



**AN BILLE UM PÁIRC Náisiúnta Stairiúil an Bhlascaoid
MHÓIR, 1989**

AN BLASCAOD MÓR NATIONAL HISTORIC PARK BILL, 1989

*Mar a ritheadh ag Dáil Éireann
As passed by Dáil Éireann*

ARRANGEMENT OF SECTIONS

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SCHEDULE

COMPULSORY ACQUISITION OF LAND

ACTS REFERRED TO

Acquisition of Land (Assessment of Compensation) Act, 1919	1919, c. 57
Lands Clauses Consolidation Act, 1845	1845, c. 18
Registration of Title Act, 1964	1964, No. 16
State Property Act, 1954	1954, No. 25



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Mhóir, 1989

AN BLASCAOD MÓR NATIONAL HISTORIC PARK BILL, 1989

BILL

entitled

5

AN ACT TO PROVIDE, IN THE INTERESTS OF THE
COMMON GOOD, FOR THE ESTABLISHMENT AND
MAINTENANCE ON AN BLASCAOD MÓR OF A PARK
TO BE KNOWN AS AN BLASCAOD MÓR NATIONAL
HISTORIC PARK AND FOR THOSE PURPOSES TO
CONFER APPROPRIATE POWERS (INCLUDING THE
POWER TO ACQUIRE LAND), FUNCTIONS AND DUTIES
UPON THE COMMISSIONERS OF PUBLIC WORKS IN
IRELAND AND TO AUTHORISE THE DELEGATION OF
CERTAIN OF THOSE POWERS, FUNCTIONS AND
DUTIES TO FONDÚIREACHT AN BHLASCAOID
TEORANTA AND TO PROVIDE FOR CONNECTED
MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

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“the Commissioners” means the Commissioners of Public Works in
Ireland;

“the Foundation” means Fondúireacht An Bhlascaoid Teoranta,
being the body incorporated for the purpose, *inter alia*, of preserving,
and promoting the knowledge of, the historic heritage, culture, tra-
ditions and values of An Blascaod Mór and Corca Dhuibhne generally;

25

“functions” includes powers and duties and references to the per-
formance of a function include, in relation to a power or a duty,
references to the exercise of the power or the carrying out of the duty;

“the Island” means An Blascaod Mór;

30

“the Minister” means the Minister for the Gaeltacht;

“the Park” means An Blascaod Mór National Historic Park estab-
lished by *section 2*.

(2) In this Act—

- (a) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment,
- 5 (b) a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended,
- (c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.
- 10

2.—(1) The land on the Island vested in the Commissioners upon the passing of this Act together with the land acquired by the Commissioners under this Act shall be known as An Blascaod Mór National Historic Park (and is referred to in this Act as “the Park”).

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An Blascaod Mór
National Historic
Park.

(2) The Park shall be maintained, managed, controlled, preserved, protected and developed by the Commissioners for the use and benefit of the public as a park in which the historic heritage, culture, traditions and values of the Island and its inhabitants will be preserved and demonstrated and its flora, fauna and landscape will be protected.

20

(3) Without prejudice to the generality of *subsection (2)*, the Commissioners shall, in performing their functions under that subsection—

- 25 (a) foster and promote the use of the Park by the public as a place of culture, education, leisure and recreation,
- (b) foster and promote the use of the Irish language, an awareness of and pride in the national heritage and the study of that heritage and the history, heritage, culture, folklore and values of the Island and its inhabitants,
- 30 (c) endeavour to preserve the traditional character of the Island,
- (d) conserve such of the flora and fauna of the Island and its surrounding seas as they consider appropriate,
- (e) introduce to the Park and protect and encourage the cultivation and breeding of such flora and fauna as they consider appropriate,
- 35 (f) conserve or restore and maintain such of the traditional dwellings and other buildings on the Island as they consider appropriate, and
- (g) provide and maintain or arrange for the provision and maintenance (upon terms and conditions that may, if it is considered appropriate by the Commissioners, provide for the payment by them of a subsidy in respect of the service) of such a transport service (including piers, landing stages and other facilities) between the Island and the mainland as they consider appropriate for the purposes of the Park and of ensuring reasonable access to it, having regard to all the circumstances, by the public.
- 40
- 45

(4) The Commissioners shall have all such powers as they consider necessary or expedient for the purposes of the performance of their

functions under this Act including, but without prejudice to the generality of the foregoing, power to reserve any part of the Park for any particular purpose, to construct and provide buildings and other facilities in the Park, and to lease or let, or license the use of, any part of the Park or any such buildings or facilities to any person for the purposes of the provision of services or facilities for the public by that person and, in relation to any such lease, letting or licence to exercise the powers conferred by paragraphs (f) to (h) of section 11 (2) of the State Property Act, 1954, and to let any grazing in the Park. 5

Bye-laws.

