



Number 26 of 2021

Land Development Agency Act 2021



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LAND DEVELOPMENT AGENCY ACT 2021

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Carer's Leave Act 2001 (No. 19)
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Comptroller and Auditor General (Amendment) Act 1993 (No. 8)
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Education and Training Boards Act 2013 (No. 11)
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Housing (Traveller Accommodation) Act 1998 (No. 33)
Housing Act 1966 (No. 21)
Housing Finance Agency Act 1981 (No. 37)
Lands Clauses Consolidation Act 1845 (8 & 9 Vict., c. 18)
Local Government Act 2001 (No. 37)
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Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37)
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LAND DEVELOPMENT AGENCY ACT 2021

An Act to regulate relevant public land in order to increase the amount of land available for the provision of housing so as to address deficiencies in the housing market; for that purpose to provide for the formation of a DAC to be known as the Land Development Agency and confer functions on the Agency to develop and regenerate relevant public land for the delivery of housing and to develop and manage housing on that and other land, including with other persons or bodies; to enable the Agency to provide services to local authorities in order to assist them in the performance of their functions relating to housing; to enable the Agency to form subsidiaries for the purposes of carrying out its functions; to provide for the establishment and maintenance by the Agency of a Register of Relevant Public Land to identify land that can be made available for housing; to provide for acquisition by the Agency of relevant public land, including by means of granting it first refusal on a proposed sale; to provide for the compulsory purchase of land by the Agency; to provide for a requirement that a proportion of dwellings provided on relevant public land and former relevant public land be made available on a cost rental basis, transferred to a planning authority or transferred directly in accordance with Part 2 of the Affordable Housing Act 2021; to amend the Planning and Development Act 2000 to enable the Agency to perform functions of a development agency under Part IX of that Act; to amend the National Treasury Management Agency (Amendment) Act 2014 and the Housing Finance Agency Act 1981; to provide for the revocation of the Land Development Agency (Establishment) Order 2018 (S.I. No. 352 of 2018), the Land Development Agency (Amendment) Order 2018 (S.I. No. 603 of 2018) and the Local Government Services (Corporate Bodies) Act 1971 (Designation of Bodies) Order 2018 (S.I. No. 604 of 2018) and the transfer of functions, assets, liabilities and staff of the body established thereunder to the Land Development Agency; and to provide for related matters.

[21st July, 2021]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Land Development Agency Act 2021.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Purposes of Act

2. The purposes of this Act are—
 - (a) to enable urgent measures to be taken to increase the supply of housing in the State and in particular affordable and social housing,
 - (b) to ensure that public land which is not being utilised or is under-utilised is made available for housing in the State,
 - (c) to counteract segregation in housing between persons of different social background,
 - (d) to enable the sustainable development of new and regenerated communities well-served by schools, infrastructure that promotes and facilitates cycling or walking, public transport and public amenities,
 - (e) to develop and regenerate relevant public land for the purposes of the delivery of housing,
 - (f) to combat the long-term housing shortage and to increase access to housing in the State,
 - (g) to address deficiencies in the housing market and to alleviate the shortage of land available for housing in circumstances where that market is experiencing a systemic housing shortage,
 - (h) to address the demand for housing arising from population growth and demographic change,
 - (i) to promote best practice in housing development, including best environmental practice, innovative construction methods and climate adaptive housing including in complex development sites,
 - (j) to correct any imbalance between the supply of housing and demand for it through the use of available relevant public land, not required for other purposes, for the purpose of housing,
 - (k) to support the consolidation and provision of publicly owned land for development and to expedite the most efficient use of such land,

- (l) to assist in the development of a sufficient supply of housing available for rent and purchase in the State at an affordable price,
- (m) to increase the supply of housing while maintaining balanced land use,
- (n) to facilitate measures designed to achieve socially integrated housing,
- (o) to assist local authorities in the performance of their functions relating to housing by enabling provision of services to them by the Agency,
- (p) to establish appropriate mechanisms and collaborative structures between public and private bodies to develop relevant public land, land owned by the Agency and land that is privately owned that is identified as suitable for the strategic and timely delivery of housing,
- (q) to establish a Land Development Agency to ensure that, in the performance of functions conferred on the Agency—
 - (i) economies of scale and efficiencies are achieved through a single entity providing services such as the preparation of masterplans and design and project management, and
 - (ii) opportunities can be taken for efficient development of contiguous tracts of relevant public land,
- (r) to enable the Agency to engage in commercial activities consistent with this Act, including by generating funding required to enable it to perform its functions, in order to achieve the purposes specified in this section, and
- (s) to achieve the best possible social and economic return, consistent with the purposes of this Act, from the use of relevant public land under and in accordance with this Act.

State aid

3. (1) Functions conferred on the Minister or the Agency under this Act shall be performed by the Minister and, as the case may be, the Agency in compliance with—
- (a) an enactment or rule of law,
 - (b) a provision of the treaties governing the European Union, or
 - (c) an act adopted by an institution of the European Union, an institution of the European Communities or any other body competent under those treaties,
- relating to State aid.
- (2) In *subsection (1)*—
- “enactment” means—
- (a) an Act of the Oireachtas,
 - (b) a statute that was in force in Saorstát Éireann immediately before the date of coming into operation of the Constitution and that continued in force by virtue of Article 50 of the Constitution, or

(c) an instrument made under an Act of the Oireachtas or a statute referred to in *paragraph (b)*;

“European Communities” has the same meaning as it has in the Act of 1972;

“European Union” has the same meaning as it has in the Act of 1972;

“treaties governing the European Union” has the same meaning as it has in the Act of 1972.

Interpretation

4. In this Act—

“Act of 1972” means the European Communities Act 1972;

“Act of 2000” means the Planning and Development Act 2000;

“Act of 2009” means the Housing (Miscellaneous Provisions) Act 2009;

“Agency” has the meaning assigned to it by *section 12*;

“Board” has the meaning assigned to it by *section 16*;

“census town” means the area of a town (including all the environs of the town for the purpose of the census of population concerned) the population of which, when rounded to the nearest 500 as shown in the latest census report of the Central Statistics Office, is equal to or greater than 10,000 persons;

“chief executive” has the meaning assigned to it by *section 17*;

“Companies Act” means the Companies Act 2014;

“DAC limited by shares” has the same meaning as it has in Part 16 of the Companies Act;

“development plan” has the same meaning as it has in the Act of 2000;

“dispose of”, in relation to land, includes the sale, lease, transfer or assignment of the land or an interest in it;

“dissolution day” shall be construed in accordance with *section 35(1)*;

“dissolved body” has the meaning assigned to it by *section 35(1)*;

“house” has the same meaning as it has in section 2 of the Act of 2000;

“housing strategy” has the same meaning as it has in the Act of 2000;

“local area plan” has the same meaning as it has in the Act of 2000;

“local authority” has the same meaning as it has in the Local Government Act 2001;

“masterplan” has the meaning assigned to it by *section 14(4)*;

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

“Order of 2018” means the Land Development Agency (Establishment) Order 2018 (S.I. No. 352 of 2018);

“other land” means:

- (a) land within a census town which is not relevant public land;
- (b) land contiguous to land within a census town;

“prescribed” means prescribed by regulations made by the Minister;

“regional spatial and economic strategy” has the same meaning as it has in the Act of 2000;

“Register” has the meaning assigned to it by *section 50(1)*;

“Register of Relevant Public Land” means the register established under *section 50*;

“relevant public body” has the meaning assigned to it by *section 5*;

“relevant public land” shall be construed in accordance with *section 5*;

“*Schedule 1* public body” has the meaning assigned to it by *section 5*;

“*Schedule 2* public body” has the meaning assigned to it by *section 5*;

“subsidiary DAC” means a subsidiary formed and registered by the Agency in accordance with *Part 4*.

Relevant public body and relevant public land

5. (1) In this Act, all land within a census town owned by a relevant public body shall be relevant public land.
- (2) In this Act, “relevant public body” means any of the following:
- (a) a local authority;
 - (b) a person or body specified in *Schedule 1* (in this Act referred to as a “*Schedule 1* public body”);
 - (c) a person or body specified in *Schedule 2* (in this Act referred to as a “*Schedule 2* public body”).

Orders and regulations

6. (1) The Minister may make regulations for the purposes of this Act including regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed or for the purpose of enabling any provision to have full effect.
- (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 order, other than an order under *section 1(2)* or *35(1)*, and regulation made by the Minister under this Act 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 or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled

accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses of Minister

7. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

Directions of Minister

8. (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, give a direction in writing to the Agency or a subsidiary DAC, in relation to the performance of its functions under this Act, requiring it to comply with such policies of the Government as are specified in the direction.
- (2) The Minister, in giving a direction under *subsection (1)* shall, where the direction relates to a matter in the National Planning Framework, a regional spatial and economic strategy, a development plan or a local area plan, have regard, as the case may be, to the National Planning Framework, regional spatial and economic strategy, development plan or local area plan.
- (3) The Minister may, by direction in writing, with the consent of the Minister for Public Expenditure and Reform, amend or revoke a direction under this section (including a direction under this subsection).
- (4) The Agency and a subsidiary DAC shall comply with a direction given to it under this section.

Review of achievement of purposes of Act

9. (1) The Minister may at any time require the Agency or a subsidiary DAC to report to him or her regarding progress towards achieving the purposes of this Act.
- (2) Not later than 31 March 2024, and every 5 years thereafter the Agency shall furnish a report to the Minister regarding progress made by the Agency and subsidiary DACs towards achieving the purposes of this Act.
- (3) On receipt of a report referred to in *subsection (2)* the Minister shall assess the extent to which the Agency and subsidiary DACs have made progress towards achieving the purposes of this Act.
- (4) Following an assessment under *subsection (3)*, the Minister shall—
- (a) give such directions under *section 8*, and
 - (b) take such other actions,
- as the Minister considers necessary to ensure that the Agency and subsidiary DACs make greater progress towards achieving the purposes of this Act.
- (5) The Minister shall cause copies of any report under *subsection (2)* to be laid before each House of the Oireachtas within 30 days of its receipt by him or her.

- (6) The Minister shall cause details of any direction given, or other action taken, following an assessment under *subsection (3)* to be laid before each House of the Oireachtas as soon as practicable after the direction is given or action taken.

Giving of notices

- 10.** (1) Subject to *subsections (2) and (3)*, a notice that is required to be given to a person under this Act shall be in writing and addressed to the person concerned by name, and may be so given to the person in one or more than one of the following ways:

- (a) by delivering it to the person;
 - (b) by leaving it at the address at which the person carries on business or 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 to the address at which the person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, to that address;
 - (d) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and the notice relates to land, by delivering it to a person over the age of 16 years resident or employed at the land, or by affixing it in a conspicuous position at or near the land;
 - (e) by electronic means, in a case in which the person has given notice in writing to the person giving the notice concerned of his or her consent to the notice (or notices of a class to which the notice belongs) being given to him or her in that manner.
- (2) Where a notice under this Act is to be given to a person who is the owner or occupier of land and the name of the person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words “the owner” or, as the case may require, “the occupier”.
- (3) For the purpose of this section, a company formed and registered under the Companies Act or an existing company within the meaning of that Act shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

Revocation

- 11.** The following Orders are revoked:

- (a) the Order of 2018;
- (b) the Land Development Agency (Amendment) Order 2018 (S.I. No. 603 of 2018);
- (c) the Local Government Services (Corporate Bodies) Act 1971 (Designation of Bodies) Order 2018 (S.I. No. 604 of 2018).

