place for oral hearings, where required,
  - (d) appropriate case management procedures,
  - (e) amending statements of claim,
  - (f) enabling each party before the Tribunal to present its case in person or through a representative including, where the Tribunal is determining the claim on the basis of a document-based determination in accordance with *section 51(1)(b)* and *sections 51(2)* and *(3)*, the arrangements with respect to the submission of documents in writing,
  - (g) the number of expert witnesses that may be called by a party,
  - (h) the giving of notice in writing to every affected party to a determination of the Tribunal of the fact of the determination having been made and the effect of the determination on that party,
  - (i) procedure for the making of an interim determination in accordance with *section 55* and application to the Tribunal to determine the remaining compensation
  - (j) procedure for determining costs and expenses in accordance with *section 57*, and
  - (k) the making of sufficient record of the proceedings of the Tribunal.
- (2) Without prejudice to the generality of *subsection (1)*, the rules of the Tribunal in relation to appeals determined by it made pursuant to the powers conferred on it by paragraph 11 of Schedule 2 of the Valuation Act 2001, may be adapted and applied, with appropriate modifications, to determinations made by it under this Act.
- (3) The Tribunal may take evidence and receive submissions by or on behalf of either the owner, lessee or occupier or the acquiring authority or any other person appearing to the Tribunal to have an interest in or to be likely to be affected by the determination.
- (4) The Tribunal may, by giving notice in that behalf in writing to any person, require such person to attend at such time and place as is specified in the notice to give evidence in proceedings under this section and to produce to the Tribunal any documents in his or her possession, custody or control that relate to any matter to which those proceedings relate.

- (5) A person to whom notice under *subsection (4)* is given shall be entitled to the same immunities and privileges as those to which he or she would be entitled if he or she were a witness in proceedings before the High Court.
- (6) A person to whom a notice under *subsection (4)* has been given who—
  - (a) fails or refuses to comply with the notice, or
  - (b) refuses to give evidence in proceedings to which the notice relates or fails or refuses to produce any document to which the notice relates,shall be guilty of an offence and shall be liable, on summary conviction, to a class E fine.
- (7) The Tribunal may require a person giving evidence in proceedings before the Tribunal to give such evidence on oath or affirmation and, for that purpose, cause to be administered an oath or affirmation to such person.
- (8) A person who, in or for the purpose of proceedings under this section, gives a statement material in the proceedings while lawfully sworn as a witness that is false and that he or she knows to be false shall be guilty of an offence and shall be liable—
  - (a) on summary conviction to a class B fine or to imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding ten years, or both.

#### **Determination should be made within 6 months**

- 53.** The Tribunal shall endeavour to make a determination of compensation under *section 45(1)* within 6 months from the date of its having received an application to determine compensation.

#### **Publication of reasons for determination**

- 54.** (1) A determination of compensation by the Tribunal shall contain the reasons for the determination and, subject to *subsections (2) and (3)*, the Tribunal shall publish on its website every determination made by it with any redactions the Tribunal considers necessary on grounds of the personal, confidential or commercially sensitive nature of any part of the determination.
- (2) Where, by reason of a direction by the Tribunal under *section 51(4)* that a hearing be held otherwise than in public, the Tribunal considers that the determination made by the Tribunal pursuant to that hearing should—
- (a) not be published,
  - (b) be published in part only, or
  - (c) be published with parts of the determination redacted,
- it may decide to decline to publish, or publish in partial or redacted form only, that determination.

- (3) In making a decision under *subsection (2)* or *subsection (3)* to decline to publish a determination or to publish it in partial or redacted form only, the Tribunal shall endeavour to publish as much of the determination as the circumstances allow, having regard, in the case of a decision under *subsection (3)*, to the special circumstances under *section 51(4)* grounding its determination to hold the hearing otherwise than in public.

#### **Interim determination by the Tribunal**

55. (1) Where for reasons connected to the non-completion of the works for which the relevant land was compulsorily acquired, the Tribunal is unable to determine a final amount of compensation, the Tribunal may make an interim determination of compensation.
- (2) Where the Tribunal has made an interim determination of compensation in accordance with *subsection (2)*, either the owner, lessee or occupier or the acquiring authority may make a subsequent application to the Tribunal to determine the remaining compensation, once it is possible to assess the remaining amount.
- (3) The procedure for the making of an interim determination and application to the Tribunal to determine the remaining compensation, may be set out in rules by the Tribunal, under *section 52(1)*.