3.—(1) The Commissioners may, with the consent of the Minister and after consultation, in any case where the Commissioners consider such consultation appropriate, with the Foundation, make bye-laws for the care, maintenance, management, control, preservation, protection and development of the Park and the regulation of the use of the Park and the maintenance of good order therein. 10 15

(2) Without prejudice to the generality of *subsection (1)*, bye-laws under this section may make provision in relation to one or more of the following matters:

(a) the regulation of access to the Park and the prohibition of access thereto at specified places and at specified times, 20

(b) the prohibition of landing from the sea or air at specified places in or areas of the Park,

(c) the use of places in the Park for landing from the sea or air,

(d) the protection of and the prevention of damage or injury to flora, fauna and property in the Park, 25

(e) the prohibition of access to specified places in or areas of the Park,

(f) the regulation or prohibition of bathing from or fishing at specified places in the Park,

(g) the regulation or prohibition of the use of vehicles or specified vehicles in the Park, 30

(h) the fixing of fees and charges in respect of entry to the Park or any part thereof or any building or facility therein and the use of its facilities (including places therein for landing from the sea or air) and the use of transport services provided pursuant to *section 2 (3) (g)*, and 35

(i) the enforcement of the bye-laws.

(3) Bye-laws under this section may contain all such incidental, subsidiary and ancillary provisions as the Commissioners consider necessary or expedient for the purposes of this section. 40

(4) A person who contravenes a bye-law under this section shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 3 months or to both.

(5) Fees or charges received by the Commissioners or the Foundation in pursuance of bye-laws under this section and any other income received by the Commissioners or the Foundation in the performance of functions under this Act shall be disposed of by the Commissioners 45

or the Foundation, as the case may be, for the purposes of those functions in such manner as the Minister may direct.

5 (6) Where an offence under this section is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished
10 as if he were guilty of the first-mentioned offence.

(7) Proceedings for an offence under this section may be brought and prosecuted by the Commissioners.

15 (8) As soon as may be after the making of a bye-law under this section, copies of it shall be displayed in the Park so as to be seen and be capable of being read by the persons using the Park.

(9) A bye-law under this section shall be laid before each House of the Oireachtas as soon as may be after it is made.

20 4.—(1) Subject to *subsection (2)*, the Commissioners may, for the purposes of this Act, acquire, by agreement or compulsorily, any land situated on the Island. Acquisition of land on the Island by Commissioners.

(2) (a) The power conferred on the Commissioners by *subsection (1)* to acquire land compulsorily does not apply to—

25 (i) land that is owned or occupied by a person who has owned or occupied it since the 17th day of November, 1953, and was ordinarily resident on the Island before that date, or

(ii) land that is owned or occupied by a relative of a person, where that person owned or occupied it and was ordinarily resident on the Island before that date.

30 (b) In *subparagraphs (i) and (ii) of paragraph (a)* "land" does not include—

35 (i) the area of land comprising 1,060 acres or thereabouts whereof upon the passing of this Act the Commissioners stand registered under the Registration of Title Act, 1964, as full owner of one undivided twenty-fifth part, or

(ii) land that is subject to rights in common of grazing or turbary, or

40 (iii) land the owner or occupier of which cannot be ascertained by the Commissioners by reasonable inquiries, or

45 (iv) land required for the purpose of the construction, maintenance, inspection, repair, extension or improvement of, or of access to, any piers, landing stages or other facilities of a transport service provided under *section 2*.

(3) The provisions of the Schedule to this Act shall have effect in relation to the acquisition of land compulsorily under this section.

