



An Bille um Thalamh Forbraíochta a Fháil (Measúnacht ar Chúiteamh), 2021

Acquisition of Development Land (Assessment of Compensation) Bill 2021

Mar a tionscnaíodh

As initiated



**AN BILL UM THALAMH FORBRAÍOCHTA A FHÁIL (MEASÚNACHT AR
CHÚITEAMH), 2021**
**ACQUISITION OF DEVELOPMENT LAND (ASSESSMENT OF COMPENSATION)
BILL 2021**

Mar a tionscnaíodh

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CONTENTS

Section

1. Short title
2. Object of Act
3. Interpretation
4. Application of Act
5. Assessment of compensation where Act applies
6. Subsequent disposal of land

ACTS REFERRED TO

Housing Acts 1966 to 2013

Local Government Act 2001 (No. 37)

Planning and Development Acts 2000 to 2020



**AN BILL UM THALAMH FORBRAÍOCHTA A FHÁIL (MEASÚNACHT AR
CHÚITEAMH), 2021**
**ACQUISITION OF DEVELOPMENT LAND (ASSESSMENT OF COMPENSATION)
BILL 2021**

Bill

entitled

An Act further to regulate in accordance with the principles of social justice and to delimit by law the exercise of private property rights, insofar as such exercise gives rise to the assessment of compensation payable by local authorities in respect of the compulsory acquisition of development land, with a view to reconciling the exercise of those rights with the exigencies of the common good, and to provide for related matters.

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WHEREAS housing is a basic human requirement and a social good and should not be treated in law purely as a tradeable commodity for speculative or investment purposes;

AND WHEREAS to secure the objective that all persons insofar as practicable have good quality and affordable housing appropriate to their needs, and that persons of moderate means are able to buy their own homes, is in accordance with the principles of social justice and the exigencies of the common good;

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AND WHEREAS, in view of the unique significance of housing for society and, having regard to the principles of social justice and the exigencies of the common good, market forces alone must not be allowed to dictate housing provision and price and, accordingly, intervention by the State is justified;

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AND WHEREAS land is one of the critical resources required for housing and actions by public authorities on behalf of the community (including for example by zoning, permitting and the provision of infrastructure) should not result in significant windfall gains to landowners and instead it is reasonable to require landowners to cede some part of the enhanced value of land in order to meet social objectives;

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AND WHEREAS the provisions of this Act—

- A. relate to concerns which, given the serious social problems they are designed to meet, should be regarded in a free and democratic society as pressing and substantial,

- B. are rationally related to objectives which are of sufficient importance to warrant a limited interference in the exercise of constitutional rights,
- C. impair those rights as little as possible, so that their effect on those rights is proportionate to the objectives sought to be attained, and
- D. amount accordingly to impositions which, in accordance with the principles of social justice, are reasonably required by the exigencies of the common good; 5

Be it enacted by the Oireachtas as follows:

Short title

- 1. This Act may be cited as the Acquisition of Development Land (Assessment of Compensation) Act 2021.

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Object of Act

- 2. (1) In passing this Act, the Oireachtas seeks to regulate the exercise of private property rights in accordance with the principles of social justice and to delimit the exercise of those rights so as to reconcile their exercise with the exigencies of the common good.
- (2) All those concerned with the administration of this Act or performing functions under it shall have regard to the object for which it is enacted. 15

Interpretation

- 3. In this Act—

“claimant” means a claimant for compensation payable in respect of the compulsory acquisition of land; 20

“current use value”, in relation to land, means its open market value calculated on the assumption that it is and will remain unlawful to carry out any development in relation to the land other than—

- (a) exempted development, or
- (b) development in accordance with a permission that is in effect on the date on which the current use value is to be calculated; 25

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

“local authority” has the meaning given to it by the Local Government Act 2001;

“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. 30 35

Application of Act

- 4. This Act applies where compensation is payable by a local authority in respect of development land compulsorily acquired by it in or in connection with, the performance of any of its functions—

- (a) under the Housing Acts 1966 to 2013, or

- (b) under the Planning and Development Acts 2000 to 2020.

Assessment of compensation where Act applies

5. (1) Where this Act applies, the compensation payable by a local authority in respect of development land compulsorily acquired by it shall be assessed in accordance with the relevant statutory provisions as heretofore but subject to the limitations imposed by this section.

(2) Where the land was acquired by the claimant after 3 June 2021, the compensation shall not exceed 125 per cent of the current use value of the land.

(3) Where the land was acquired by the claimant on or before 3 June 2021, the compensation shall be the greater of either the amount assessed under subsection (2) 10 or an amount determined by adding together—

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

(ii) where the land was acquired otherwise than through a bargain at arm's length, the amount which would be assessed as the open market value of the land on the date of its acquisition by the claimant,

(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

(c) an amount representing a return on investment in the land.

(4) The return on investment referred to in subsection (3)(c) shall be calculated on the assumption that any amounts assessed under paragraphs (a) and (b) of that subsection had, since the time of acquisition of or improvements to the land, been invested in a manner that yielded an annual rate of return on investment which was two per cent higher than could have been achieved by investing (and, where appropriate, re-investing) the amounts in such issue of Irish 10 year Government bonds as were available for purchase at the relevant time or times.

(5) The compensation payable shall not in any event exceed the open market value of the land on the date of the acquisition to which this Act applies.

(6) The reference in subsection (1) to the relevant statutory provisions, in any particular case, is a reference to relevant provisions of the enactment conferring the power, exercised by the local authority in that case, to acquire land compulsorily.

Subsequent disposal of land

6. (1) This section applies where—

(a) the limitations imposed by section 5 are applied in assessing compensation in respect of the compulsory acquisition of land by a local authority, and

(b) that land is subsequently disposed of by the local authority for or in connection with the development of housing.

(2) Where this section applies—

- (a) the local authority shall not in the disposal of the relevant land secure for itself an abnormal profit by disposing of the land at a price that unreasonably exceeds the compensation paid by the local authority to the original landowner, and
- (b) the local authority shall, in the disposal of the relevant land, ensure as far as is practicable that the benefit of any reduction achieved by virtue of this Act in the compensation that would otherwise have been payable for that land is enjoyed by the purchasers (or, as the case may be, the tenants) of the housing so developed.

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An Bille um Thalamh Forbraíochta a Fháil
(Measúnacht ar Chúiteamh), 2021

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht chun feidhmiú ceart maoine príobháidí a rialáil tuilleadh, de réir phrionsabail an cheartais chomhdhaonnaigh, agus a theorannú le dlí, sa mhéid go n-eascaíonn measúnacht ar chúiteamh is iníocha ag údaráis áitiúla i leith fail éigeantach talún forbraíochta ón bhfeidhmiú sin, d'fhonn feidhmiú na gceart sin a chur ar comhréir le riachtanais leas an phobail, agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An Teachta Alan Ó Ceallaigh a thug isteach,
3 Meitheamh, 2021

Acquisition of Development Land
(Assessment of Compensation) Bill 2021

BILL

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An Act further to regulate in accordance with the principles of social justice and to delimit by law the exercise of private property rights, insofar as such exercise gives rise to the assessment of compensation payable by local authorities in respect of the compulsory acquisition of development land, with a view to reconciling the exercise of those rights with the exigencies of the common good, and to provide for related matters.

Introduced by Deputy Alan Kelly,
3rd June, 2021

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