#### **Appeal to Court**

56. (1) Subject to a right of appeal to the Court on a point of law under *subsection (2)*, the determination of the Tribunal under *section 45(1)* shall be final.
- (2) Section 39 of the Valuation Act 2001 shall apply to a determination of compensation under *section 45(1)* as it applies to determinations of appeals under that Act, subject to the following modifications:
  - (a) a reference to an appeal made to the Tribunal under that Act shall be construed as a reference to an application to the Tribunal under this Act;
  - (b) a reference to a determination of an appeal made to the Tribunal under that Act shall be construed as a reference to a determination made by the Tribunal under this Act.

#### **Costs before the Tribunal**

57. (1) The Tribunal shall order that the reasonable costs and expenses properly incurred by an owner, lessee or occupier shall be paid by the acquiring authority, unless the Tribunal is satisfied that there are good reasons for not doing so.
- (2) In determining whether there are good reasons for not making an order under *subsection (1)*, the Tribunal shall have regard to the conduct of the owner, lessee or occupier, including any failure to submit, or delay in submitting, particulars of claim or revised particulars of claim to the acquiring authority, and any other matter that the Tribunal considers relevant.



- (3) Notwithstanding *subsection (1)*, where the acquiring authority has made an offer in writing of any sum as to compensation to any owner, lessee or occupier and the sum awarded by the Tribunal to that owner, lessee or occupier does not exceed the sum offered, the Tribunal shall, unless it is satisfied that there are good reasons for not doing so, order the owner, lessee or occupier to bear his or her own costs and expenses and to pay the costs and expenses of the acquiring authority so far as they were incurred after the offer was made.
- (4) In making an order under *subsection (1)*, the Tribunal shall have regard to the costs and expenses incurred by the owner, lessee or occupier in connection with the valuation process including but not limited to—
  - (a) providing particulars of claim to the acquiring authority,
  - (b) seeking an advance payment from the acquiring authority,
  - (c) preparing for, and hearing of, the determination before the Tribunal,
  - (d) considering an offer made by the acquiring authority to settle compensation.
- (5) The Tribunal may determine the amount of costs (including legal costs) and expenses under this section.
- (6) Where the Tribunal does not determine the amount of legal costs, the Tribunal shall make an order for the adjudication of legal costs pursuant to Chapter 4 of Part 10 of the Legal Services Regulation Act 2015.
- (7) Where the Tribunal orders the owner, lessee or occupier to pay the reasonable costs and expenses properly incurred, or any part of the costs and expenses, of the acquiring authority, the authority may, where possible, deduct the amount so payable by the owner, lessee or occupier from the amount of compensation payable to him or her.
- (8) Save where otherwise provided in this Act, the Tribunal may determine the procedure for determining costs and expenses in rules made by it under *section 52(1)*.
- (9) Without prejudice to the generality of *subsection (8)*, any rules on the procedure for determining costs and expenses made by the Tribunal by virtue of the powers conferred on it by paragraph 11 of Schedule 2 of the Valuation Act 2001 may be adapted and applied with any necessary modifications to costs and expenses determined by the Tribunal under this Act.

#### **Time limit for payment of compensation**

- 58.** The compensation as determined by the Tribunal under *section 45(1)* shall be paid no later than 2 months after the determination is made unless—
- (a) the Tribunal otherwise directs, or
  - (b) an appeal on a point of law of the Tribunal's determination is brought in accordance with *section 56(2)*, in which case the compensation shall be paid no later than 2 months after the determination of that appeal.

## **Enforcement of compensation determination**

- 59.** Compensation determined by the Tribunal under *section 45(1)* shall be recoverable as a simple contract debt in any court of competent jurisdiction.

### *Chapter 2*

#### *Principles of compensation*

## **Definitions and interpretation (Chapter 2)**

- 60.** (1) In this Chapter—

“development” has the same meaning as it has in the Planning and Development Act 2000;

“development plan” has the same meaning as it has in the Planning and Development Act 2000;

“retained land” means relevant land that is—

- (a) not subject to a compulsory purchase order, and
- (b) held with land that is subject to a compulsory purchase order;

“special amenity area order” has the same meaning as it has in the Planning and Development Act 2000;

“subject land” means relevant land that is subject to a compulsory purchase order;

“unauthorised structure” has the same meaning as it has in the Planning and Development Act 2000;

“unauthorised use” has the same meaning as it has in the Planning and Development Act 2000;