PART 2

LAND DEVELOPMENT AGENCY

Formation of Land Development Agency

- 12.** (1) The Minister shall, as soon as practicable after the commencement of this section, cause a DAC limited by shares conforming to the conditions laid down in this Act to be formed and registered under Part 16 of the Companies Act.
- (2) The name of the DAC limited by shares (in this Act referred to as the “Agency”) shall be, and the DAC limited by shares shall be known as, the Land Development Agency.
- (3) Subsections (1) to (3) of section 969 of the Companies Act shall not apply to the Agency.
- (4) Subject to this Act, the Agency shall be independent in the performance of its functions.

Constitution of Agency

- 13.** (1) The constitution of the Agency shall be in such form, consistent with the Companies Act and with this Act, as may be approved by the Minister and the Minister for Public Expenditure and Reform.
- (2) Notwithstanding anything contained in the Companies Act, any alteration of the constitution of the Agency shall not be valid or effectual unless made with the prior approval of the Minister and the Minister for Public Expenditure and Reform.

Functions of Agency

- 14.** (1) The functions of the Agency shall, subject to this Act, include the following:
- (a) to manage and develop certain relevant public land and prepare that land for development and, where necessary or expedient for that purpose, to so manage, develop and prepare other land which is contiguous to—
- (i) relevant public land, or
- (ii) land owned by the Agency,
- to facilitate the provision of housing for the public good;
- (b) to develop housing on relevant public land and, where necessary or expedient for that purpose, other land which is contiguous to—
- (i) relevant public land, or
- (ii) land owned by the Agency,
- for the public good;
- (c) to manage and to provide housing for rent or purchase;

- (d) to ensure, or assist in, the timely provision of publicly owned infrastructure to service housing or sites being developed for housing on relevant public land and other land;
- (e) to develop, or facilitate the development of, large-scale local authority sites for housing and, where appropriate, mixed-use development and for that purpose to liaise with any relevant local authority in relation to the appropriate mix of housing in such developments;
- (f) to—
 - (i) appraise sites,
 - (ii) prepare masterplans,
 - (iii) prepare planning submissions for developments,
 - (iv) make a planning application, or intervene in a planning application made by another person, and
 - (v) obtain development consents, permissions and other approvals,for the purpose of the development of relevant public land and, where necessary or expedient in order for that development to take place, the development of other land;
- (g) to take measures to promote the sustainable development of communities and housing, including climate adaptive, low-carbon and affordable housing, that are well served by schools, infrastructure that promotes and facilitates cycling or walking, public transport and public amenities;
- (h) to acquire relevant public land;
- (i) to acquire and hold other land, and to dispose of land owned by the Agency, where to do so is necessary or expedient for the purposes of performing its functions;
- (j) to enter into commercial contracts and other commercial arrangements (including joint ventures) with local authorities or other parties for the purposes of performing its functions;
- (k) to support the implementation of the National Planning Framework;
- (l) without prejudice to the generality of *paragraph (k)*, to advise the Government and, as appropriate, the Minister on the following in support of the implementation of the National Planning Framework:
 - (i) the management and use of relevant public land;
 - (ii) the provision of publicly owned infrastructure so that relevant public land and other land which is contiguous to relevant public land or land owned by the Agency can be further developed;
- (m) to endeavour, having regard to the policy of the Government on proper planning and sustainable development—

- (i) to contribute to the economic and social development of the State, and
 - (ii) to enhance the competitiveness of the economy of the State, including by encouraging innovation in housing design and construction methods and preparation of masterplans to ensure the effective use of land and, where appropriate, the application of such innovative methods;
 - (n) to create investment vehicles to facilitate the development of relevant public land and land owned by the Agency;
 - (o) to enter into commercial arrangements for the development of relevant public land and land that is privately owned in order to achieve the purposes of this Act and to expedite the provision of social and affordable housing.
- (2) The Agency shall have all such powers as are necessary or expedient for the performance of its functions.
- (3) The Agency, and any subsidiary DAC performing a function of the Agency, shall perform its functions in such a way as to ensure that where it engages in commercial activities there is no cross-subsidisation of such activities out of funding received for the purposes of carrying out public functions.
- (4) In this section, “masterplan” means a plan prepared, or being prepared, by the Agency in respect of land proposed by the Agency to be developed on a significant scale as a single site, where the land includes one or more than one parcel of relevant public land and the Agency is of the view that the plan will assist in the best use of resources and delivery of economies of scale by the Agency in the performance of its functions.

Services to local authorities

15. (1) A local authority may request the Agency to provide services to it in relation to the development of sites for housing and urban development that are—

- (a) large scale, multi tenure or mixed-use development sites that may include sites that are fully or partially intended to secure the implementation of all or part of an accommodation programme, within the meaning of the Housing (Traveller Accommodation) Act 1998, and
- (b) located in the area of a town (including all the environs of the town for the purpose of the census of population concerned) the population of which, when rounded to the nearest 500 as shown in the latest census report of the Central Statistics Office, is equal to or greater than 30,000 persons,

and that are on land owned by the local authority in order to assist the local authority in the performance of its functions.

- (2) Subject to *subsection (3)*, the Agency shall provide any of the following services when requested to do so under *subsection (1)*:
- (a) preparation of masterplans and carrying out appraisal of development potential of sites;

- (b) application for development consents, permissions and other approvals in relation to sites;
 - (c) provision of infrastructure to service sites for housing;
 - (d) provision of housing and carrying out of ancillary works as part of wider urban development;
 - (e) management of cost rental housing.
- (3) Where the Agency determines, having regard to—
- (a) the compatibility of the request with the functions of the Agency,
 - (b) the resources of the Agency,
 - (c) the capacity of the Agency to provide the services requested, and
 - (d) such other matters as may be determined by the Agency,
- that it cannot provide a service requested by a local authority under this section, it shall submit a report to the Minister setting out the reasons for its determination.
- (4) The Minister shall, not later than 6 weeks after receipt of a report submitted under *subsection (3)*—
- (a) where the Minister agrees that the Agency cannot provide the service requested, give notice accordingly to the Agency and the local authority concerned in writing, or
 - (b) where the Minister is satisfied that it is in the interests of the proper and effective management and development of relevant public land, the provision of housing or proper urban development, and having considered matters pertaining to the financial resources of the Agency, direct the Agency in writing to provide the service requested under *subsection (1)* and give notice accordingly to the local authority concerned.
- (5) The Agency shall comply with a direction under *subsection (4)(b)*.
- (6) Provision of services by the Agency to a local authority under this section shall be supplied on such terms as may be determined by the Minister, including terms regarding payment by the local authority to the Agency for services provided, having regard to the need to secure the most beneficial, effective and efficient use of resources available to the Agency and to local authorities.

Board of Agency

- 16.** (1) The Agency shall have a Board (in this Act referred to as the “Board”) which shall consist of at least 5 and not more than 10 directors (including its chairperson), each of whom shall be appointed by the Minister, with the consent of the Minister for Public Expenditure and Reform.
- (2) The Minister, with the consent of the Minister for Public Expenditure and Reform, shall appoint one of the directors of the Board to be its chairperson.

- (3) The Board may act notwithstanding one or more vacancies among its directors subject to having a quorum of 3.
- (4) An appointment to the Board and the appointment of the company secretary of the Agency shall each be subject to such terms and conditions as are set out in the constitution of the Agency.
- (5) There may be paid to the directors of the Board, out of monies at the disposal of the Agency, such allowances for expenses incurred by them as the Minister, with the consent of the Minister for Public Expenditure and Reform, may determine.
- (6) The Minister shall, in appointing the directors of the Board, ensure that among those directors there are persons who in the opinion of the Minister have satisfactory experience, competence or qualifications in relation to construction, delivery of housing, which may include delivery of social and affordable housing, finance, and corporate governance.
- (7) The Minister shall, in so far as is practicable, endeavour to ensure that among the directors of the Board there is an equitable balance between men and women.
- (8) A director of the Board shall hold office for such period, not exceeding 5 years from the date of his or her appointment, as the Minister shall determine.
- (9) Subject to *subsection (10)*, a director of the Board whose term of office expires by efflux of time shall be eligible for reappointment to the Board.
- (10) A person who is reappointed to the Board in accordance with *subsection (9)*, shall not hold office for more than two terms of office, whether the terms are served consecutively or otherwise.

Chief executive of Agency

17. (1) There shall be a chief executive officer of the Agency (in this Act referred to as “the chief executive”).
- (2) The chief executive shall—
 - (a) carry on, manage and control generally, the administration of the Agency, and
 - (b) advise the directors of the Agency in relation to the performance by the Agency of its functions.
 - (3) Subject to *subsection (5)*, the chief executive shall be appointed by the Board with the consent of the Minister.
 - (4) The chief executive may, with the consent of the Minister, be removed from office by the Board for stated reasons.
 - (5) The chief executive shall hold office under a written contract of service for a period, and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as are specified in the contract, as may be determined by the Board with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.

- (6) The chief executive shall not hold any other office or occupy any other position in respect of which emoluments are payable, or carry on any business without the consent of the Board.
- (7) The chief executive shall at all times be an *ex officio* director of the Board but shall not be the chairperson.

Accountability to Public Accounts Committee

18. (1) The chief executive shall, whenever required by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on—
- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record or account subject to audit by the Comptroller and Auditor General that the Agency and a subsidiary DAC is required by, or under, an enactment to prepare,
 - (b) the economy and efficiency of the Agency and each subsidiary DAC in its use of the resources made available to it under this Act,
 - (c) the systems, procedures and practices employed by the Agency and each subsidiary DAC for the purposes of evaluating the effectiveness of its operations, and
 - (d) any matter affecting the Agency or any subsidiary DAC referred to in—
 - (i) any special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or
 - (ii) any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in any of *paragraphs (a) to (c)*) that is laid before Dáil Éireann.
- (2) In appearing before the Committee referred to in *subsection (1)*, the chief executive appears as a person accountable to the Committee and not as an accounting officer.
- (3) The chief executive, in giving evidence under *subsection (1)*, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.
- (4) Any evidence given under *subsection (1)* shall, subject to preserving confidentiality in relation to such commercially sensitive information as determined by the Board, relate to the policies of the Agency.
- (5) If the chief executive is unable to appear before the Committee referred to in *subsection (1)* he or she may nominate a director of the Board or a senior officer of the Agency to appear on his or her behalf and *subsections (2), (3) and (4)* shall apply to a person so nominated.