50 (4) In this section, "relative" in reference to any person means parent, lineal ancestor, spouse, widow, widower, child, lineal descendant, uncle, aunt, brother, sister, nephew or niece.

Exercise and
delegation of
functions of
Commissioners.

5.—(1) The functions of the Commissioners under this Act shall be performed by them subject to the general superintendence and control of the Minister.

(2) The functions or specified functions of the Commissioners under this Act (other than *sections 3 and 4* and the Schedule to this Act) or under bye-laws under *section 3* may be delegated by the Minister by order to the Foundation. 5

(3) The following provisions shall have effect in relation to the delegation of a function under *subsection (2)*:

(a) the function shall be performed by the Foundation in its own name but subject to the general superintendence and control of the Commissioners; 10

(b) the Minister may amend or revoke an order made under this section;

(c) the delegation shall operate, while it is in force, to confer the function on and vest it in the Foundation; 15

(d) the function shall, notwithstanding the delegation, continue to be vested in the Commissioners but shall be so vested concurrently with the Foundation and so as to be capable of being performed by the Commissioners or the Foundation; 20

(e) the delegation shall not remove or derogate from the responsibility of the Minister to Dáil Éireann or as a member of the Government for the performance of the function by the Commissioners. 25

(4) An order under this section may contain such ancillary or subsidiary provisions as the Minister considers necessary or expedient including provisions adapting provisions of this Act.

(5) An order under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to anything previously done thereunder. 30

Application of State
Property Act, 1954.

6.—(1) Subject to *section 2 (4)*, sections 10 and 11 of the State Property Act, 1954, shall not apply to land that is vested in the Commissioners as part of the Park. 35

(2) Land on the Island transferred to the Commissioners under that Act shall form part of the Park.

Power to accept
gifts.

7.—(1) The Commissioners may accept gifts of money, land or other property upon such trusts or conditions, if any, as may be specified by the donor and any land on the Island so accepted shall form part of the Park. 40

(2) The Commissioners shall not accept a gift if the conditions attached to it would be inconsistent with their functions under this Act. 50

8.—(1) If a member of the Garda Síochána or an authorised person reasonably suspects that a person has contravened a bye-law under section 3, the member or authorised person may do both or either of the following:

Powers of Garda Síochána and authorised persons.

- 5 (a) require the person to furnish to him his name and address,
(b) require the person to leave the Park.

(2) If such a person as aforesaid fails or refuses to comply with a requirement under subsection (1) or gives to a member of the Garda Síochána or an authorised person a name or address that the member
10 or the authorised person reasonably suspects to be false or misleading, the member or the authorised person may arrest the person without warrant or, if the requirement is under paragraph (b) of subsection (1), remove the person from the Park.

(3) A person who fails or refuses to comply with a requirement
15 under subsection (1) or, in pursuance of such a requirement, gives a name or address that is false or misleading or, having left the Park in pursuance of such a requirement or having been removed from the Park under subsection (2), returns to it on the same day, shall be guilty of an offence and shall be liable on summary conviction to a
20 fine not exceeding £500.

(4) This section is without prejudice to any other powers of members of the Garda Síochána.

(5) The Commissioners may appoint in writing a person to be an authorised person for the purposes of this section.

25 (6) When exercising a function under this section, an authorised person shall, if so requested by any person concerned, produce to him a copy of his appointment as an authorised person.

9.—The expenses incurred by the Minister or the Commissioners in the administration of this Act shall, to such extent as may be
30 sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses of Minister and Commissioners.

10.—This Act may be cited as An Blascaod Mór National Historic
Park Act, 1989.

Short title.

SCHEDULE

Section 4.

35 COMPULSORY ACQUISITION OF LAND

1. (1) Where the Commissioners propose to acquire any land compulsorily under this Act, they shall—

- (a) deposit in the Garda Síochána station at Dingle or
40 Ballyferriter in the county of Kerry a map or plan of the land and make the map or plan available for inspection there by members of the public at all reasonable times,
(b) publish a notice stating their intention to acquire the land compulsorily under this Act in a newspaper circulating in the county of Kerry,
45 (c) before publishing the notice aforesaid, in case all the land proposed to be acquired is in the occupation of the same

person or persons, post a notice stating their intention to acquire the land compulsorily on or near the land and, in any other case, post such notice on or near the land of each occupier, and

- (d) give a copy of the notice referred to in *subparagraph (c)* to— 5
 - (i) every (if any) occupier of the land, and
 - (ii) every (if any) owner of the land,

whose name and the address at which he ordinarily resides can be ascertained by the Commissioners by reasonable inquiries.