“valuation date” means, in respect of a compulsory purchase order—

- (a) where the compulsory acquisition is effected by a notice to treat or by a vesting order under this Act, the date on which the notice to treat or the copy of the vesting order is served on the owner, lessee or occupier, and
- (b) where the compulsory purchase order is effected otherwise than by notice to treat or by vesting order under this Act and—
  - (i) there is a date designated by a provision of an enactment applying or attaching to the compulsory purchase order as the date on which relevant land or a relevant interest is to be valued for the purposes of compensation, that date,
  - (ii) there is no date to which *subparagraph (i)* applies and there is a statutory requirement applicable or attaching to the compulsory purchase order to notify the owner, lessee or occupier that the acquiring authority is proceeding with the compulsory acquisition authorised by or under that order, the date on which such notice was served on the owner, lessee or occupier, or

- (iii) there is no date to which *subparagraph (i)* applies and no statutory requirement to notify the owner, lessee or occupier to which *subparagraph (ii)* applies, the date on which, according to the terms of the compulsory purchase order or a provision of any enactment applicable or attaching to the compulsory purchase order, the acquiring authority becomes legally bound to proceed with the acquisition;

“works” has the same meaning as it has in the Planning and Development Act 2000.

- (2) A reference to “value” in this Chapter, except where otherwise provided, shall be construed as a reference to market value in accordance with *section 65*.

### **Entitlement to compensation**

- 61.** An owner, lessee or occupier from whom relevant land or a relevant interest is acquired pursuant to a compulsory purchase order is entitled to be paid compensation in accordance with this Chapter in respect of the acquisition.

### **No allowance for acquisition being compulsory**

- 62.** In assessing an award of compensation for relevant land or a relevant interest authorised to be compulsorily acquired, the Tribunal shall make no allowance on account of the acquisition being compulsory.

### **Award of compensation**

- 63.** An award of compensation made under this Act shall comprise the sum of such amounts of compensation as the Tribunal may award on account of—
  - (a) either—
    - (i) the market value of the owner, lessee or occupier’s land, in accordance with *section 65*, or
    - (ii) the cost of equivalent reinstatement, in accordance with *section 69*,
  - (b) a reduction in the value of retained land owned by the owner, lessee or occupier, in accordance with *section 66*, and other land owned by him or her, in accordance with *section 67*, and
  - (c) certain consequential personal losses to the owner, lessee or occupier, in accordance with *section 68*.

### **Relevant dates for assessment of compensation**

- 64.** Save as otherwise provided in this Act, compensation shall be assessed by reference to the following dates and circumstances:
  - (a) relevant land or a relevant interest shall, under *section 65* and *section 66*, and in any other case where the amount of compensation depends on the value of land, be valued as they stand at the valuation date at values prevailing on that date and in the circumstances prevailing or reasonably anticipated on that date;

- (b) compensation under *section 68* shall be assessed by reference to circumstances prevailing or reasonably anticipated at the date on which compensation is determined;
- (c) compensation under *section 69* shall be assessed by reference to the costs, or estimated costs, at the date when commencement of reinstatement work became, or is expected to become, reasonably practicable.

### **Market value**

#### **65.** Subject to—

- (a) *section 72*,
- (b) *section 73*,
- (c) *section 74*, and
- (d) *section 76*,

the market value of relevant land or a relevant interest for the purposes of this Act is the estimated amount for which that land or interest would exchange on the open market, as at the valuation date, between a willing buyer and a willing seller.

- (2) The Tribunal shall have regard to the following when assessing the market value of relevant land or a relevant interest:
  - (a) any restrictive covenant entered into by the acquiring authority when the land is compulsorily acquired;
  - (b) any restriction on the development of the land—
    - (i) in respect of which compensation has been paid under the Planning and Development Act 2000, or
    - (ii) that could, without conferring a right to compensation, be imposed under any Act or under any order, regulation, rule or bye-law made under any Act;
  - (c) any contribution that a planning authority would have required as a condition precedent to the development of the land.
- (3) The Tribunal shall not have regard to the following when assessing the market value of relevant land or a relevant interest:
  - (a) the possibility or probability of the land or other land becoming subject to a scheme of development undertaken by a local authority;
  - (b) any increase or decrease in the value of the land attributable to—
    - (i) the land, or any land in the vicinity of the land, being reserved for a particular purpose in a development plan other than a purpose for which it is zoned in that development plan, or
    - (ii) the inclusion of the land in a special amenity area order.