Accountability to other Oireachtas committees

19. (1) In this section, “Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee referred to in *section 18(1)* or a Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a Committee.
- (2) Subject to *subsection (3)*, the chief executive shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Agency or a subsidiary DAC.
- (3) The chief executive shall not be required to give account before a Committee for any matter which is or has been or may be at a future date, the subject of proceedings before a court or tribunal in the State.
- (4) Where the chief executive is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of the opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at the time when the chief executive is before it, the information shall be so conveyed in writing.
- (5) Where the chief executive has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to the subject matter of that opinion—
- (a) the chief executive may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question of whether the matter is one to which *subsection (3)* applies, or
- (b) the chairperson of the Committee may, on behalf of the Committee, make such an application,
- and the High Court shall determine the matter.
- (6) Pending the determination of an application under *subsection (5)*, the chief executive shall not attend before the Committee to give account for the matter that is the subject of the application.
- (7) If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)* but if the High Court determines that *subsection (3)* does not apply, the chief executive shall attend before the Committee to give account for the matter.
- (8) The chief executive, in giving evidence under *subsection (2)*, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.
- (9) Any evidence given under *subsection (2)* shall, subject to preserving confidentiality in relation to such commercially sensitive information as determined by the Board, relate to the policies of the Agency or a subsidiary DAC.

- (10) If the chief executive is unable to attend before a Committee referred to in *subsection (1)* he or she may nominate a director of the Board or a senior officer of the Agency to attend on his or her behalf and this section shall apply to a person so nominated.

Appointed directors ceasing to hold office

- 20.** (1) A director of the Board may resign from office by giving notice to the Minister of his or her resignation and the resignation shall take effect on the day on which the Minister receives the notice.
- (2) The Minister may at any time remove a director of the Board from office, if in the Minister's opinion, the director has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Minister to be necessary for the effective performance by the Agency of its functions.
- (3) A director of the Board, shall cease to be qualified for office and shall cease to hold office if he or she—
- (a) is adjudicated bankrupt,
 - (b) makes a composition or arrangement with his or her creditors,
 - (c) is sentenced by a court of competent jurisdiction to a term of imprisonment,
 - (d) is convicted of any indictable offence in relation to a company,
 - (e) is convicted of an offence involving fraud or dishonesty,
 - (f) has a declaration under section 819 of the Companies Act made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
 - (g) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act, whether by virtue of that Chapter or any other provision of that Act.

Staff of Agency

- 21.** (1) The Agency shall appoint such and so many persons to be members of the staff of the Agency as it may from time to time determine.
- (2) Subject to *subsection (4)*, the terms and conditions of service of a member of staff of the Agency shall be such as may be determined from time to time by the Agency.
- (3) Subject to *subsection (4)*, there shall be paid by the Agency to the members of its staff such remuneration and allowances as may be determined from time to time by the Agency.
- (4) In determining the terms and conditions of service of members of its staff and the remuneration or allowances to be paid to members of its staff, the Agency shall have regard to Government or nationally agreed guidelines which are for the time being extant or to Government policy concerning conditions of employment and

remuneration and, in addition to the foregoing, the Agency shall comply with any direction with regard to such terms or conditions, remuneration or allowances which the Minister may give from time to time to the Agency with the consent of the Minister for Public Expenditure and Reform.

- (5) As soon as may be after the commencement of this section, the Agency shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of persons appointed under *subsection (1)* and persons who were accepted into the employment of the Agency in accordance with *section 37* and the Minister may, with the consent of the Minister for Public Expenditure and Reform, approve the scheme or schemes.
- (6) Every such scheme shall fix the time and conditions of retirement for all persons to, or in respect of whom, superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.
- (7) The Agency may at any time prepare and submit to the Minister a scheme amending or revoking a scheme previously submitted and approved under this section and the Minister may, with the consent of the Minister for Public Expenditure and Reform, approve the scheme.
- (8) A scheme or amending scheme submitted to the Minister under this section shall, if approved by the Minister with the consent of the Minister for Public Expenditure and Reform, be carried out by the Agency in accordance with its terms.
- (9) (a) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit pursuant to a scheme under this section, such dispute shall be submitted to such person and determined in the manner as may be specified in the scheme.
(b) A scheme under this section shall make provision for an appeal from a determination of a person referred to in *paragraph (a)* to any other person as may be specified in the scheme.
- (10) A superannuation benefit shall not be granted by the Agency to or in respect of any persons who are members of a scheme under this section and no other arrangement shall be entered into for the provision of any superannuation benefit to such persons on their ceasing to hold office, other than in accordance with a scheme submitted and approved under this section or an arrangement approved by the Minister and the Minister for Public Expenditure and Reform.
- (11) This section is subject to *Part 5*.

Membership of either House of Oireachtas or European Parliament or local government

22. (1) Where a director of the Board or a subsidiary DAC or the chief executive is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected to either House of the Oireachtas or to be a representative in the European Parliament,

(c) regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to that Parliament, or

(d) elected or coopted to be a member of a local authority,

he or she shall thereupon cease to be a director of the Board or a subsidiary DAC or the chief executive, as the case may be.

(2) Where a member of staff of the Agency or a subsidiary DAC is—

(a) nominated as a member of Seanad Éireann,

(b) elected to either House of the Oireachtas or to be a representative in the European Parliament,

(c) regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to that Parliament, or

(d) elected or coopted to be a member of a local authority,

he or she shall thereupon stand seconded from employment by the Agency or subsidiary DAC and shall not be paid by, or be entitled to receive from, the Agency or subsidiary DAC any remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been so elected, as the case may be, and ending when such person ceases to be a member of either such House, a representative in such Parliament, or a member of local government.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a representative in the European Parliament shall, while he or she is so entitled or is such a representative, be disqualified from being a director of the Board or a subsidiary DAC, the chief executive or a member of the staff of the Agency or subsidiary DAC.

Disclosure of interests

23. (1) Where a director, an officer or an employee of the Agency or of a subsidiary DAC has a material interest, otherwise than in his or her capacity as such, in any contract, agreement or arrangement, or proposed contract, agreement or arrangement, to which the Agency or, as the case may be, the subsidiary DAC is or may be a party, that person shall—

(a) disclose to the Agency or, as the case may be, the subsidiary DAC his or her interest and the nature thereof,

(b) withdraw from any meeting at which that contract, agreement or arrangement is to be discussed,

(c) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by the Board or members of the staff of the Agency or, as the case may be, by the board or members of the staff of the subsidiary DAC in relation thereto, and

- (d) neither influence nor seek to influence a decision to be made in the matter nor make any recommendation in relation to the contract, agreement or arrangement.
- (2) *Subsection (1)* shall not apply to contracts or proposed contracts of employment of—
 - (a) members of the staff of the Agency with the Agency, and
 - (b) members of the staff of the subsidiary DAC with the subsidiary DAC.
- (3) Where a person contravenes *subsection (1)* the Agency or, as the case may be, the subsidiary DAC may make such alterations to the person's terms and conditions of employment as it considers appropriate or terminate the person's contract of employment.

Disclosure of confidential information

- 24.** (1) Except in the circumstances specified in *subsection (2)* a person shall not disclose confidential information obtained by him or her while performing functions—
- (a) as a director of the Board or the board of a subsidiary DAC,
 - (b) as an officer or employee of the Agency or a subsidiary DAC,
 - (c) as an adviser or consultant to the Agency or a subsidiary DAC or member of the staff of such adviser or consultant,
- unless he or she is duly authorised by the Board or, as the case may be, the board of the subsidiary DAC to so do.
- (2) *Subsection (1)* shall not operate to prohibit the disclosure of confidential information by a person referred to in that subsection where—
- (a) the Board or the board of any subsidiary DAC authorises the disclosure,
 - (b) the disclosure is made to the Board or an officer of the Agency or any subsidiary DAC,
 - (c) the disclosure is made in the performance of functions of the Agency or any subsidiary DAC,
 - (d) the disclosure is made by or on behalf of the Agency or any subsidiary DAC to the Minister,
 - (e) the disclosure is made by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995,
 - (f) where the disclosure is a protected disclosure (within the meaning of the Protected Disclosures Act 2014),
 - (g) the disclosure is made to a member of the Garda Síochána and, in the opinion of the person making the disclosure, the information may relate to the commission of an offence (whether an offence under this Act or not),
 - (h) the disclosure is made in compliance with a requirement of this Act or is otherwise required by law.

- (3) In this section “confidential information” means—
- (a) information that is expressed to be confidential either as regards particular information or as regards information of a particular class or description, and
 - (b) proposals of a commercial nature or tenders submitted to the Agency by contractors, consultants or any other person.
- (4) Where the Board or, as the case may be, the board of a subsidiary DAC is satisfied that a person has contravened *subsection (1)*, it shall decide the appropriate action (including removal from office or termination of contract) to be taken in relation to that person and may, if it thinks fit, remove that person from office and that person shall then be disqualified for membership of the Board and the board of any subsidiary DAC.

PART 3

FUNDING OF AGENCY

Share capital of Agency

- 25.** (1) The Minister and the Minister for Public Expenditure and Reform shall subscribe to the constitution of the Agency.
- (2) The Agency shall on being formed and registered in accordance with *section 12* allot and issue to—
- (a) the Minister, shares with a total nominal value of €1,000,000, and
 - (b) the Minister for Public Expenditure and Reform, shares with a total nominal value of €99,000,000.
- (3) The Agency may, from time to time, with the prior consent of the Minister, allot and issue to the Minister for Public Expenditure and Reform such number of shares as may be agreed upon, and are subscribed for, by that Minister of the Government.
- (4) The whole of the issued share capital of the Agency shall be held by the Minister and the Minister for Public Expenditure and Reform.
- (5) In this section, “issue”, in relation to a share in the Agency, means the entry of the name of the person to whom the share is allotted in the register of members of the Agency.

Shares in Agency

- 26.** (1) Subject to *subsection (2)*, the Minister and the Minister for Public Expenditure and Reform, may hold, for so long as either of them thinks fit, any shares in the Agency issued to such Minister of the Government.
- (2) The Agency may, subject to the prior consent of the Minister and the Minister for Public Expenditure and Reform, redeem all or any of the shares in the Agency on such terms and conditions as appear to the Board to be appropriate.

- (3) Any funds received in respect of the redemption of a share under *subsection (2)* shall be paid into, or disposed of for the benefit of, the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct.
- (4) The Minister and the Minister for Public Expenditure and Reform, may, in respect of the shares in the Agency for the time being held by either of them, exercise all or any of the rights and powers from time to time exercisable by the holder of such shares.

Payment of dividends

27. (1) The Agency may pay such dividends to the Minister and the Minister for Public Expenditure and Reform as may be decided by the Board following consultation with both such Ministers of the Government.
- (2) All amounts representing dividends received by the Minister or the Minister for Public Expenditure and Reform, in respect of shares held by that Minister of the Government in the share capital of the Agency shall be paid into, or disposed of for the benefit of, the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct.