- (2) The notices referred to in *subparagraph (1)*— 10
 - (a) shall be in the prescribed form,
 - (b) shall, if they do not contain a map or plan of the land to which they refer, state that a map or plan of the land is deposited in a Garda Síochána station aforesaid and may be inspected there by members of the public at all reason- 15able times,
 - (c) shall state that an objection by any occupier or owner of the land to the acquisition of the land may be submitted to the Commissioners, and
 - (d) shall state the time within which an objection aforesaid may 20be submitted to the Commissioners.

2. (1) The occupier or any owner of land in respect of which a notice under *paragraph 1 (1) (b)* has been published may, within two months after the date of such publication, submit to the Commissioners an objection in writing to the proposed compulsory acquisition referred to in the notice. 25

(2) An objection under *subparagraph (1)* may be withdrawn by the person who submitted it by notice in writing sent to the Commissioners or to the Minister.

(3) Where, in relation to the proposed compulsory acquisition of land under this Act, an objection is submitted to the Commissioners in accordance with *subparagraph (1)* and is not withdrawn, the objection shall be considered by the Minister and the land shall not be acquired compulsorily without the consent of the Minister. 30

(4) An application by the Commissioners for the consent of the Minister to the compulsory acquisition of land under this Act shall be accompanied by— 35

- (a) a copy of any objection concerned under *subparagraph (1)*,
- (b) a copy of the newspaper containing the notice specified in *paragraph 1 (1) (b)*, 40
- (c) a copy of the notice specified in *paragraph 1 (1) (c)*, and
- (d) a copy of the map or plan of the land deposited in pursuance of *paragraph 1 (1) (a)*,

and the Commissioners shall furnish to the Minister such other information in relation to the acquisition as the Minister may require. 50

- (5) On an application under *subparagraph (4)* in relation to land—

5 (a) in case the Minister is of opinion that the land or part of the land is land specified in *section 4 (2) (a)* or that the provisions of *paragraph 1* have not been complied with in relation to the land or part of the land, he shall refuse to grant his consent to the compulsory acquisition of the land or, as the case may be, refuse to grant his consent to the compulsory acquisition of the part and grant his consent to the acquisition of the remainder of the land, and

10 (b) in any other case, grant his consent to the compulsory acquisition of the land.

3. (1) Where, in relation to any land (other than land to which *section 4 (2) (a)* applies) in respect of which the provisions of *paragraph 1* have been complied with—

15 (a) no objection is submitted to the Commissioners in accordance with *paragraph 2*,

(b) any objection which is submitted as aforesaid is subsequently withdrawn, or

(c) the Minister gives his consent to the compulsory acquisition thereof by the Commissioners,

20 the Commissioners may by order (in this Schedule referred to as "a vesting order") acquire the land.

25 (2) Where the Commissioners, before making a vesting order, become aware that the land to be acquired by the order is subject (whether alone or in conjunction with other land) to any annuity or other payment to the Irish Land Commission or to any charge for duty or tax payable to the Revenue Commissioners on the death of any person, the Commissioners shall forthwith inform the Irish Land Commission or the Revenue Commissioners, as the case may be, of the intention to make the order.

30 (3) Whenever the Commissioners make a vesting order, they shall within 14 days after making the order—

35 (a) in case all the land comprised in the vesting order is in the occupation of the same person or persons, post a notice containing a copy of the order on or near the land and, in any other case, post such notice on or near the land of each occupier, and

(b) give a copy of the order to—

(i) every (if any) occupier of the land, and

(ii) every (if any) owner of the land,

40 whose name and the address at which he ordinarily resides can be ascertained by the Commissioners by reasonable inquiries.

45 4. (1) A vesting order shall be in the prescribed form and shall be expressed and shall operate to vest the land to which it relates in the Commissioners in fee simple free from encumbrances and all estates, rights, easements, titles and interests of any kind over or in respect of the land on a specified date not earlier than 21 days after the making of the order.