### **Reduction in value of retained land**

#### **66.** (1) Subject to—

- (a) *subsections (2) and (3)*,
- (b) *section 72*,

- (c) *section 73*,
- (d) *section 74*, and
- (e) *section 76*,

compensation for loss or damage to retained land shall be assessed in accordance with this section.

- (2) In assessing compensation for loss or damage to retained land the Tribunal shall have regard to—
  - (a) any decrease in the value of any interest of the owner, lessee or occupier in any part of the retained land attributable to its severance from the subject land (“severance”), and
  - (b) any decrease in the value of any interest of the owner, lessee or occupier in any part of the retained land attributable to works on subject land acquired from the owner, lessee or occupier and subsequent user of that land (“injurious affection”),but shall off set against such assessment—
  - (c) any increase in the value of any part of the retained land attributable to the nature of, carrying out, or expected use of, those works (“betterment”),so far as each is applicable to the retained land and as each stands at the valuation date.
- (3) If the parties agree or the Tribunal determines, account shall be taken of changes of circumstances (other than changes in land values) known at the date on which compensation is determined.

### **Reduction in value of land other than retained land**

- 67.** (1) Where relevant land to which an owner, lessee or occupier has title is not retained land but is reduced in value by the compulsory acquisition, the owner, lessee or occupier may, subject to—
- (a) *section 72*,
  - (b) *section 73*,
  - (c) *section 74*, and
  - (d) *section 76*,
- claim compensation in respect of that reduction in value if—
- (i) the loss results from the lawful exercise by the acquiring authority of its statutory powers,
  - (ii) the act that causes the loss would have given rise to an independent cause of action if the authority were not exercising its statutory powers,
  - (iii) the loss relates to a reduction in value of the owner, lessee or occupier’s land and not personal inconvenience or damage to trade only, and
  - (iv) the loss arises from the execution of the works on the land compulsorily acquired and not from the authorised use of that land following completion of the works.

- (2) In determining compensation under this section, the Tribunal shall apply *section 66(2)* as if the references to retained land were references to relevant land to which this section applies.

### **Consequential losses**

- 68.** (1) Disturbance (in this Act referred to as “consequential loss”) means loss suffered or expense reasonably incurred as a result of the compulsory acquisition of relevant land or a relevant interest owned by the owner, lessee or occupier, so far as that loss or expense is—
- (a) the natural and reasonable consequence of the compulsory acquisition,
  - (b) reasonably foreseeable,
  - (c) not included in compensation based on the value of relevant land or a relevant interest under *section 65* or *section 66*, and
  - (d) incurred after the valuation date, save that compensation for earlier losses may be granted—
    - (i) by agreement, or
    - (ii) if the Tribunal determines that, having regard to the special circumstances of the case, it would be unfair to refuse compensation for those earlier losses.
- (2) Where compensation is claimed for the displacement of a business, trade or economic activity compensation shall be assessed by reference to either—
- (a) the reasonable costs of relocating the business, trade or activity (wholly or partially), loss of profits and any loss or expense incidental to relocation (the “relocation” basis), or
  - (b) the value of the business, trade or activity (or part of the business or trade) as a going concern at the valuation date, and any loss or expense incidental to closure (the “total extinguishment” basis).
- (3) The owner, lessee or occupier is entitled to claim on the relocation basis if—
- (a) it is reasonably practicable to relocate the business, trade or activity (wholly or partially),
  - (b) it has been relocated, or the owner, lessee or occupier intends to relocate it (or complete its relocation), and
  - (c) it is not shown to be unreasonable in all the circumstances for compensation to be paid on that basis.
- (4) The owner, lessee or occupier is not entitled to claim on the extinguishment basis unless he or she—
- (a) has not relocated, and does not intend to relocate, the business, trade or activity, and
  - (b) shows that it is reasonable in all the circumstances for him or her not to relocate the business, trade or activity.
- (5) In deciding what is reasonable under *subsections (3) or (4)* the Tribunal shall take into account—

