



**AN BILLE TALUN, 1984
LAND BILL, 1984**

EXPLANATORY MEMORANDUM

The matters dealt with in this Land Bill may be grouped under three main headings as follows:—

1. As part of its overall land policy the Government has launched an intensive programme to promote and encourage leasing so as to get under-utilised land into the management of those who will use it to optimum advantage. However, leasing is a relatively novel concept in Irish agriculture and amongst the factors inhibiting its adoption as a standard land-management practice is the apprehension that farmers' rights of ownership might be affected if they leased their lands. Such apprehension arises largely from the existence of some nineteenth century landlord — tenant legislation which granted certain statutory rights to lessees. In order to grant equal status to both lessor and lessee, and to ensure that leasing arrangements are governed only by the terms of the contract entered into between the two parties and are not subject to over-riding statutory provisions, it is proposed to exclude agricultural leases from the application of these provisions. (*Section 3*).

2. In order to streamline some Land Commission procedures, to facilitate revesting and the exchange of land, it is proposed to amend certain provisions of previous Land Acts. (*Sections 4 to 13*).

3. It is proposed to modify Section 80 of the Building Societies Act, 1976, by providing that the existence of charges on land in favour of the Land Commission shall not debar a Building Society from advancing a mortgage on a property so charged. (*Section 4 (2)*).

The effect of the various provisions of the Bill is as follows:

Section 1 makes the standard provision for short title, etc.

Section 2 provides definitions.

Section 3 provides for the exclusion of leases of agricultural land made after the passing of the Act from application of certain enactments which might discourage potential lessors from leasing their lands. These enactments are as follows:—

(a) *Sections 70 and 71 of the Landlord and Tenant Law Amendment Act, Ireland, 1860.*

These provide for reinstatement of a tenant if he pays all arrears and costs within 6 months of the execution of a decree for possession and applies to the Court for reinstatement. Subsequent minor amendments of these pro-

visions contained in Section 13 of the Land Law (Ireland) Act, 1881, Sections 7 (3) and 30 (2) of the Land Law (Ireland) Act, 1887 and Section 16 of the Land Law (Ireland) Act, 1896, are also provided for.

(b) *Sections 3 and 7 of the Landlord and Tenant (Ireland) Act, 1870.*

These provide for payment of compensation for disturbance by a lessor. There is legal advice that ejectment on expiry of a lease could be regarded by a Court as disturbance.

(c) *Section 4, Landlord and Tenant (Ireland) Act, 1870.*

This provides for a claim by a lessee, on quitting the lease, for compensation for improvements carried out by him on the leasehold.

(d) *Section 1, Land Law (Ireland) Act, 1881.*

This gives the lessee the right to sell his interest in the leasehold.

(e) *Section 4, Land Law (Ireland) Act, 1881.*

This provides that a lessee from whom a lessor demands an increase in rent is entitled to compensation, to be fixed by the Court, in respect of the fall in sale value of the tenancy in consequence of the increased rent.

(f) *Section 13, Land Law (Ireland) Act, 1881.*

This permits a lessee to sell his interest within 6 months of the execution of a decree for possession for non-payment of rent.

(g) *Section 22, Land Law (Ireland) Act, 1881.*

This renders void an agreement by a tenant to contract out of any rights conferred on him by statute, provided the holding concerned has a PLV not exceeding £150.

Section 4 contains two subsections. *Subsection (1)* empowers the Minister for Agriculture, with the approval of the Minister for Finance, to waive, with effect from 1 November 1979, payments of less than £2 due to the Land Commission in respect of purchase and reclamation annuities and other annual sums. The Land Commission ceased to collect sums of under £2 per annum from the date mentioned when it was found that the cost of collection had become uneconomic. Authority is also granted, for the future, to vary the amount of the payments to be waived. This will be done should collection costs continue to rise and the value of the annual payments continue to be eroded by inflation. It is provided that any such variation will be effected by order which must be laid before each House of the Oireachtas. If a resolution approving the order is not passed by each such House within the next 21 days after that House has sat after the order is laid before it then the order shall lapse. *Subsection (2)* provides that the term "prior mortgage" mentioned in Section 80 of the Building Societies Act, 1976, does not include charges on land to secure payment of a purchase annuity, a land reclamation annuity or any other annual payment to the Land Commission. Under Section 80 of that Act, a building society may not give a loan on a property subject to a prior mortgage unless that mortgage is in favour of the society. The effect of the present subsection will be that the existence of any land purchase annuity or annual sum or land reclamation annuity will not prevent a building society from advancing a mortgage on a property subject to such a payment.

Section 5 provides for the winding up of the Purchase Annuities Fund established under Section 12 of the Land Act, 1923. Broadly speaking, all sums received in repayment of advances made prior to 1923 are paid into the Purchase Annuities Fund. For accounting convenience, and at the suggestion of the Comptroller and Auditor General, it is proposed to wind up this Fund. Any sums that would otherwise go into the Fund will be disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

Section 6 empowers the Land Commission to determine that a purchase annuity, technically set up only on vesting, has been set up at an earlier date. Allottees holding land from the Land Commission under certain types of temporary agreements are merely paying interest. Under the law as it now stands such allottees do not begin to repay their purchase moneys until the property is vested in them. In some cases, due to legal or title difficulties, this may take several years. The effect of the section will be that the Land Commission will be authorised to back-date, if they see fit, commencement of repayment of the advance to the date a person takes possession of his allotment.

Section 7 provides for the dissolution of the Irish Church Temporalities Fund, the validation of cesser of payments to the Fund as from 1975 and the extinguishment of charges on land payable to that Fund. Under the provisions of the Irish Church Act, 1869, the temporal property of the Established Church, including its revenues, passed to the State. The Act also set up a fund known as the Church Temporalities Fund into which the former revenue of the Church was paid. In 1881 the administration of the Fund devolved on the Land Commission. Over the years the process of compulsory redemption of charges on lands the subject of proceedings under the Land Purchase Acts brought about a huge reduction in income to the Fund and the collection of rents became uneconomic. By 1975, the rental income was so reduced that collection of the remaining rents was ceased. The Section also provides that the assets of the Fund, now standing at about £2.8m in Government investments, and any future sums that might accrue, will be paid into, or disposed of for the benefit of, the Exchequer, as the Minister for Finance may decide.

Section 8. The Land Commission is bound by certain statutory requirements (including those in Section 63 of the Land Act, 1903, which is here being amended) before it can pay out moneys due under various provisions of the Land Acts. These requirements have to do with proof of title. Where the amounts of money involved are such as not to compensate for the legal expense of proving title, there is statutory provision for payment with less strict proof. The limits on the amounts were last fixed in 1965 (the date of the most recent Land Act). The proposal is to up-date these limits in the interest both of those to whom money is owed and of the Land Commission for accounting purposes.

Section 9 amends Section 46 of the Land Act, 1923, so as to enable the Land Commission to deal with exchanges of unregistered land and to have such land registered by the Registrar of Titles. Up to now the Land Commission has had power, in exchanges, to accept registered land only. In order to facilitate the distribution of lands on hands, and the programme of rearrangement, the power to exchange is being expanded to include unregistered land where the exchangee has an interest carrying the right to vacant possession. The Land Commission will also be enabled to apply to the Registrar to be registered as owners of such land.