(2) Notwithstanding anything contained in *subparagraph (1)*,

where the Commissioners acquire by a vesting order land which is subject, either alone or in conjunction with other land, to a purchase annuity, payment in lieu of rent, or other annual sum (not being merely a rent under a contract of tenancy) payable to the Irish Land Commission, the Commissioners shall become and be liable, as from the date on which the land is vested in them by the vesting order, for the payment to the Irish Land Commission of the purchase annuity, payment in lieu of rent or annual sum or such portion thereof as shall be apportioned by the Irish Land Commission on the land as if the land had been transferred to the Commissioners by the owner thereof on that date. 5 10

(3) When the Commissioners make a vesting order in relation to land, they shall send the order to the registering authority under the Registration of Title Act, 1964, and thereupon the registering authority shall cause the Commissioners to be registered under that Act as owners of the land in accordance with the order. 15

5. (1) Where, immediately before a vesting order is made by the Commissioners, any person has any estate, right, easement, title or interest of any kind in, over or in respect of the land acquired by the order, the person may apply to the Commissioners at any time after the making of the order for compensation in respect of the estate, right, easement, title or interest and the Commissioners shall, subject to *subparagraph* (3), thereupon pay to the person by way of compensation an amount equal to the value (if any), on the date of the vesting of the land pursuant to the order, of the estate, right, easement, title or interest together with interest at such rate as the Minister, with the consent of the Minister for Finance, may determine from time to time, on the amount from that date to the date of payment thereof. 20 25

(2) The compensation to be paid under this paragraph in respect of any estate, right, easement, title or interest of any kind in, over or in respect of land shall, in default of agreement, be determined by arbitration under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919. 30

(3) (a) The Minister may by regulations, in such cases (if any) and to such extent as he considers necessary for the purposes of *section 4* and this Schedule, apply all or any of the provisions of sections 69 to 83 of the Lands Clauses Consolidation Act, 1845, as if such compensation were purchase money or compensation under the said Act, as if the Commissioners were the promoter of the undertaking and with any other necessary modifications. 35 40

(b) Where money is paid into court under the said section 69, as applied under this section, by the Commissioners, no costs shall be payable by them to any person in respect of any proceedings for the investment, payment of income or payment of capital of such money. 45

6. A document referred to in *paragraph 1 (1) (d)* or *3 (3) (b)* may be given to the person concerned—

(a) by delivering it to him, 50

(b) by leaving it at the address at which the person ordinarily resides, or

(c) by sending it by post in a prepaid registered letter addressed to the person at the address at which he ordinarily resides

or, in the case of a company (within the meaning of the Companies Act, 1963) at its registered office or, in the case of any other body, at its principal office or place of business.

5 7. In this Schedule—

“owner”, in relation to land, includes a reputed owner of the land;

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

BILLE

dá ngairtear

Acht do dhéanamh socrú, ar mhaithe le leas an phobail, chun páirc ar a dtabharfar Páirc Náisiúnta Stairiúil an Bhlascaoid Mhóir a bhunú agus a chothabháil ar an mBlascaod Mór agus chun na gcríoch sin do thabhairt cumhachtaí (lena n-áirítear an chumhacht talamh a fháil), feidhmeanna agus dualgais iomchuí do Choimisinéirí na nOibreacha Poiblí in Éirinn agus dá údarú cumhachtaí, feidhmeanna agus dualgais áirithe díobh sin a tharmligean chuig Fondúireacht an Bhlascaoid Teoranta agus do dhéanamh socrú i dtaobh nithe eile a bhaineann leis na nithe sin.

*Ritheadh ag Dáil Éireann,
24 Bealtaine, 1989*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath
2, nó trí aon díoltóir leabhar.

Clóbhuailte ag CAHILL PRINTERS LIMITED.

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entitled

An Act to provide, in the interests of the common good, for the establishment and maintenance on An Blascaod Mór of a park to be known as An Blascaod Mór National Historic Park and for those purposes to confer appropriate powers (including the power to acquire land), functions and duties upon the Commissioners of Public Works in Ireland and to authorise the delegation of certain of those powers, functions and duties to Fondúireacht An Bhlascaoid Teoranta and to provide for connected matters.

*Passed by Dáil Éireann,
24th May, 1989*

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