Borrowing by Agency and subsidiary DAC

28. (1) Subject to *subsection (3)*, the Agency and any subsidiary DAC may from time to time borrow money in any currency but where money is borrowed by the Agency or any subsidiary DAC otherwise than from the Exchequer, such borrowing shall be subject to the consent of the Minister, who prior to giving such consent shall consult with the Minister for Public Expenditure and Reform, and the consent of the Minister for Finance.
- (2) For the purpose of borrowing, the Agency and any subsidiary DAC may create and issue bonds, debentures and other securities, bearing such rate of interest and subject to such conditions as to repayment, redemption or otherwise as the Agency, or, as the case may be, the subsidiary DAC, thinks fit.
- (3) The Agency and, as the case may be, any subsidiary DAC, shall perform the functions conferred on it by this section so that the total amount of principal which the Agency and all subsidiary DACs may at any particular time together be liable to repay on foot of any liability incurred under this section does not exceed €1,250,000,000.
- (4) The Agency shall be responsible for the satisfaction of all liabilities it may incur as a result of borrowing under this section.
- (5) For the purpose of calculating the total amount of principal which the Agency and subsidiary DACs are at any particular time together liable to repay on foot of any liability incurred under this section, the equivalent in the currency of the State of borrowings in a currency other than the currency of the State shall be calculated at the rate of exchange prevailing at the time the calculation is made.
- (6) For the purposes of *subsection (5)*, where the European Central Bank has published—
- (a) a Euro Foreign Exchange Reference Rate, or

- (b) a rate expressed by the European Central Bank to replace that rate,
which is applicable to the currency concerned and the time the calculation concerned is made, that rate shall be taken to be the rate of exchange prevailing at that time for that currency.
- (7) For the purpose of calculating the total amount of principal which the Agency and the subsidiary DACs are at any particular time together liable to repay on foot of any liability incurred under this section, no account shall be taken of money loaned to the Agency or to a subsidiary DAC in accordance with a direction of the Minister for Finance under section 42B (inserted by *section 30*) of the National Treasury Management Agency (Amendment) Act 2014.

Grants to Agency

- 29.** There may, subject to such conditions, if any, as the Minister thinks proper, be paid to the Agency in each financial year out of monies provided by the Oireachtas a grant or grants of such amount or amounts as the Minister, with the consent of the Minister for Public Expenditure and Reform, and after consultation with the Agency in relation to its programme of expenditure for that year, may fix to enable the Agency to meet any expenditure incurred by it—
- (a) in relation to the establishment and maintenance of the Register,
 - (b) in the performance of its functions associated with the preparation of a report to the Government, in accordance with *Part 7*, on relevant public land and land owned by the Agency,
 - (c) in the performance of its functions under *Part IX* of the Act of 2000.

Amendment of National Treasury Management Agency (Amendment) Act 2014

- 30.** The National Treasury Management Agency (Amendment) Act 2014 is amended—
- (a) in section 37, in the definition of “directed investment”, by the substitution of the following paragraph for paragraph (a):
 - “(a) an investment made by the Agency pursuant to a direction under section 42, 42A, 42B or 47(4)(b) or the proceeds held by the Agency pursuant to a direction under section 47(4)(c);”,
 - and
 - (b) by the insertion of the following section after section 42A—

“Funding of the Land Development Agency

42B. (1) Notwithstanding any other provision of this Act, the Minister may, on the request of the Minister for Housing, Local Government and Heritage, made where that Minister of the Government is satisfied that it is necessary or expedient for the achievement of the purposes of the *Land Development Agency Act 2021*, direct the Agency to—

- (a) lend money to the Land Development Agency or any subsidiary DAC out of the assets of the Fund on the commercial terms and conditions specified in the direction,
 - (b) exercise, on the terms and conditions specified in the direction, any rights attaching to a loan made under paragraph (a),
 - (c) terminate or dispose of, on the terms and conditions specified in the direction, a loan made under paragraph (a), or
 - (d) pay money to the Land Development Agency or any subsidiary DAC out of the assets of the Fund for the purposes of discharging the liability of the Minister in respect of the shares allotted and issued to the Minister for Housing, Local Government and Heritage and the Minister for Public Expenditure and Reform under *section 25 of the Land Development Agency Act 2021.*
- (2) A request from the Minister for Housing, Local Government and Heritage under subsection (1) shall include a recommendation regarding the terms and conditions to be specified in a direction under subsection (1).
- (3) The total amount—
- (a) loaned under subsection (1)(a), and
 - (b) paid under subsection (1)(d),
- shall not at any time exceed €1,250,000,000.
- (4) For the purpose of calculating the amount referred to in subsection (3), the equivalent in the currency of the State of amounts loaned or paid in a currency other than the currency of the State shall be calculated at the rate of exchange prevailing at the time the calculation is made.
- (5) For the purposes of subsection (4), where the European Central Bank has published—
- (a) a Euro Foreign Exchange Reference Rate, or
 - (b) a rate expressed by the European Central Bank to replace that rate,
- which is applicable to the currency concerned and the time the calculation concerned is made, that rate shall be taken to be the rate of exchange prevailing at that time for that currency.
- (6) Interest on any borrowings, liabilities and obligations of the Land Development Agency and of subsidiary DACs shall not be taken into account in calculating the value of the amount referred to in subsection (3).
- (7) The Agency shall comply with a direction given under subsection (1).
- (8) In this section ‘subsidiary DAC’ has the same meaning as it has in the *Land Development Agency Act 2021.*”.

Amendment of Housing Finance Agency Act 1981

31. The Housing Finance Agency Act 1981 is amended—

- (a) in section 4(2)(c), by the insertion of the following subparagraph after subparagraph (v):

“(vi) to the Land Development Agency, to be used by it in the performance of its functions and for the purposes of the *Land Development Agency Act 2021*,”

and

- (b) in section 5—

(i) in paragraph (f), by the deletion of “or” where it last occurs,

(ii) in paragraph (g), by the substitution of “this section, or” for “this section.”,

and

- (iii) by the insertion of the following paragraph after paragraph (g):

“(h) the Land Development Agency, to be used by it in the performance of its functions and for the purposes of the *Land Development Agency Act 2021* with the approval of both the Minister and the Minister for Public Expenditure and Reform.”.

Agency’s capital commitments

- 32.** (1) The Agency and any subsidiary DAC shall not, without the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, enter into a capital commitment the amount of which exceeds an amount specified for the time being under *subsection (2)*, for the purpose of this section and relating to the commitment.
- (2) The Minister may from time to time, with the approval of the Minister for Public Expenditure and Reform, specify amounts for the purposes of *subsection (1)* and such an amount may be so specified in relation to capital commitments generally or in relation to capital commitments of a particular class or description.

PART 4**AGENCY TO ESTABLISH SUBSIDIARY DACs****Establishment of subsidiary DAC**

- 33.** (1) For the purposes of performing any one or more of its functions the Agency may as it considers appropriate, with the consent of the Minister and the Minister for Public Expenditure and Reform, cause such one or more than one subsidiary, within the meaning of the Companies Act, in the form of a DAC limited by shares, to be formed and registered under Part 16 of that Act.

- (2) The Agency may cause a subsidiary DAC to be formed and registered under *subsection (1)* only—
 - (a) if the Agency has obtained the prior approval of the Minister and the Minister for Public Expenditure and Reform for the provisions contained in the constitution of the subsidiary DAC, relating to the ownership and control of that subsidiary DAC, and
 - (b) for the purposes of the performance by the subsidiary DAC of functions of the Agency.
- (3) Notwithstanding anything contained in the Companies Act, any alteration of the constitution of a subsidiary DAC shall not be valid or effectual unless made with the prior approval of the Minister and the Minister for Public Expenditure and Reform.
- (4) Subsections (1) to (3) of section 969 of the Companies Act shall not apply to a subsidiary DAC.
- (5) A subsidiary DAC shall make such reports to the Agency as the Agency requires.
- (6) The Agency may, with the consent of the Minister and the Minister for Public Expenditure and Reform, cause a subsidiary DAC to be wound up.

Provision of staff and services by Agency to subsidiary DAC

- 34.** (1) The Agency may provide a subsidiary DAC with such administration, business and support services as may be necessary or expedient for the performance of the functions for which the subsidiary DAC was formed and registered.
- (2) The Agency may assign such and so many of its staff to a subsidiary DAC as the Agency determines to be necessary or expedient for the performance of the functions for which the subsidiary DAC was formed and registered.
- (3) A subsidiary DAC that has been provided with services or staff under *subsection (1)* or *(2)* shall pay the Agency for costs incurred by the Agency in respect of the provision of services or staff concerned.

PART 5

DISSOLUTION OF BODY ESTABLISHED BY ORDER OF 2018

Dissolution of body established by Order of 2018

- 35.** (1) The Minister shall by order appoint a day to be the dissolution day of the body established by the Order of 2018 (in this Act referred to as the “dissolved body”).
- (2) The dissolved body shall stand dissolved on and from the dissolution day.

Transfer of functions to Agency

- 36.** (1) All functions that, immediately before the dissolution day, were vested in the dissolved body are transferred to the Agency.
- (2) References to the dissolved body in any enactment (other than this Act) or any instrument made under such an enactment shall, on and after the dissolution day, be construed as references to the Agency.
- (3) This section shall come into operation on the dissolution day.

Transfer of members of staff to Agency

- 37.** (1) Every person who, immediately before the dissolution day, was a member of staff or a fixed-term employee of the dissolved body shall, on the dissolution day, become and be a member of staff or a fixed-term employee, as the case may be, of the Agency.
- (2) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person referred to in *subsection (1)* shall be subject to such terms and conditions of service including terms and conditions relating to remuneration, as are not less favourable than the terms and conditions of service, including terms and conditions relating to remuneration, to which the person was subject immediately before the dissolution day.
- (3) In *subsection (2)*, a reference to terms and conditions relating to remuneration does not include conditions in relation to superannuation.
- (4) In relation to a person referred to in *subsection (1)* previous service with the dissolved body shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following:
- (a) the Redundancy Payments Acts 1967 to 2014;
 - (b) the Protection of Employees (Part-Time Work) Act 2001;
 - (c) the Protection of Employees (Fixed-Term Work) Act 2003;
 - (d) the Organisation of Working Time Act 1997;
 - (e) the Terms of Employment (Information) Acts 1994 to 2014;
 - (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
 - (g) the Unfair Dismissals Acts 1977 to 2015;
 - (h) the Maternity Protection Acts 1994 and 2004;
 - (i) the Parental Leave Acts 1998 and 2019;
 - (j) the Adoptive Leave Acts 1995 and 2005;
 - (k) the Carer's Leave Act 2001;
 - (l) the Paternity Leave and Benefit Act 2016;
 - (m) the Parent's Leave and Benefit Act 2019.

- (5) Any scheme providing for the granting of superannuation benefits to persons that was established by the dissolved body under the Order of 2018 shall cease to operate on the dissolution day.
- (6) A person referred to in *subsection (1)* who, immediately before the dissolution day, was a member of—
 - (a) a scheme for the granting of superannuation benefits established by the dissolved body, or
 - (b) the Single Public Service Pension Scheme,shall, on the dissolution day, cease to be a member of the scheme concerned and shall become and be a member of the relevant superannuation scheme established under *section 21*.

Transfer of land and other property

- 38.** (1) On the dissolution day, all land that, immediately before that day, was vested in the dissolved body and all rights, powers and privileges relating to or connected with such land shall, without any conveyance or assignment, stand vested in the Agency for all the estate or interest therein that, immediately before the dissolution day, was vested in the dissolved body, but subject to all trusts and equities affecting the land continuing to subsist and being capable of being performed.
- (2) On the dissolution day, all property (other than land), including choses-in-action, that immediately before that day, was vested in the dissolved body shall stand vested in the Agency without any assignment.
- (3) Every chose-in-action vested in the Agency by virtue of *subsection (2)* may, on and after the dissolution day, be sued on, recovered or enforced by the Agency in its name, and it shall not be necessary for the Agency or the dissolved body to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved body

- 39.** (1) All rights and liabilities of the dissolved body by virtue of any contract or commitment (expressed or implied) entered into by the dissolved body, and all obligations imposed on the dissolved body by virtue of an order of a court or tribunal, before the dissolution day shall on that day stand transferred to the Agency.
- (2) Every right and liability transferred by *subsection (1)* to the Agency may, on and after the dissolution day, be sued on, recovered or enforced by or against it in its name, and it shall not be necessary for the Agency or the dissolved body to give notice to any person of the transfer of any such right or liability.
- (3) Every lease, licence, wayleave or permission granted by the dissolved body in relation to land or other property vested in the Agency and in force immediately before the dissolution day shall continue in force on and after that day as if granted by the Agency.

