

# FORESTRY ACT 1956

## LONG TITLE

An Act to facilitate acquisitions of land for the purposes of the Forestry Act, 1946. [27th February, 1956.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

### 1 Principal Act.

SECT 1.—In this Act "the Principal Act" means the Forestry Act, 1946 (No. 13 of 1946).

### 2 Amendment of section 17 of Principal Act.

SECT 2.—section 17 of the Principal Act (which relates to Payment of compensation) is hereby amended— (i) by the insertion, after paragraph (a) of subsection (2), of the paragraph contained in Part 1 of the Schedule to this Act, and (ii) by the insertion, after paragraph (a) of subsection (4), of the paragraph contained in Part 11 of that Schedule.

### 3 Provisions consequential on amendment of section 17 of Principal Act.

SECT 3.—(1) Where the Minister pays compensation to a person pursuant to paragraph (aa) of subsection (2) of section 17 of the Principal Act, he shall, notwithstanding anything contained in The Principal Act, be liable to pay compensation to any other person who would have been entitled to the proceeds of a sale of the relevant interest immediately before the vesting date, or to a share of those proceeds, if (but only if) that other person applies to the Minister for compensation under this subsection within the period of six years beginning on the date of the relevant vesting order. (2) ( a ) Where compensation is payable under subsection (1) of this section in relation to an interest of which the value has been assessed under section 24 of the Principal Act or in respect of which compensation has been assessed under section 31 of the Principal Act, the amount of the compensation shall be equal to (as may be appropriate) the sum so assessed or so much of the sum so assessed as is proportionate to the share referred to in the said subsection (1). ( b ) Where compensation is payable under subsection (1) of this section in a case not governed by paragraph (a) of this subsection, the amount of the compensation shall, in default of agreement, be settled by the Lay Commissioners with a right of appeal to the Appeal Tribunal as in the case of compensation payable under section 30 of the Principal Act. (3) Where the Minister, having paid compensation in respect of an interest to a person pursuant to paragraph (aa) of subsection (2) of section 17 of the Principal Act, subsequently pays pursuant to subsection (1) of this section compensation in respect of that interest to another person, the first-mentioned person shall be liable to pay to the Minister an amount equal to the compensation paid pursuant to the said paragraph (aa) (together with any interest paid under subsection (7) of section 17 of the Principal Act and any amount applied under subsection (8) of that section) or the compensation paid pursuant to subsection (1) of this section (whichever is the less), and, in default of that amount being so paid, the Minister may recover it from the first-mentioned person (or, in the event of that person's death, from his legal personal representative) as a simple contract debt in any court of competent jurisdiction. (4) Where the Minister pays a sum pursuant to paragraph (aa) of subsection (4) of section 17 of the Principal Act, he shall, notwithstanding anything contained in The Principal Act, be liable to pay compensation to any other person who would have been entitled to such balance of the proceeds of a sale of the relevant interest immediately before the vesting date as would remain after discharge of the relevant mortgage debt or debts, or to a share in that balance, if (but only if) that other person applies to the Minister for compensation under this subsection within the period of six years beginning on the date of the relevant vesting order. (5) ( a ) Where compensation is payable under subsection (4) of this section in relation to an interest of which the value has been assessed under section 24 of the Principal Act or in respect of which compensation has been assessed under section 31 of the Principal Act, the amount of the compensation shall be equal to (as may be appropriate) the sum so assessed (less the relevant mortgage debt or debts) or so much of the sum so assessed (less the relevant mortgage debt or debts) as is proportionate to the share referred to in the said subsection (4). ( b ) Where compensation is payable under subsection (4) of this section in a case not governed by paragraph (a) of

this subsection, the amount of the compensation shall, in default of agreement, be settled by the Lay Commissioners with a right of appeal to the Appeal Tribunal as in the case of compensation payable under section 30 of the Principal Act. (6) Where the Minister, having paid a sum in respect of an interest to a person pursuant to paragraph (aa) of subsection (4) of section 17 of the Principal Act, subsequently pays pursuant to subsection (4) of this section compensation in respect of that interest to another person, the first-mentioned person shall be liable to pay to the Minister an amount equal to the sum paid pursuant to the said paragraph (aa) (together with any interest paid under subsection (7) of section 17 of the Principal Act and any amount applied under subsection (8) of that section) or the compensation paid pursuant to subsection (4) of this section (whichever is the less), and, in default of that amount being so paid, the Minister may recover it from the first-mentioned person (or, in the event of that person's death, from his legal personal representative) as a simple contract debt in any court of competent jurisdiction. (7) The compensation referred to in subsection (1) or (4) of this section shall bear interest at the rate of three pounds per cent. per annum in respect of the period from the application therefor until the date on which it is paid. (8) Where— ( a ) the Minister is required by subsection (1) or (4) of this section to pay to any person any sum, and ( b ) any money (in this subsection referred to as the State debt) is owing by that person to a Minister of State, the Revenue Commissioners, the Commissioners or the Land Commission, the Minister may, in lieu of paying the said sum (including interest thereon) to that person, apply the said sum and interest in or towards the payment of the State debt and pay to that person the balance (if any) thereof remaining unpaid, but the whole of the said sum shall, for the purposes of subsection (3) or subsection (6), as may be appropriate, of this section, be regarded as having been paid to that person. (9) The payment of compensation and interest in accordance with the foregoing provisions of this section shall be a good discharge therefor. (10) This section shall be regarded as being contained in Chapter I of Part III of The Principal Act.

