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**AN BILLE UM PLEANÁIL AGUS FORBAIRT (TALAMH  
FORBRAÍOCHTA A FHÁIL) (CÚITEAMH A MHEASÚNÚ)  
2003**

**PLANNING AND DEVELOPMENT (ACQUISITION OF  
DEVELOPMENT LAND) (ASSESSMENT OF  
COMPENSATION) BILL 2003**

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*Mar a tionscnaíodh  
As initiated*

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ARRANGEMENT OF SECTIONS

Section

1. Short title, collective citation and construction.
2. Interpretation.
3. Assessment of compensation in respect of development land compulsorily acquired.
4. Appeal and case stated to the High Court.

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SCHEDULE

RULES FOR THE ASSESSMENT OF COMPENSATION IN RESPECT OF  
DEVELOPMENT LAND

ACTS REFERRED TO

Acquisition of Land (Assessment of Compensation) Act 1919	9 & 10 Geo. 5, c. 57
Ethics in Public Office Act 1995	1995, No. 22
Local Government Act 1941	1941, No. 23
Local Government (Planning and Development) Act 1963	1963, No. 28
Local Government (Planning and Development) Act 1990	1990, No. 11
Planning and Development Act 2000	2000, No. 30
Planning and Development (Amendment) Act 2002	2002, No. 32



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5 **PLANNING AND DEVELOPMENT (ACQUISITION OF  
DEVELOPMENT LAND) (ASSESSMENT OF  
COMPENSATION) BILL 2003**

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# BILL

*entitled*

10 AN ACT FURTHER TO REGULATE BY THE PRINCIPLES OF  
SOCIAL JUSTICE AND TO DELIMIT BY LAW THE  
EXERCISE OF THE RIGHT OF PRIVATE OWNERSHIP  
AND THE GENERAL RIGHT TO TRANSFER,  
BEQUEATH AND INHERIT PROPERTY, SO FAR AS  
15 THOSE RIGHTS AFFECT THE ASSESSMENT OF COM-  
PENSATION PAYABLE BY PLANNING OR OTHER  
LOCAL AUTHORITIES IN RESPECT OF DEVELOP-  
MENT LAND COMPULSORILY ACQUIRED, WITH A  
VIEW TO RECONCILING THE EXERCISE OF THOSE  
20 RIGHTS WITH THE EXIGENCIES OF THE COMMON  
GOOD, AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) This Act may be cited as the Planning and Development Act 2003. Short title, collective citation and construction.

25 (2) This Act and the Planning and Development Acts 2000 and 2002 may be cited together as the Planning and Development Acts 2000 to 2003, and shall be construed together as one Act.

2.—In this Act—

Interpretation.

30 “current use value”, in relation to land, means the amount which would be the open market value of the land if the open market value were calculated on the assumption that it was and would remain unlawful to carry out any development in relation to the land other than exempted development;

35 “development land” means land the open market value of which exceeds its current use value;

“government stock” means the public stocks, funds, and securities (other than National Bonds or Land Bonds) of the Government;

“local authority” means a local authority for the purposes of the Local Government Act 1941;

“open market value”, in relation to land, means the amount which the land if sold in the open market by a willing seller might be expected to realise.

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Assessment of compensation in respect of development land compulsorily acquired.

**3.**—Section 2 of the Acquisition of Land (Assessment of Compensation) Act 1919, as amended by section 69(1) of the Local Government (Planning and Development Act 1963 and as applied by section 265(3) of the Planning and Development Act 2000 to every case (other than a case under the last mentioned Act or the Local Government (Planning and Development) Act 1990) where any compensation will be payable by a planning authority or any other local authority, is amended, in cases where the land in respect of which compensation is payable is development land, by the substitution for the rules therein set out or inserted of the rules set out in the Schedule to this Act.

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Appeal and case stated to the High Court.

**4.**—(1) A party to an arbitration to which this Act applies may appeal to the High Court on a point of law from the decision of an arbitrator.

(2) An arbitrator may state a case for the opinion of the High Court on any question of law arising in an arbitration to which this Act applies.

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## SCHEDULE

### RULES FOR THE ASSESSMENT OF COMPENSATION IN RESPECT OF DEVELOPMENT LAND

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1. No allowance shall be made on account of the acquisition being compulsory; but the provisions of these rules shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of the land.

2. In the case of land acquired by a claimant after 4 October 2003 the compensation shall, subject to the provisions of these rules, be 125 per cent of the current use value of the land.

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3. In the case of land acquired by a claimant on or before 4 October 2003 the compensation shall, subject to the provisions of these rules, be the greater of the amount assessed under rule 2 or an amount determined by adding together—

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(a) (i) the cost of acquiring the land (including the cost of any loan entered into for the purpose), in a case where the land was acquired by the claimant through a bargain at arms length, or

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(ii) the amount which would be assessed by an arbitrator applying the rules in force prior to the passing of this Act as the open market value of the land on the date of its acquisition by the claimant, in a case where the land was acquired otherwise than through a bargain at arms length, and

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- (b) the amount, if any, assessable in respect of the cost of improvements carried out (other than work consisting only of maintenance, repairing, painting and decorating), which have added to the value of the land, and
- 5 (c) an amount representing a return on investment in the land, calculated on the assumption that any amounts assessed under *paragraphs (a) and (b)* had, since the time of acquisition of, or improvements to, the land (as the case may be), been invested in securities yielding an annual rate of return on that investment which was 2 per cent higher than could have been achieved by investing (and, where appropriate, reinvesting) the monies in any of such issues of government stock as were available for purchase at the relevant time or times.
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- 15 4. The compensation shall not in any event be assessed as exceeding the open market value of the land on the date of the acquisition to which these rules apply.
5. In determining the current use value of land, for the purposes of rule 2, or the open market value of land, for the purposes of rule
- 20 3(a)(ii)—
- (a) regard shall, where relevant, be had to any restrictive covenant entered into by the planning or other local authority when the land was compulsorily acquired,
- (b) no account shall be taken of —
- 25 (i) any part of the value of the land attributable to subsidies or grants available from public moneys,
- (ii) any depreciation or increase in value attributable to—
- 30 (I) the land, or any land in the vicinity thereof, being reserved for any particular purpose in a development plan, or
- (II) inclusion of the land in a special amenity area,
- (iii) any increase in the value of the land that is attributable to —
- 35 (I) any unauthorised structure on, or unauthorised use of, the land, or the use of the land or of any structure thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the occupants of the structure or to the public health or safety or the environment,
- 40 (II) any improvements (including the provision or an improved provision of water supplies or sewerage facilities) or other public works of construction, demolition, extension, alteration, repair or renewal, or the existence of proposals for the execution by or on behalf of a public body of any such improvements or other public works,
- 45 or

(III) the possibility or probability of the land or other land becoming subject to a scheme of development undertaken by any person, including any public body, and

(c) all returns and assessments of capital value for taxation made or acquiesced in by the claimant may be considered. 5

6. (1) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, where reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement. 10

(2) In the case of a compulsory acquisition of buildings, the reference in sub-rule (1) to the reasonable cost of equivalent reinstatement shall be taken as a reference to that cost not exceeding the estimated cost of buildings such as would be capable of serving an equivalent purpose over the same period of time as the buildings compulsorily acquired would have done, having regard to any structural depreciation in those buildings. 15  
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