Preservation of contracts made by dissolved body

- 40.** (1) Every contract, agreement or arrangement made between the dissolved body or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the dissolution day, shall continue in force and shall be construed and have effect as if the name of the Agency were substituted therein for that of the dissolved body or, as may be appropriate, its trustee or agent, and shall be enforceable by or against the Agency.
- (2) A reference to a contract, agreement or arrangement in *subsection (1)* includes any commitments of the Agency derived from any competition or process for the procurement of services by the Agency which was commenced before the dissolution day.

Records of dissolved body

- 41.** (1) Each record held immediately before the dissolution day by the dissolved body shall, on that day, stand transferred to the Agency and shall, on and after that day, be the property of the Agency and be regarded as being held by the Agency.
- (2) In this section “record” includes, in addition to any record in writing—
- (a) a plan, chart, map, drawing, diagram, pictorial or graphic image,
 - (b) a disc, tape, soundtrack or other device in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,
 - (c) a film, tape or other device in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form, and
 - (d) a photograph.

Liability for loss occurring before dissolution day

- 42.** (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance, before the dissolution day, of a function of the dissolved body transferred by this Act shall, on and after that day, lie against the Agency and not against the dissolved body.
- (2) Any legal proceedings pending immediately before the dissolution day, to which the dissolved body is a party, shall be continued on and after that day, with the substitution in the proceedings of the Agency, in so far as they so relate, for the dissolved body.
- (3) Where, before the dissolution day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, on and after the dissolution day, in so far as they are enforceable

against the dissolved body, be enforceable against the Agency and not the dissolved body.

- (4) Any claim made or proper to be made by the dissolved body in respect of any loss or injury arising from the act or default of any person before the dissolution day shall, on and after that day, be regarded as having been made by or proper to be made by the Agency and may be pursued and sued for by the Agency as if the loss or injury had been suffered by the Agency.

Final accounts and final report of dissolved body

43. (1) The Agency shall, in respect of the period specified under *subsection (3)* prepare final accounts of the dissolved body.
- (2) The Agency shall, not later than three months following the dissolution day, submit the final accounts of the dissolved body to the auditor appointed by the dissolved body for the purpose of Article 11(3)(b) of the Order of 2018 for audit and shall, immediately after the audit, present a copy of the accounts and a copy of the auditor's report on the accounts to the Minister who, as soon as practicable thereafter, shall cause a copy of those accounts to be laid before each House of the Oireachtas.
- (3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the dissolved body.
- (4) The Agency shall, not later than six months following the dissolution day, prepare and submit to the Minister the final annual report of the dissolved body and the Minister shall, as soon as practicable, cause a copy of the final report to be laid before each House of the Oireachtas.
- (5) The final annual report of the dissolved body shall be published on the website of the Agency as soon as practicable after copies of the report are laid under *subsection (4)*.

Provisions consequent upon transfer of functions, assets and liabilities to Agency

44. (1) Anything commenced and not completed before the dissolution day by or under the authority of the dissolved body may, in so far as it relates to a function of the dissolved body transferred under this Act, be carried on or completed on or after the dissolution day by the Agency.
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made by the dissolved body shall, if and in so far as it was operative immediately before the dissolution day, have effect on and after that day as if it had been granted or made by the Agency.
- (3) References to the dissolved body in the constitution of any company and relating to a function transferred by this Act shall, on and after the dissolution day, be construed as references to the Agency.
- (4) Any money, stocks, shares or securities transferred by *section 38* that, immediately before the dissolution day, were standing in the name of the dissolved body shall, on

and after that day, on the request of the Agency, be transferred into the name of the Agency.

- (5) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested under *section 38* or *39* in the Agency shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

First chief executive on dissolution day

- 45.** (1) The Minister, at any time before the dissolution day, may designate a person to be appointed to be the first chief executive of the Agency.
- (2) If, immediately before the dissolution day, a person stands designated by the Minister under *subsection (1)*, the person shall, on the dissolution day stand appointed as the first chief executive of the Agency.
- (3) A person standing designated under *subsection (1)* who stood appointed immediately before his or her appointment under *subsection (2)* as chief executive of the dissolved body (in this section referred to as the “first appointment”) shall hold office as the first chief executive of the Agency for such term as the Minister may direct when designating that person under *subsection (1)* being—
- (a) the unexpired term of the first appointment, or
- (b) a period longer than the unexpired term which does not exceed seven years.
- (4) A person, other than a person referred to in *subsection (3)*, standing designated under *subsection (1)* shall hold office as the first chief executive of the Agency for such term not exceeding seven years as the Minister shall direct when designating that person under *subsection (1)*.
- (5) The first chief executive shall hold office under a written contract of service for a period, and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as are specified in the contract, as may be determined by the Minister with the approval of the Minister for Public Expenditure and Reform.
- (6) *Subsections (2), (4), (6) and (7) of section 17* shall apply to the first chief executive of the Agency.

PART 6

FINANCIAL STATEMENTS AND PUBLIC ACCOUNTABILITY

Accounts of Agency and subsidiary DACs

- 46.** (1) Part 6 of the Companies Act shall apply to the Agency and any subsidiary DAC subject to the modifications specified in *subsections (2) to (6)*.
- (2) The Agency and any subsidiary DAC shall keep in such form as may be approved by the Minister with the consent of the Minister for Public Expenditure and Reform all

proper and usual accounts of money received and expended by it and of all financial transactions undertaken in the performance of its functions.

- (3) Accounts kept in pursuance of this section shall clearly indicate—
- (a) the costs and revenues that accrue to the Agency or, as the case may be, the subsidiary DAC in respect of each of the different activities in which it engages, and
 - (b) details of how the revenues that accrue to the Agency or, as the case may be, the subsidiary DAC from particular activities are assigned or allocated to other activities.
- (4) Accounts of the Agency and any subsidiary DAC kept in pursuance of this section shall be signed by the chief executive (who shall be the officer accountable for such accounts for the purposes of the Comptroller and Auditor General Acts 1866 to 1998) and an appointed member of the Board.
- (5) Accounts signed in pursuance of this section shall be submitted by the Agency or, as the case may be, the subsidiary DAC to the Comptroller and Auditor General for audit as soon as may be but not later than four months after the end of the financial year of the Agency for audit.
- (6) A copy of the accounts of the Agency or of the subsidiary DAC as so audited shall be presented to the Minister as soon as may be and the Minister shall cause a copy of the accounts as so audited to be laid before each House of the Oireachtas.

Appointment of statutory auditor or firm

47. (1) Where, following prior consultation with the Minister, the Board considers it appropriate to do so having regard to *section 28*, the Agency or a subsidiary DAC may appoint a statutory auditor or statutory audit firm to be a statutory auditor of the Agency or subsidiary DAC, as the case may be, for the purposes of, and in accordance with, the Companies Act.
- (2) The appointment of a statutory auditor or statutory audit firm under *subsection (1)* shall not affect the operation of *section 46*.
- (3) In this section “statutory auditor” and “statutory audit firm” each has the same meaning as it has in the Companies Act.

Reporting arrangements

48. (1) The Agency shall, not later than 30 June in each year, prepare and submit to the Minister a report on the performance by it and by any subsidiary DAC of its functions in the immediately preceding year, or in the case of the period from the date on which this Act comes into operation, in the period ending on the next following 30 June.
- (2) The Minister shall, as soon as may be after receiving a report under *subsection (1)*, cause a copy of it to be laid before each House of the Oireachtas.

- (3) The Agency shall furnish to the Minister such information regarding the performance, or proposals for the performance, of its functions, by it or by any subsidiary DAC, as the Minister may from time to time require.

PART 7

REGISTER AND ACQUISITION OF RELEVANT PUBLIC LAND BY AGENCY

Definitions (*Part 7*)

49. In this Part—

“market value”, subject to *section 55(7)*, means the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion;

“valuation date” means the valuation date within the meaning of *section 55(3)*.

Register of Relevant Public Land

- 50.** (1) The Agency shall establish and maintain a register (in this Act referred to as the “Register”) of all relevant public land and land owned by the Agency or a subsidiary DAC, to be known as the Register of Relevant Public Land.

- (2) The Agency shall as soon as practicable after the coming into operation of this section—

(a) enter in the Register such of the information specified in *subsection (3)* as is in the Agency’s possession or control, and

(b) where necessary, request the information specified in *subsection (3)* from a relevant public body and, on receipt of that information, enter it in the Register.

- (3) The following, identifying relevant public land and land owned by the Agency or a subsidiary DAC, shall be entered in the Register:

(a) a description, including area and location, of the land;

(b) an ordnance map drawn to such scale as is appropriate, or other suitable map approved by the Agency, showing the relevant public land;

(c) information as to whether or not the relevant public land or land owned by the Agency or a subsidiary DAC is land—

(i) referred to in *section 75(1)*,

(ii) which has been exempted from the provisions of *Part 9* under *section 75(2)*,

(iii) referred to in *section 75(1)* and to which either an order under *section 77* applies or regulations under *section 78* apply.

- (4) A relevant public body shall furnish to the Agency information in its possession or control, requested by the Agency under *subsection (2)(b)*, within eight weeks of receipt of the request.
- (5) The Register shall be published and made available for inspection by the Agency on its website.
- (6) A relevant public body shall, in relation to an entry in the Register relating to relevant public land owned by the body, give notice to the Agency of—
 - (a) an error that the relevant public body knows of in the entry, and
 - (b) a change in circumstances that is likely to have a bearing on the accuracy of the entry,as soon as practicable after the relevant public body becomes aware of the error or change in circumstances and the Agency shall, as soon as practicable, correct the error or record the change in circumstances.
- (7) The Agency shall, in relation to an entry in the Register of land owned by it or a subsidiary DAC, correct an error that it becomes aware of or record a change in circumstances that is likely to have a bearing on the accuracy of the entry.
- (8) Notwithstanding any enactment or rule of law, the Property Registration Authority, Ordnance Survey Ireland and the Valuation Office shall each, upon a request from the Agency, provide to the Agency such information in their possession or control as the Agency may reasonably require for the purpose of enabling the Agency to perform its functions under this section.
- (9) No fee shall be charged by the Property Registration Authority, Ordnance Survey Ireland or the Valuation Office for or relating to the provision of information to the Agency under *subsection (8)*.