#### 4 Acquisition of land held in commonage.

SECT 4.—(1) Where— ( a ) the Minister has made an application under section 23 of the Principal Act for an acquisition order in relation to any land held in commonage, ( b ) an acquisition order based on that application has come into force, and ( c ) as a result of the representation, being a representation specified in subsection (2) of this section, of any of the owners in common of the land, the acquisition order is in respect of part only of the land, the following provisions shall have effect if a vesting order is made under section 26 of the Principal Act in relation to that part of the land: (i) if the representation was made by two or more persons (in this paragraph referred to as the objectors)— (I) as on and from the vesting date, the remainder of the land shall cease to be held in common by the owners in common and shall be held in common by the objectors only, in shares proportionate to the proportions of their former shares, one to another, in the whole of the land, and, in respect of the interest in that remainder of each of the owners in common other than the objectors— (A) the vesting order shall operate, as on and from the vesting date, to transfer and attach to the compensation payable to that owner all estates, trusts and incumbrances subsisting in respect of that interest immediately before the vesting date, (B) the said compensation shall, as respects any rights or claims existing immediately before the vesting date, to or against that interest, represent that interest for all purposes, and (C) if that interest was, immediately before the vesting date, settled land, within the meaning of the Settled Land Acts, 1882 to 1890, the said compensation shall be capital money for the purposes of those Acts, (II) none of the objectors shall be entitled to compensation in relation to the acquisition effected by the vesting order, (III) the amount of the compensation payable under The Principal Act to each of the owners in common, other than the objectors, shall be determined as if the whole of the land to which the Minister's application under section 23 of the Principal Act related had been acquired by the vesting order, (IV) paragraph (b) of subsection (4) of section 26 of the Principal Act shall not apply to the interest in the vested land of the objectors and in respect of the interest in the vested land of each of the objectors— (A) the vesting order shall operate, as on and from the vesting date, to transfer to the interest of the objector in the remainder of the land all estates, trusts and incumbrances subsisting in respect of the interest of the objector in the vested land immediately before the vesting date, and (B) the said interest in the remainder of the land shall, as respects any rights or claims existing immediately before the vesting date to or against the said interest in the vested land, represent that interest in the vested land for all purposes, and (V) the Land Commission shall, on application being made to it in that behalf by any of the objectors, issue to such objector a certificate certifying the facts of the case and specifying the remainder of the land; (ii) if the representation was made by one person only (in this

paragraph referred to as the objector)— (I) as on and from the vesting date, the remainder of the land shall cease to be held in common by the owners in common and shall be held by the objector only, and, in respect of the interest in that remainder of each of the owners in common other than the objector— (A) the vesting order shall operate, as on and from the vesting date, to transfer and attach to the compensation payable to that owner all estates, trusts and incumbrances subsisting in respect of that interest immediately before the vesting date, (B) the said compensation shall, as respects any rights or claims existing immediately before the vesting date, to or against that interest, represent that interest for all purposes, and (C) if that interest was, immediately before the vesting date, settled land, within the meaning of the Settled Land Acts, 1882 to 1890, the said compensation shall be capital money for the purposes of those Acts, (II) the objector shall not be entitled to any compensation under The Principal Act in relation to the acquisition effected by the vesting order, (III) the amount of the compensation payable under The Principal Act to each of the owners in common, other than the objector, shall be determined as if the whole of the land to which the Minister's application under section 23 of the Principal Act related had been acquired by the vesting order, (IV) paragraph ( b ) of subsection (4) of section 26 of the Principal Act shall not apply to the interest in the vested land of the objector and in respect of the interest in the vested land of the objector— (A) the vesting order shall operate, as on and from the vesting date, to transfer to the interest of the objector in the remainder of the land all estates, trusts and incumbrances subsisting in respect of the interest of the objector in the vested land immediately before the vesting date, and (B) the said interest in the remainder of the land shall, as respects any rights or claims existing immediately before the vesting date to or against the said interest in the vested land, represent that interest in the vested land for all purposes, and (V) the Land Commission shall, on application being made to it in that behalf by the objector, issue to such objector a certificate certifying the facts of the case and specifying the remainder of the land; (iii) the vesting order sent pursuant to subsection (7) of section 26 of the Act of 1946 to the registering authority under the Act of 1891 shall be accompanied by a copy of the acquisition order and, on receipt thereof, the said registering authority, in addition to causing the Minister to be registered as specified in the said subsection (7), shall cause any appropriate alterations to be made in any relevant existing registrations under the Act of 1891. (2) The representation referred to in subsection (1) of this section is a representation to the Lay Commissioners or the Appeal Tribunal (as the case may be) requesting that the relevant acquisition order be in respect of part only of the land to which the application for that order relates on the ground that the case is one in which it is proper that the provisions of subsection (1) of this section should have effect. (3) An acquisition order referred to in subsection (1) of this section shall recite each representation as a result of which such order is in respect of part only of the land to which the Minister's application under section 23 of the Principal Act relates and the name of the person making such representation. (4) In this section— "land held in commonage" means any land which is— ( a ) a holding to which subsections (2), (3), (4) and (5) of section 24 of the Land Act, 1939 (No. 26 of 1939), apply, or ( b ) land to which those subsections as extended by section 25 of the Land Act, 1950 (No. 16 of 1950), apply; "owners in common" has the same meaning as in the said subsections (2), (3), (4) and (5). (5) This section shall be regarded as being contained in Chapter III of Part III of The Principal Act.