- (a) the personal circumstances of the owner, lessee or occupier (including age, illness, disability or financial circumstances), and
  - (b) the fact that higher compensation is payable on the relocation basis than on the extinguishment basis does not of itself make it unreasonable for compensation to be assessed on the relocation basis.
- (6) Unless the contrary is shown, where premises acquired for relocation have a greater market value than the premises acquired from the owner, lessee or occupier, it shall be presumed that the difference in value reflects advantages for which compensation is not payable to the owner, lessee or occupier.
- (7) Without prejudice to *subsections (1) to (6)*, where land on which a business, trade or activity is carried on is severed by the acquisition, compensation shall include costs reasonably incurred in replacing buildings, plant or other installations (whether or not they were on the subject land) if or to the extent that—
- (a) they are required to enable the business, trade or activity to be continued on the retained land, or other adjacent land acquired for the purpose,
  - (b) the need for replacement is caused by the acquisition,
  - (c) the cost is not adequately included in any other head of compensation, and
  - (d) it is not shown to be unreasonable in all the circumstances for compensation to include such costs,

provided that the compensation may be reduced to such extent (if any) as the Tribunal may determine to reflect any improvement in the facilities so obtained over those replaced.

### **Equivalent reinstatement**

- 69.** (1) An owner, lessee or occupier may claim compensation under this section for the cost of the reinstatement of an undertaking in some other place (“equivalent reinstatement”) if—
- (a) the subject land is, and but for the compulsory acquisition would continue to be, devoted to a particular purpose,
  - (b) there is no market or general demand for land for that purpose, and
  - (c) reinstatement in some other place is genuinely intended by the owner, lessee or occupier.
- (2) Where an owner, lessee or occupier claims compensation under *subsection (1)* the Tribunal may refuse to award such compensation if it is shown that the cost of reinstatement is prohibitive relative to the value of the undertaking.
- (3) Where reinstatement has not been carried out before the award of compensation has been determined, the Tribunal may make any compensation awarded under this section subject to conditions (including provision for staged payments) to ensure that the payment is used for the intended purpose or (if not) that any excess over the compensation otherwise due is repaid.

### **Value owing to unlawful or unauthorised use or structure**

- 70.** The Tribunal shall, in assessing compensation under this Act, disregard any increase in the value of land that is—
- (a) attributable to—
    - (i) its use in a manner that could be restrained by any court, or
    - (ii) any unauthorised structure on the land or unauthorised use of the land,or
  - (b) contrary to law, or detrimental to the health of the occupier of the land or to the public health.

### **Duty to mitigate losses**

- 71.** (1) If the Tribunal determines that the owner, lessee or occupier has, since the valuation date, unreasonably failed to take steps that were open to him or her to mitigate his or her loss, it may reduce the compensation otherwise payable by the amount of such loss as could have been avoided by taking such steps when it was reasonable to do so.
- (2) In deciding what is reasonable under *subsection (1)* the personal circumstances of the owner, lessee or occupier (including age, illness, disability or financial circumstances) shall be taken into account.

### **New interests or enhancements**

- 72.** In valuing the owner, lessee or occupier's subject land or retained land, the Tribunal shall disregard:
- (a) any new interests created over the subject land, or the retained land, between the valuation date and the date on which compensation is determined, in so far as they would increase the amount of compensation otherwise payable by the acquiring authority;
  - (b) any enhancements (by creation of interests or works on the land or otherwise) where the Tribunal is satisfied that the enhancement was undertaken with a view to obtaining compensation or increased compensation.

### **Disregard of change in value owing to reservation for particular purpose**

- 73.** The Tribunal shall not have regard to any increase or decrease in the value of land attributable to—
- (a) the land, or any land in the vicinity of the land, being reserved for a particular purpose in a development plan other than a purpose for which it is zoned in that development plan, or
  - (b) the inclusion of the land in a special amenity area order,
- when assessing the market value of relevant land or a relevant interest.

### **No-scheme rule**

- 74.** (1) In valuing the subject land at the valuation date—



- (a) it shall be assumed that the statutory project has been cancelled on that date, and
  - (b) the following matters shall be disregarded:
    - (i) the effects of any action previously taken (including acquisition of any land, and any development or works) by an acquiring authority, wholly or mainly for the purpose of the statutory project;
    - (ii) the prospect of the same, or any other, project to meet the same, or substantially the same, need being carried out in the exercise of a statutory function;
    - (iii) the possibility or probability of the land or other land becoming subject to a scheme of development undertaken by an acquiring authority.
- (2) In cases of dispute, the area of the statutory project shall be determined by the Tribunal as a question of fact, subject to the following:
- (a) subject to *paragraph (b)*, the statutory project shall be taken to be the implementation of the specific or general purpose for which the acquiring authority intends to acquire the relevant property;
  - (b) either the owner, occupier or lessee or the acquiring authority may advance evidence of a larger project than would be indicated by the application of *paragraph (a)* and the Tribunal may, on the basis of such evidence, characterise the statutory project;
  - (c) for the purposes of *paragraph (b)*, the acquiring authority may not, unless—
    - (i) the owner, lessee or occupier agrees, or
    - (ii) the Tribunal allows,advance any evidence of a larger project other than a larger project defined in the compulsory purchase order or the documents published with that order.
- (3) *Subsection (1)* does not require or authorise, save to the extent specified in *paragraph (b)*, consideration of whether events or circumstances at any time (before or after the valuation date) would have been different in the absence of the statutory project.
- (4) In this section, “statutory project” means a project for a purpose to be carried out in the exercise of a statutory function for which the acquiring authority has been authorised to acquire the subject land.