Obligations of relevant public body

- 51.** (1) Each of the following persons shall co-operate with and provide every assistance to the Agency in the performance by the Agency of its functions relating to the relevant public land owned by the body:
- (a) where a relevant public body is a body corporate, each director, manager, secretary or other officer of the body;
 - (b) each member of staff of a relevant public body.
- (2) As soon as practicable following a request in that behalf by the Agency, a relevant public body shall, in relation to relevant public land owned by the body, furnish to the Agency any information, records or documents requested by the Agency.
- (3) Without prejudice to the generality of *subsection (2)*, the Agency may request information including—
- (a) an analysis by the relevant public body of whether the retention of relevant public land owned by the body is necessary for the performance by the body of its functions,

- (b) information regarding current and previous use of the relevant public land concerned, and
 - (c) information regarding the costs incurred by the relevant public body in using or maintaining the relevant public land and any profit or loss made by the body in that use or maintenance.
- (4) The Agency or any person on behalf of the Agency may, by arrangement with a relevant public body concerned, enter, with or without such equipment as the Agency considers necessary, on any relevant public land at all reasonable times and may there carry out such surveys, inspections, tests and examinations and take such measurements and such samples of soil as may be necessary for the performance by the Agency of its functions.

Report of Agency to Government relating to certain land

- 52.** (1) The Agency shall prepare and furnish a report to the Government on relevant public land and land owned by the Agency or a subsidiary DAC.
- (2) A report under this section shall contain information on—
- (a) relevant public land and land owned by the Agency or a subsidiary DAC assessed by the Agency to be fit for use for the purposes of this Act,
 - (b) the matters referred to in *subsection (3)*, and
 - (c) the current use of the land referred to in *paragraph (a)*.
- (3) In providing a report under *subsection (2)* the Agency shall, in relation to each parcel of land referred to in the report, take account of:
- (a) the objectives of the development plan and local area plan in force for the area where the land is situated;
 - (b) any masterplan affecting the land;
 - (c) the potential for development of the land in conjunction with contiguous sites that also constitute relevant public land or land owned by the Agency or a subsidiary DAC;
 - (d) the cost of provision of infrastructure and development costs estimated by the Agency to be associated with the use to which the land may be put;
 - (e) the priority, having regard to the nature of the land, proposed to be given to its development relative to other relevant public land or land owned by the Agency or a subsidiary DAC and the period within which that development is proposed to take place;
 - (f) any housing strategy for the area where the land is situated.
- (4) A report under this section shall also contain information concerning relevant public land offered to the Agency under *section 53(2)* during the period, referred to in *subsection (6)*, to which the report relates.

- (5) Information referred to in *subsection (4)* shall include information on the acquisition by the Agency of the land or part of the land offered, or its refusal to acquire that land or part.
- (6) The first report under this section shall be prepared and furnished by the Agency to the Government not later than 12 months after the date of the coming into operation of this section and every report thereafter shall be prepared and furnished not later than the second anniversary of the previous such report.
- (7) *Subsection (6)* shall not operate to prevent the Agency from preparing and furnishing a report to the Government at any time, in accordance with this section, on any specific relevant public land.
- (8) The Minister shall, as soon as may be after a report under this section has been furnished to the Government, cause a copy of it to be laid before each House of the Oireachtas.

Proposal to dispose of relevant public land

- 53.** (1) A relevant public body shall not dispose of relevant public land unless the body has given notice under *subsection (2)* and offered the land for sale to the Agency within the period of 12 months immediately prior to the disposal.
- (2) A relevant public body shall give notice to the Agency of its intention to dispose of relevant public land and shall provide to the Agency any information sought by it in relation to the land concerned.
- (3) The Agency shall assess whether the relevant public land is fit for use for the purposes of this Act, and, having regard to the matters referred to in *paragraphs (a) to (e) of section 52(3)* and any information provided to the Agency under *subsection (2)*, shall decide to acquire or refuse to acquire that land.
- (4) The Agency shall decide under *subsection (3)*, and give notice to the relevant public body concerned of the decision, within eight weeks of the latter of either of the following occurring:
- (a) receipt of a notice under *subsection (2)*;
 - (b) receipt of information requested under *subsection (2)*.

Direction to acquire land

- 54.** (1) The Government having considered a report furnished to them under *section 52* relating to land owned by a *Schedule 1* public body may decide, for the purposes of this Act, that the relevant public land referred to in the report shall be acquired by the Agency.
- (2) The Government shall direct the Agency to acquire land owned by a *Schedule 1* public body in respect of which they have made a decision under *subsection (1)*.

- (3) The Agency shall, within four weeks of the direction of the Government under *subsection (2)* give notice to the *Schedule 1* public body that the relevant public land concerned shall be acquired by the Agency.

Provision for determination of value of relevant public land

55. (1) A relevant public body notified of a decision of the Agency under *section 53(3)* to acquire its land, or a direction of the Government under *section 54(2)* to acquire its land, or, in relation to relevant public land referred to in *column (1)* of *Schedule 3*, the *Schedule 1* public body referred to in *column (2)* opposite the mention of the relevant public land concerned, shall be entitled to receive an amount equal to the market value of the relevant public land being acquired by the Agency.
- (2) The Agency may give notice to a *Schedule 1* public body specified in *column (2)* of *Schedule 3* of the Agency's intention to acquire relevant public land specified in *column (1)* of the schedule opposite the *Schedule 1* public body so specified.
- (3) For the purpose of determining the market value of relevant public land, the valuation date shall be—
- (a) the date on which the Agency gives notice under *section 53* to the relevant public body or, under *section 54(3)* to the *Schedule 1* public body, that the land shall be acquired, or
 - (b) in relation to relevant public land referred to in *Schedule 3*, the date on which the Agency gives notice under *subsection (2)*.
- (4) The Minister shall prescribe the manner in which the market value of relevant public land shall be determined.
- (5) Matters to be prescribed by the Minister under *subsection (4)* shall include—
- (a) procedures for nomination of a person to determine the market value of the land,
 - (b) the relevant experience, qualifications, membership of a professional body that may be required, training or expertise required to be held by a person nominated in accordance with procedures prescribed under *paragraph (a)*,
 - (c) procedures and time limits to apply, including in relation to requests for further information or the giving of a notice of the determination,
 - (d) fees and costs, if any, to be paid, and to and by whom, in respect of the determination,
 - (e) provisions of other enactments relating to valuation of land to be applied for the purpose of the regulations where the Minister considers it appropriate,
 - (f) any other matter the Minister considers necessary or appropriate to include in the regulations for the purpose of determining the market value of the land.
- (6) *Section 67* shall apply to land proposed to be acquired by the Agency under this Part as it applies to land proposed to be purchased compulsorily under *Part 8* subject to the following and any other necessary modifications:

- (a) a reference in *section 67* to land shall be read as a reference to relevant public land;
 - (b) a reference in *section 68(1)* to an acquisition order shall be read as a reference to a decision under *section 53(3)* or a direction under *section 54(2)* to acquire relevant public land.
- (7) Any calculation of the market value of the relevant public land shall take into account the obligations in *Part 9* that apply to the development of dwellings on relevant public land.

Vesting of certain relevant public land in Agency

- 56.** (1) The Minister may by order (in this Part referred to as a “vesting order”) transfer the relevant public land concerned to the Agency from—
- (a) where a decision under *section 53(3)* relates to relevant public land owned by a local authority or a *Schedule 1* public body, that local authority or *Schedule 1* public body,
 - (b) where a direction under *section 54(2)* relates to land owned by a *Schedule 1* public body, that *Schedule 1* public body, or
 - (c) where the transfer relates to relevant public land specified in *column (1)* of *Schedule 3*, the *Schedule 1* public body specified in *column (2)* of that Schedule opposite the relevant public land so specified.
- (2) Before making a vesting order, the Minister shall—
- (a) consult with the relevant public body concerned and the Minister for Public Expenditure and Reform, and
 - (b) be satisfied that the Agency has paid to the relevant public body concerned an amount equal to the market value of the land concerned.
- (3) A vesting order in relation to the relevant public land concerned shall operate to vest without any further conveyance, transfer or assignment for all the estate or interest in that relevant public land in the Agency but subject to all trusts and equities subsisting and capable of being performed affecting that land.
- (4) A vesting order shall be in such form as may be approved by the Minister and shall refer to a map identifying the land to which it relates.
- (5) A vesting order shall come into operation on such day or days as may be specified in the order and different days may be so specified in relation to different parts of the land to which the order relates.
- (6) The Agency shall cause a vesting order made by the Minister under this section and a map identifying the land to be lodged with the Property Registration Authority and that Authority shall cause the Agency to be registered as the owner of the land to which the order relates in accordance with the order.

Disposal of land by Agency or subsidiary DAC

57. (1) Subject to *subsection (6)*, the Agency may, with the consent of the Minister having consulted with the Minister for Public Expenditure and Reform, dispose of land owned by the Agency.
- (2) The power conferred on the Agency by *subsection (1)* may be exercised only where the Agency is satisfied that it is necessary for the purposes of this Act and the performance of the functions conferred on the Agency by *paragraph (c), (i), (k) or (m) of section 14(1)* and where land owned by the Agency is no longer required by it for those purposes or the performance of those functions.
- (3) Subject to *subsection (6)*, a subsidiary DAC may, with the consent of the Minister having consulted with the Minister for Public Expenditure and Reform, dispose of land owned by the subsidiary DAC.
- (4) The power conferred on a subsidiary DAC by *subsection (3)* may be exercised only where the subsidiary DAC is satisfied that it is necessary for the purposes of this Act and the performance of the functions referred to in *subsection (2)* conferred on the subsidiary DAC pursuant to *section 33(2)* and where land owned by the subsidiary DAC is no longer required for those purposes or the performance of those functions.
- (5) The Agency may, subject to this section, dispose of land owned by the Agency to a subsidiary DAC where the Agency is satisfied that it is necessary, in relation to the land, for the purposes of this Act that the functions referred to in *subsection (2)* should be performed on behalf of the Agency by the subsidiary DAC.
- (6) Subject to *subsection (7)*, *subsection (1)* shall not apply to the disposal in a single transaction by the Agency of one house for rent or purchase and *subsection (3)* shall not apply to the disposal in a single transaction by a subsidiary DAC of one house for rent or purchase.
- (7) *Subsection (1)* shall apply to the disposal in a single transaction of one house for rent or purchase by the Agency where the Agency forms a view, and advises the Minister who agrees with the view, that the disposal is part of a series of transactions that are or appear to be linked to each other and *subsection (3)* shall apply to the disposal in a single transaction of one house for rent or purchase by a subsidiary DAC where the subsidiary DAC forms a view, and advises the Minister who agrees with the view, that the disposal is part of a series of transactions that are or appear to be linked to each other.

Provision relating to local authority land under this Part

58. Section 211(2) of the Act of 2000 and section 183 of the Local Government Act 2001 shall not apply to the disposal by a local authority to the Agency under this Part of relevant public land owned by the local authority which land—
- (a) is situated—
- (i) in the local authority area in respect of which a development plan is in force,
or

- (ii) in the functional area, within the meaning of the Act of 2000, of, or any particular area within the functional area of, a planning authority in respect of which a local area plan is in force,
- and
- (b) is zoned for solely residential use or a mixture of residential and other uses in, as the case may be, the development plan or local area plan.