## 5 Creation of new easement.

SECT 5.—Where an acquisition order in respect of any land as made by the Lay Commissioners pursuant to subsection (3) of section 23 of the Principal Act or as varied by the Appeal Tribunal pursuant to subsection (7) of the said section 23 provides for the creation of a new easement, the new easement shall, if the order as made or varied so specifies, be restricted so as to be in or over a particular part of the land.

## 6 Minor and consequential amendments of Principal Act.

SECT 6.—(1) Subsection (2) of section 5 of the Principal Act is hereby amended by the substitution of "where such matter or thing is connected with the practice or procedure of the Lay Commissioners" for "other than matters relating to the practice and procedure of the Appeal Tribunal". (2) section 13 of the Principal Act is hereby amended by the insertion of "(other than an application to the High Court or the Circuit Court), every representation" after "application". (3) Paragraph(a) of subsection (1) of section 25 of the Principal Act is hereby amended by the insertion of "all or any part of" before "such other land". (4) Paragraph(a) of subsection (4) of section 25 of the Principal Act is hereby amended by the addition thereto

of "and any part of the non-acquirable land which has not been charged by the order under subsection (1) of this section shall be, by virtue of this subsection, released from the whole of the said annual sum". (5) Paragraph ( b ) of subsection (4) of section 25 of the Principal Act is hereby amended by the insertion of "or so much thereof as has been charged by the order under subsection (1) of this section" after "in respect of the non-acquirable land". (6) Paragraph ( c ) of subsection (4) of section 25 of the Principal Act is hereby amended— ( a ) by the insertion in subparagraph (i) of "or any part thereof" after "non-acquirable land", ( b ) by the insertion in subparagraph (ii) thereof of "or so much thereof as has been charged by the order under subsection (1) of this section" after "with regard to the non-acquirable land" and "or so much thereof as has been charged by the order under subsection (1) of this section (as may be appropriate)" after "as if the non-acquirable land". (7) Paragraph ( b ) of subsection (4) of section 26 of the Principal Act is hereby amended by the insertion of "(not being an easement continued by the vesting order or an easement in lieu of which the vesting order creates a new easement)" after "in respect of each interest". (8) Paragraph ( b ) of section 27 of the Principal Act is hereby amended by the insertion of "all or part of" before "such other land" both in subparagraph (i) and subparagraph (ii).

7 Short title and collective citation.

SECT 7.—(1) This Act may be cited as the Forestry Act, 1956. (2) The Principal Act and this Act may be cited together as the Forestry Acts, 1946 and 1956. Section 2.

#### SCHEDULE PARAGRAPHS INSERTED IN SECTION 17 OF PRINCIPAL ACT.

PART I Paragraph inserted after paragraph (a) of subsection (2). ( aa ) in case, within three months after the final determination of the compensation, any person applies to the Minister for payment thereof and— (i) the Minister is satisfied that that person has enjoyed such interest for a continuous period of not less than six years immediately before the vesting date, (ii) the Minister is satisfied that that person either is unable to give an effective discharge for the compensation, the compensation being regarded for this purpose as the proceeds of a sale of such interest effected immediately before the vesting date, or would be able to do so only at disproportionate cost, (iii) that person furnishes to the Minister such evidence as to his title to such interest as the Minister considers reasonable, and (iv) the Minister is of opinion that, having regard to all the circumstances, payment of the compensation should be made pursuant to this paragraph, the Minister shall pay the compensation to that person.

PART II Paragraph inserted after paragraph (a) of subsection (4). ( aa ) in case, within three months after such allocation, any person applies to the Minister for payment thereof and— (i) the Minister is satisfied that that person has enjoyed such interest for a continuous period of not less than six years immediately before the vesting date, (ii) the Minister is satisfied that that person either is unable to give an effective discharge for the said sum, the said sum being regarded for this purpose as the net proceeds of a sale of such interest effected immediately before the vesting date, or would be able to do so only at disproportionate cost, (iii) that person furnishes to the Minister such evidence as to his title to such interest as the Minister considers reasonable, and (iv) the Minister is of opinion that, having regard to all the circumstances, payment of the said sum should be made pursuant to this paragraph, the Minister shall pay the said sum to that person.