### **Interference with other legal interests**

75. Where, in the carrying out of the purpose for which the subject land is acquired, any legal interest within the meaning of section 11 of the Land and Conveyancing Law Reform Act 2009 affecting the subject land is extinguished, interfered with or breached in a manner that would be unlawful in the absence of statutory authority, compensation shall be payable to the owner, lessee or occupier of the legal interest by reference to the reduction (if any) in the market value of any land to which the interest was attached, so far as attributable to the extinguishment, interference or breach of the interest, and any consequential loss (applying the provisions in *section 68* with appropriate modifications).

### **Land below the surface**

76. The value of any land lying 10 metres or more below the surface of that land shall be taken to be nil, unless it is shown to be of a greater value by the owner, lessee or occupier.

## *Chapter 3*

### *Interest*

### **Principal sum**

77. In this Chapter, “principal sum” means—
- (a) where no advance payment was made to the owner, lessee or occupier, the amount of compensation agreed between the owner, occupier and lessee and the acquiring authority, or the award of compensation as determined by the Tribunal, or
  - (b) where an advance payment was made to the owner lessee or occupier, the amount of compensation agreed between the owner, occupier and lessee and the acquiring authority, or the award of compensation as determined by the Tribunal less the amount of the advance payment paid to him or her.

### **Rate of interest**

78. Except where otherwise provided, the rate or rates of interest under this Chapter shall be prescribed.

### **Interest after vesting order made**

79. (1) This section applies where an acquiring authority makes a vesting order under this Act.
- (2) Interest shall be payable on the principal sum from the vesting date to the earlier of—
- (a) the date on which the compensation is due to be paid under *section 58*, or
  - (b) the date on which compensation is paid to the owner, lessee or occupier.

### **Interest on late payment of compensation as determined by the Tribunal**

- 80.** (1) Where the acquiring authority does not pay in full the award of compensation as determined by the Tribunal in the period specified in *section 58*, it shall be liable to pay interest on the balance of the principal sum unpaid by it from the expiration of that period to the date the balance of the principal sum is paid.
- (2) For the purposes of *subsection (1)* the rate of interest payable by the acquiring authority shall be the rate referred to in section 26 of the Debtors (Ireland) Act 1840.

### **Interest on late advance payment**

- 81.** (1) Where an acquiring authority makes, or undertakes to make, an advance payment and it does not pay in full that payment within the period specified in *section 37* or *section 38*, as the case may be, it shall be liable to pay interest on the balance of the advance payment unpaid by it from the expiration of that period to the date the outstanding advance payment is paid.
- (2) Where the amount of an advance payment made by an acquiring authority exceeds the award of compensation determined by the Tribunal, the owner, lessee or occupier shall repay to the acquiring authority any interest paid to him or her by the acquiring authority on account of that advance payment.

## SCHEDULE 1

### *Section 10.*

#### REPEALS

Session and Chapter or Number and Year (1)	Short title (2)	Extent of Repeal (3)
8 & 9 Vict. c. 18	Lands Clauses Consolidation Act 1845	Sections 63 and 68
9 & 10 Geo. 5 c. 57	Acquisition of Land (Assessment of Compensation) Act 1919	The whole Act
No. 45 of 1960	Property Values (Arbitrations and Appeals) Act 1960	The whole Act

## SCHEDULE 2

### Section 10.

#### REVOCATIONS

Series, Number and Year (1)	Citation (2)	Extent of Revocation (3)
SR & O No. 600 of 1920	Acquisition of Land (Assessment of Compensation) Rules 1920	The whole instrument
S.I. No. 91 of 1961	Property Values (Arbitrations and Appeals) Rules 1961	The whole instrument
S.I. No. 115 of 1999	Acquisition of Land (Assessment of Compensation) Fees Rules 1999	The whole instrument