General provision relating to operation of this Part

- 59.** (1) A reference to a decision of the Agency under *section 53(3)* or a decision of the Government under *section 54(1)* may be construed as a reference to a decision that the Agency shall acquire or not acquire, as the case may be, part only of the relevant public land the subject of a notice under *section 53(2)* or a report furnished to the Government under *section 52* and this Part shall apply to the part of the relevant public land concerned with any necessary modifications.
- (2) Nothing in the State Property Act 1954 shall operate to prevent the acquisition of relevant public land by the Agency under this Part.
- (3) Land owned by the Agency or a subsidiary DAC shall not be State Land within the meaning of the State Property Act 1954.

PART 8

COMPULSORY PURCHASE

Definitions

- 60.** In this Part—

“acquisition order” has the meaning assigned to it by *section 66*;

“Act of 1845” means the Lands Clauses Consolidation Act 1845;

“Act of 1919” means the Acquisition of Land (Assessment of Compensation) Act 1919;

“Act of 1966” means the Housing Act 1966;

“compulsory transfer order” has the meaning assigned to it by *section 70*;

“Court” means the High Court;

“initial notice” has the meaning assigned to it by *section 63*;

“land owned by the Agency” means land that was relevant public land at any time prior to its acquisition by the Agency under *Part 7*.

Agency's power to acquire land compulsorily

- 61.** (1) The Agency may compulsorily acquire land if in its opinion the land is situate in an area in respect of which the applicable housing strategy identifies a need for housing and the land is necessary—
- (a) to provide access to relevant public land or land owned by the Agency, or
 - (b) to facilitate the provision of roads, water or other services or utilities required by housing on relevant public land or land owned by the Agency.
- (2) The Agency may compulsorily acquire land only if it has first made a reasonable attempt to acquire the land by agreement.
- (3) Any land acquired by the Agency under this Part shall only be used by the Agency for purposes referred to in *paragraphs (a) to (n) and (s) of section 2* or in the performance of a function conferred on it by *paragraphs (a), (b), (c), (e), (f) or (h) of section 14(1) or section 15*.
- (4) In *subsection (1)*, “land owned by the Agency” includes land owned by a subsidiary DAC where the subsidiary DAC is, for the purposes referred to in *subsection (3)*, only performing on behalf of the Agency in relation to that land a function specified in *subsection (3)*.

Application to Court for acquisition order

- 62.** (1) If the Agency proposes to compulsorily acquire any land, the Agency shall apply to the Court for an acquisition order authorising it to acquire the land.
- (2) An application under *subsection (1)* shall be accompanied by the maps, plans and books of reference referred to in *section 64*.

Notice of intention to apply to Court for order

- 63.** (1) The Agency shall publish a notice (in this Part referred to as the “initial notice”), in such form (if any) as may be prescribed by the Minister, of an application under *section 62* in a daily newspaper circulating in the State generally.
- (2) (a) The Agency shall give a copy of an initial notice to every person who appears to the Agency to have an estate or interest in the land concerned in so far as it is reasonably practicable to ascertain those persons.
- (b) Failure to give an initial notice to every person referred to in *paragraph (a)* shall not invalidate the application under *section 62* concerned.
- (3) An initial notice shall—
- (a) include a statement that persons claiming an estate or interest in the land concerned have the right to lodge with the Court, within 21 days after the publication of the notice, an objection to the making of an acquisition order in relation to the land, and
 - (b) specify the times at which and the place or places where the maps, plans and books of reference deposited in accordance with *section 64* can be inspected.

Maps, plans and books of reference to be deposited

- 64.** (1) The Agency shall cause maps, plans and books of reference to be deposited in accordance with this section.
- (2) The maps and plans shall be sufficient in quantity and character to show the land at an adequate scale.
- (3) The books of reference shall so far as practicable contain the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the land that is proposed to be acquired.
- (4) The maps, plans and books of reference shall be deposited at such place or places as the Agency considers suitable and shall remain so deposited for at least 21 days after publication of the initial notice and while so deposited shall be open to inspection, free of charge, between 10.00 a.m. and 4.00 p.m. on every day except Saturdays, Sundays and public holidays.

Consideration by Court of objections

- 65.** (1) A person claiming an estate or interest in land in relation to which an initial notice has been published may lodge with the Court, within 21 days after the publication of the initial notice, an objection to the making of an acquisition order in relation to the land setting out the estate or interest the person has in the land and the grounds on which the objection is based.
- (2) Subject to *subsection (3)*, in determining an application by the Agency under *section 62*, the Court shall consider any objection lodged with the Court in accordance with *subsection (1)*.
- (3) The Court is not obliged to consider any objection that—
- (a) is not lodged within the period required by *subsection (1)*, or
- (b) does not show on its face the objector's estate or interest in the land concerned.
- (4) In considering an objection under *subsection (1)*, the Court shall have regard to the nature of the objector's estate or interest in the land.

Acquisition order

- 66.** (1) If no objection to the Agency's application is lodged with the Court within the period referred to in *section 65(1)*, the Court shall make an order (in this Part referred to as an "acquisition order") authorising the Agency to acquire the land concerned compulsorily in accordance with the terms of its application.
- (2) If an objection to the Agency's application is lodged with the Court within the period referred to in *section 65(1)* the Court, having, if is required under *section 65*, considered the objection, shall make an order referred to in *subsection (1)* if the Court is satisfied that—
- (a) the Agency has reasonably formed the opinion referred to in *section 61(1)*,
- (b) the condition referred to in *section 61(2)* has been satisfied by the Agency,

- (c) the Agency has demonstrated that the land it seeks compulsorily to acquire will be used for at least one of the purposes referred to in *subsection (3) of section 61*, or in the performance of at least one of the functions referred to in that subsection, and
 - (d) it is just and equitable in all the circumstances to make the order.
- (3) The Third Schedule (other than Article 4, paragraphs (1) to (4) of Article 5 and Article 5(5)(d)) to the Act of 1966 applies to an acquisition order, as it applies to a compulsory purchase order under that Act, subject to the following and any other necessary modifications:
- (a) references to a housing authority or an authority shall be construed as references to the Agency;
 - (b) a reference to the Minister shall be construed as a reference to the Court in the performance of its functions under this Part.

Notice to treat

67. (1) Where an acquisition order has been made, the Agency shall give a notice (referred to as a notice to treat) to every owner, lessee and occupier of the land (except tenants for a month or a shorter period).
- (2) A notice to treat given under *subsection (1)* shall—
- (a) state that the Agency is willing to treat for the purchase of the several interests in the land, and
 - (b) require each owner, lessee and occupier—
 - (i) to state within a specified period (not less than one month from the date of service of the notice to treat) the exact nature of the estate or interest in respect of which he or she is entitled to claim the compensation concerned, and
 - (ii) if the Agency so requires, to distinguish separate amounts of the compensation referred to in *subparagraph (i)* in such manner as the Agency specifies in the notice to treat and show how each such amount is calculated.
- (3) A notice to treat given under *subsection (1)* shall be taken to be a notice to treat for the purposes of the Act of 1919.

Agency's power to take possession

68. (1) The Agency may, subject to *subsection (2)* enter on and take possession of land to be acquired under this Part at any time after the making of an acquisition order and before the latter of either of the following occurring—
- (a) determination of compensation under *section 69*, or
 - (b) the making of a compulsory transfer order.

- (2) The Agency shall not enter on or take possession of land under this section without giving the occupier and, if the occupier is not the owner of the land, the owner at least 14 days' notice in writing of its intention to do so.

Determination of compensation

69. (1) The amount of compensation to be paid by the Agency for the land shall, in default of agreement, be fixed under and in accordance with the Act of 1919.
- (2) Sections 63 and 69 to 79 of the Act of 1845 apply to the price and, subject to *sections 70 and 72*, to the land acquired and for the purpose of the application of those sections a reference to the promoters of an undertaking shall be construed as a reference to the Agency.
- (3) If the Agency exercises its power to enter and take possession under *section 68*, the Agency is liable to pay compensation as if the provisions of the Act of 1845 relating to entry on land had been complied with and to pay interest upon that compensation, from the date of entry until the later of either of the matters referred to in *paragraphs (a) and (b) of section 68(1)* occurring, at the rate applicable to compulsory purchase orders by local authorities in accordance with the provisions of the Act of 1966.

Court may make compulsory transfer order

70. (1) On an application in that behalf by the Agency and where the Agency has entered on and taken possession of land in accordance with *section 68* and the Court is satisfied that—
 - (a) any estate or interest in the land has not been conveyed or transferred to the Agency,
 - (b) it is necessary, in connection with the purposes for which the Agency has been authorised to acquire the land compulsorily, that the acquisition of the land should be completed, and
 - (c) the Agency has made an offer in writing to each person having the estate or interest concerned who has furnished to the Agency sufficient particulars of that estate or interest following a request by the Agency under *section 61* to enable the Agency to make an offer for it,the Court may make an order (in this Part referred to as a “compulsory transfer order”) vesting the land in the Agency subject to any terms and conditions that the Court thinks fit.
- (2) Where after the Court, having considered the matters referred to in *subsection (1)* makes a compulsory transfer order, the Agency shall within seven days after having received notification from the Court of the making of the order—
 - (a) publish in a newspaper circulating in the area of the land to which the order relates a notice stating that the order has been made, describing the land and naming a place, including its website, where a copy of the order may be seen at all reasonable times, and

- (b) give to every person appearing to the Agency to have an estate or interest in the land a notice that the order has been made and the effect of the order.

Agency to inform Revenue Commissioners if certain liabilities exist

71. Where the Agency becomes aware, before the making of a compulsory transfer order, that a person from whom an estate or interest in the land is to be transferred by the order is subject to a liability for estate duty, succession duty or inheritance tax, the Agency shall notify the Revenue Commissioners of the Court's intention to make the order.

Form and effect of compulsory transfer order

72. (1) The Court shall cause a compulsory transfer order to have attached to it a map identifying the land to which it relates.
- (2) A compulsory transfer order shall operate to vest in the Agency the land specified in it in fee simple free from encumbrances and all estates, rights, titles and interests of whatever kind (other than any public right of way) with effect from a date (not earlier than 21 days after the making of the order) specified in the order.
- (3) (a) The Agency shall cause a compulsory transfer order to be lodged with the Property Registration Authority under the Registration of Title Act 1964.
- (b) The Property Registration Authority shall cause the Agency to be registered as owner of the land in accordance with the compulsory transfer order.

Effect of compulsory acquisition without compulsory transfer order

73. (1) Upon the completion of a compulsory acquisition under this Part otherwise than by compulsory transfer order, all private rights of way and all rights of laying down, erecting, continuing or maintaining pipes, sewers, drains, wires or cables on, under or over the land concerned (together with the property in those pipes, sewers, drains, wires or cables) and all other rights or easements in or relating to the land shall (except so far as otherwise agreed by the Agency and the person entitled to the right) vest in the Agency without any conveyance or transfer.
- (2) A person who suffers loss by the vesting, by virtue of *subsection (1)*, of a right or easement in the Agency is entitled to be paid compensation by the Agency.
- (3) Compensation payable under *subsection (2)* shall be determined under and in accordance with the Act of 1919.

