

Housing & Planning

Changes to compulsory purchase regime would speed up process, says commission

Land could be acquired despite disputes over title and the level of compensation to be paid

✕ Expand



Under the proposed scheme, the acquiring authority will have a year within which it has to decide if it is going to proceed with an order it has been granted. Photograph: iStock

Colm Keena

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Proposals to speed up, clarify and improve the fairness of the system for the compulsory purchase of private land have been published by the Law Reform Commission.

A new system that would involve deadlines for authorities that have been granted an order to compulsory purchase land is being proposed in its latest report, as is an immediate payment of no less than 90 per cent of the estimated value of the land to the owner, with the payment to be made when the land is “vested” in the acquiring authority.

In the report, the commission notes that it is being published against a backdrop of considerable debate concerning the use of land, particularly in relation to providing housing, but says its recommendations are focused on the law in relation to compulsory acquisition rather than on policy issues.

“Nonetheless, the consolidation and reform proposals in this report would, in the commission’s view, streamline the use of compulsory purchase to achieve public policy objectives in general.”

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The report deals solely with the issue of what happens after a compulsory acquisition order has become operative. The steps up to the making of an order are not covered by the report as they are the subject of a recent Government Bill.

The commission recommends the replacement of the current “notice to treat” system, whereby a landowner is instructed to deal with an authority in relation to the ordered acquisition of land, with a “vesting order” procedure, where the steps involved in the ownership of the land being vested in the new owner are laid out and include timelines and rules in relation to early compensation.

Under the proposed scheme, the acquiring authority will have a year within which it has to decide if it is going to proceed with an order it has been granted. This will replace the current situation where landowners can have a potential

compulsory purchase order hanging over them for an extended period. Under the new proposal, if the authority does not serve a vesting order on the landowner within a year, then the compulsory purchase order will lapse.

An owner has to be given at least three months' notice before an authority proceeds with an acquisition, and the vesting order has to be effected within six months from the date it is served.

Under the existing system, an acquiring authority does not get ownership until compensation is agreed and determined, and the owner proves their title. Under the proposed new system, ownership would be vested in the acquiring authority regardless of any title complications that might exist.

The commission proposes that a payment of not less than 90 per cent of the value of the land would be given to the owner at the time of the vesting of ownership in the acquiring authority, and that a new, more transparent system be put in place for resolving subsequent disputes over valuations. At the moment a landowner can be waiting years for payment if the valuation of the land is disputed.

The commission is proposing that the Valuation Tribunal, which currently deals with valuations of property for the purposes of levying rates, be charged with resolving disputes over valuations in compulsory acquisitions, with reasoned decisions to be published on its website to increase transparency and aid consistency.

There are about 50-100 requests every year for disputes to go to an arbitration hearing, with many being settled before the hearing takes place.

The commission did not consider whether the law should provide for the assessment of land at a value below market value.

“The question of whether a social good should be achieved by way of obliging owners to sell their property to the State at below market value... is a question of policy more properly addressed by the executive and the legislature,” the report said.

It did not express a view but did recommend that policymakers consider the idea that people who are displaced from their homes by way of compulsory

purchase orders be given an additional payment over and above the value of the property involved.

The commission's report is available on its website [lawreform.ie/](https://www.lawreform.ie/)



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Law Reform Commission

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