PART 9

REQUIREMENT IN RELATION TO DEVELOPMENT OF DWELLINGS ON RELEVANT PUBLIC LAND AND FORMER RELEVANT PUBLIC LAND

Interpretation – Part 9

74. In this Part—

“Board”, “permission”, and “planning authority” each has the same meaning as it has in the Act of 2000;

“cost rental dwelling” has the meaning assigned to it by Part 3 of the Affordable Housing Act 2021;

“dwelling” has the same meaning as it has in the Act of 2009;

“specified percentage” has the meaning assigned to it by *section 75(11)*.

Requirement in relation to development of dwellings on relevant public land and former relevant public land

75. (1) The provisions of this Part shall, subject to *subsections (2) and (10)*, apply to—

- (a) an application for permission for the development of 5 or more dwellings on land which is relevant public land on the day on which this section comes into operation, or
- (b) where such an application relates to a mixture of developments, to that part of the application which relates to the development of dwellings on such land,

in addition to the provisions of section 34 and, where applicable, Part V of the Act of 2000.

(2) The Government may, by order, at the request of the Minister, exempt relevant public land from the provisions of this Part where the land—

- (a) is owned by a body which the Government is satisfied is required to act in a commercial manner and the sale of which has been consented to by—

- (i) any Minister of the Government that holds shares in the body, and

- (ii) the Minister for Public Expenditure and Reform,

subject to the re-investment of the proceeds of such sale by the body for the purposes of the performance of its functions,

- (b) is referred to in Schedule 3 to the Grangegorman Development Agency Act 2005 and owned by Technological University Dublin, or

- (c) is owned by a local authority that wishes to dispose of the land in order to use the proceeds of such sale for the purposes of the performance of its public functions.

(3) A planning authority, or the Board on appeal, shall require as a condition of a grant of permission that the applicant, or any other person with an interest in the land to which the application relates, prior to the lodgement of a commencement notice within the meaning of Part II of the Building Control Regulations 1997 (S.I. No. 496 of 1997), enter into an agreement with the planning authority, providing, in accordance with this Part, for the matters referred to in *subsection (4)*.

(4) An agreement under this section shall provide for the specified percentage, or such other percentage as the Minister may prescribe under *section 77*, of the dwellings to be built on the land which is subject to the application for permission, of such description as may be specified in the agreement, to be built and—

- (a) designated and leased as cost rental dwellings, or
 - (b) transferred on completion—
 - (i) to the ownership of the planning authority, or
 - (ii) to the ownership of eligible applicants nominated by the housing authority in accordance with a direct sales agreement within the meaning of the Affordable Housing Act 2021.
- (5) Where dwellings are to be transferred to the planning authority in accordance with an agreement under this section, the price of such dwellings shall be determined on the basis of—
- (a) the site cost of the dwelling (calculated in accordance with *section 55*), and
 - (b) the costs, including normal construction costs and profit on those costs and development costs, calculated at open market rates that would have been incurred by the planning authority had it retained an independent builder to undertake the works, including the appropriate share of any common development works, as agreed between the authority and the developer.
- (6) An applicant for permission shall, when making an application to which this section applies, specify the manner in which he or she would propose to comply with a condition to which *subsection (3)* relates were the planning authority to attach such a condition to any permission granted on foot of such application, and where the planning authority grants permission to the applicant subject to any such condition it shall have regard to any proposals so specified.
- (7) For the purposes of an agreement under this section, the planning authority shall consider—
- (a) the proper planning and sustainable development of the area to which the application relates,
 - (b) the housing strategy and the specific objectives of the development plan which relate to the implementation of the strategy,
 - (c) the need to ensure the overall coherence of the development to which the application relates, where appropriate,
 - (d) the need to counteract segregation in housing between persons of different social background in the area to which the application relates, and
 - (e) the time within which housing is likely to be provided as a consequence of the agreement.
- (8) An agreement under this section shall identify the dwellings to be transferred, or as the case may be, designated as cost rental dwellings, whether in one or more parts.
- (9) A dwelling that is the subject of an agreement referred to in *section 96* of the Act of 2000 shall not be reckoned in determining whether or not the condition imposed by this section has been complied with.

- (10) This section shall not apply to applications for permission for development consisting of the provision of houses by a body approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992, for the provision of housing required for households assessed under section 20 of the Act of 2009 as being qualified for social housing support, where such houses are to be made available for letting or sale.
- (11) In this section, “specified percentage”—
- (a) in relation to housing to be built on land located in the area of a town (including all the environs of the town for the purpose of the census of the population concerned) the population of which, when rounded to the nearest 500 as shown on the latest census report of the Central Statistics Office, is equal or greater to 150,000, means 80 per cent,
 - (b) in relation to housing to be built on any other land, means 50 per cent.

Referrals to Board

76. (1) In the case of a dispute in relation to any matter which may be the subject of an agreement referred to in *section 75(3)* the matter may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.
- (2) Where it is a condition of the grant of permission that an agreement be entered into in accordance with *section 75(3)* and, because of a dispute in respect of any matter relating to the terms of such an agreement, parties are unable to reach an agreement, the planning authority, the applicant or any other person with an interest in the land to which the application relates may refer the dispute to the Board and the Board shall determine the matter as soon as practicable.

Minister may set percentage

77. (1) The Minister may by order, set a percentage of housing higher or lower than the specified percentage, up to a maximum of 80 per cent, for the purposes of an agreement under *section 75(3)* and may set different percentages in respect of different geographical or administrative areas.
- (2) For the purposes of setting a percentage in relation to an area under *subsection (1)* the Minister shall have regard to the likely future demand for cost rental dwellings and dwellings for sale in the State and to the following matters in relation to the area concerned:
- (a) the percentage of housing that will most effectively serve the purposes of this Act;
 - (b) the need for housing and the availability of housing, in terms of overall scale, type and tenure;
 - (c) the need to counteract segregation in housing between persons of different social background;
 - (d) housing strategies developed by the local authority concerned;

- (e) the particular demands and requirements of housing;
 - (f) the particular need for dwellings for sale or rent under Parts 2 or 3 of the Affordable Housing Act 2021;
 - (g) the cost of housing;
 - (h) the cost of site development.
- (3) An order under *subsection (1)* shall apply only to land that is relevant public land on the day on which such order comes into force.

PART 10

MISCELLANEOUS

Amendment of Act of 2000

78. The Act of 2000 is amended—

(a) in section 96—

(i) in subsection (1) by the insertion of “and, where applicable, *Part 9* of the *Land Development Agency Act 2021*” after “in addition to the provisions of section 34”, and

(ii) by the insertion of the following subsection after subsection (10):

“(10A) A dwelling that is the subject of an agreement referred to in *section 75* of the *Land Development Agency Act 2021* shall not be reckoned in determining whether or not the condition imposed by this section has been complied with.”,

(b) in section 165—

(i) by the insertion of the following definition before the definition of “development agency”:

“ ‘relevant public land’ has the same meaning as it has in the *Land Development Agency Act 2021*;”,

and

(ii) in the definition of “development agency”, by the substitution of “the Land Development Agency, a local authority or such other person as may be prescribed by the Minister for the purposes of this Part;” for “a local authority or such other persons as may be prescribed by the Minister for the purposes of this Part;”,

(c) in section 166, by the insertion of the following subsection after subsection (6):

“(7) In this section, the Land Development Agency shall not be a relevant development agency unless each site referred to in subsection (2) is

wholly or partly on relevant public land or land owned by the Agency.”,

(d) in section 167, by the insertion of the following subsection after subsection (3):

“(4) In this section, the Land Development Agency shall not be a relevant development agency unless each site referred to in section 166(2) is wholly or partly on relevant public land or land owned by the Agency.”,

and

(e) in section 168, by the insertion of the following subsection after subsection (5):

“(6) In this section, the Land Development Agency shall not be a relevant development agency unless each site referred to in subsection (1) is wholly or partly on relevant public land or land owned by the Agency.”.

Application of Freedom of Information Act 2014 to Agency

- 79.** (1) Notwithstanding section 6(12) of the Act of 2014 the obligations under that Act shall apply to the Agency on and from the dissolution day and to a subsidiary DAC on and from the date of its establishment in accordance with *Part 4*.
- (2) Notwithstanding section 2(1) of the Act of 2014, the “effective date” in the case of the Agency and a subsidiary DAC shall, for the purposes of that Act, be 13 March 2019.
- (3) The Agency and a subsidiary DAC shall, notwithstanding the dissolution of the dissolved body, comply with any obligations of the dissolved body under the Act of 2014.
- (4) In this section, Act of 2014 means the Freedom of Information Act 2014.

Amendment of Public Service Pensions (Single Scheme and Other Provisions) Act 2012

- 80.** The Public Service Pensions (Single Scheme and Other Provisions) Act 2012 is amended by the insertion of “Land Development Agency” in the Schedule.

SCHEDULE 1
SCHEDULE 1 PUBLIC BODIES

1. A Minister of the Government.
2. An Education and Training Board established under the Education and Training Boards Act 2013.
3. Central Bank of Ireland.
4. Courts Service.
5. Digital Hub Development Agency.
6. Dublin Institute for Advanced Studies.
7. Enterprise Ireland.
8. Environmental Protection Agency.
9. the Garda Síochána.
10. Grangegorman Development Agency.
11. Health Service Executive.
12. Housing and Sustainable Communities Agency.
13. Industrial Development Agency (Ireland).
14. An Institute of Technology being a college within the meaning of section 2 of the Regional Technical Colleges Act 1992.
15. Institute of Public Administration.
16. Prison Service of the Department of Justice which is charged with the management of prisons.
17. Legal Aid Board.
18. Marine Institute.
19. National Archives.
20. Oberstown Children Detention Campus.
21. Commissioners of Public Works in Ireland.
22. Ordnance Survey Ireland.
23. Sport Ireland.
24. State Laboratory.
25. Teagasc – the Agriculture and Food Development Authority.
26. A technological university established by virtue of an order under section 36 of the Technological Universities Act 2018.
27. An tSeirbhís Oideachais Leanúnaigh agus Scileanna.

SCHEDULE 2
SCHEDULE 2 PUBLIC BODIES

1. An Post.
2. Bord na Móna, public limited company.
3. Coillte Teoranta.
4. Córas Iompair Éireann.
5. daa, public limited company.
6. EirGrid.
7. Electricity Supply Board.
8. Ervia.
9. Home Building Finance Ireland.
10. Horse Racing Ireland.
11. Irish Aviation Authority.
12. Irish National Stud Company, Limited.
13. Irish Water.
14. A port company within the meaning of section 7 of the Harbours Act 1996.
15. Raidió Teilifís Éireann.
16. Rásaíocht Con Éireann.
17. Shannon Airport Authority.
18. Teilifís na Gaeilge.
19. Voluntary Health Insurance Board.
20. A subsidiary of a body referred to in this Schedule, including a subsidiary of such a subsidiary.

SCHEDULE 3
Relevant Public Land referred to in *section 56(1)(c)*

Relevant Public Land (1)	Schedule 1 Public Body (2)
Central Mental Hospital, Dundrum, Co. Dublin	Commissioners of Public Works in Ireland
St Kevin's Hospital, Shanakiel, Co. Cork	Health Service Executive
Devoy Barracks, Naas, Co. Kildare	Housing and Sustainable Communities Agency
Hackettstown, Skerries, Co. Dublin	Housing and Sustainable Communities Agency
Castlelands, Balbriggan, Co. Dublin	Housing and Sustainable Communities Agency