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(b) A person who contravenes this subsection shall be guilty of an offence.

(3) Where, in the case of a right of way required by this section to be maintained by the planning authority, the way is damaged or obstructed by any person, the planning authority maintaining the right of way may repair the damage or remove the obstruction, and the expenses incurred by it in the repair or removal shall be paid to them by that person and, in default of being so paid, shall be recoverable from him or her as a simple contract debt in any court of competent jurisdiction.

Repair and tidying of advertisement structures and advertisements.

**209.**—(1) If it appears to a planning authority that, having regard to the interests of public safety or amenity, an advertisement structure or advertisement in its area should be repaired or tidied, the planning authority may serve on the person having control of the structure or advertisement a notice requiring that person to repair or tidy the advertisement structure or advertisement within a specified period.

(2) If it appears to a planning authority that any advertisement structure or advertisement is derelict, the planning authority may serve on the person having control of the structure or advertisement a notice requiring that person to remove the advertisement structure or advertisement within a specified period.

(3) If within the period specified in a notice under this section, the advertisement structure or advertisement is not repaired or tidied, or removed, as the case may be, the planning authority may enter on the land on which the structure is situate or the advertisement is exhibited and repair, tidy or remove the structure or advertisement and may recover as a simple contract debt in any court of competent jurisdiction from the person having control of the structure or advertisement any expenses reasonably incurred by it in that behalf.

#### PART XIV

##### Acquisition of Land, etc.

Appropriation of land for local authority purposes.

**210.**—(1) Where—

- (a) land is vested in a local authority for the purposes of its functions under this or any other enactment, and
- (b) the local authority is satisfied that the land should be made available for the purposes of any of those functions,

the local authority may appropriate the land for those purposes.

(2) Where land is vested in a local authority by means of compulsory acquisition under any enactment, no claim shall be made for compensation or additional compensation and the acquisition shall not be challenged on account of any appropriation of land in accordance with *subsection (1)*.

Disposal of land by local authority.

**211.**—(1) Any land acquired for the purposes of or appropriated under this Act or any other Act or acquired otherwise, by a local authority, may be sold, leased or exchanged, subject to such conditions as it may consider necessary where it no longer requires the land for any of its functions, or in order to secure—

(a) the best use of that or other land, and any structures or works which have been, or are to be, constructed, erected, made or carried out on, in or under that or other land, or Pt.XIV S.211

(b) the construction, erection, making or carrying out of any structures or works appearing to it to be needed for the proper planning and sustainable development of its functional area.

(2) The consent of the Minister shall, subject to *subsection (3)*, be required for any sale, lease or exchange under *subsection (1)* in case the price or rent, or what is obtained by the local authority on the exchange, is not the best reasonably obtainable, but in any other case, shall not be required notwithstanding the provisions of any other enactment.

(3) The Minister may by regulations provide for the disposal of land under *subsection (1)* without the consent of the Minister as required by *subsection (2)* in such circumstances as may be specified in the regulations and subject to compliance with such conditions (including conditions for the giving of public notice) as may be so specified.

(4) Capital money arising from the disposal of land under *subsection (1)* shall be applied for a capital purpose for which capital money may be properly applied.

(5) (a) Where, as respects any land acquired for the purposes of or appropriated under this or any other Act or acquired otherwise by a local authority, the authority considers that it will not require the use of the land for any of its functions for a particular period, the authority may grant a lease of the land for that period or any lesser period and the lease shall be expressed as a lease granted for the purposes of this subsection.

(b) The Landlord and Tenant Acts, 1967 to 1994, shall not apply in relation to a lease granted under *paragraph (a)* for the purposes of this subsection.

**212.—(1)** A planning authority may develop or secure or facilitate the development of land and, in particular and without prejudice to the generality of the foregoing, may do one or more of the following: Development by planning authority, etc.

(a) secure, facilitate and control the improvement of the frontage of any public road by widening, opening, enlarging or otherwise improving;

(b) develop any land in the vicinity of any road or public transport facility which it is proposed to improve or construct;

(c) provide areas with roads, infrastructure facilitating public transport and such services and works as may be needed for development;

(d) provide, secure or facilitate the provision of areas of convenient shape and size for development;

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- (e) secure, facilitate or carry out the development and renewal of areas in need of physical, social or economic regeneration and provide open spaces and other public amenities;
- (f) secure the preservation of any view or prospect, any protected structure or other structure, any architectural conservation area or natural physical feature, any trees or woodlands or any site of archaeological, geological, historical, scientific or ecological interest.

(2) A planning authority may provide or arrange for the provision of—

- (a) sites for the establishment or relocation of industries, businesses (including hotels, motels and guesthouses), houses, offices, shops, schools, churches, leisure facilities and other community facilities and of such buildings, premises, houses, parks and structures as are referred to in *paragraph (b)*,
- (b) factory buildings, office premises, shop premises, houses, amusement parks and structures for the purpose of entertainment, caravan parks, buildings for the purpose of providing accommodation, meals and refreshments, buildings for the purpose of providing trade and professional services and advertisement structures,
- (c) transport facilities, including public and air transport facilities, and
- (d) any services which it considers ancillary to anything which is referred to in *paragraph (a), (b) or (c)*,

and may maintain and manage any such site, building, premises, house, park, structure or service and may make any charges which it considers reasonable in relation to the provision, maintenance or management thereof.

(3) A planning authority may, in connection with any of its functions under this Act, make and carry out arrangements or enter into agreements with any person or body for the development or management of land, and may incorporate a company for those purposes.

(4) A planning authority may use any of the powers available to it under any enactment, including any powers in relation to the compulsory acquisition of land, in relation to its functions under this section and in particular in order to facilitate the assembly of sites for the purposes of the orderly development of land.

Land acquisition by local authorities.

**213.—**(1) The power conferred on a local authority under any enactment to acquire land shall be construed in accordance with this section.

- (2) (a) A local authority may, for the purposes of performing any of its functions (whether conferred by or under this Act, or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its development plan or its housing strategy under *section 94*, do all or any of the following:

- (i) acquire land, permanently or temporarily, by agreement or compulsorily, Pt.XIV S.213
- (ii) acquire, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land,
- (iii) restrict or otherwise interfere with, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land,

and the performance of all or any of the functions referred to in *subparagraphs (i), (ii) and (iii)* are referred to in this Act as an "acquisition of land".

- (b) A reference in *paragraph (a)* to acquisition by agreement shall include acquisition by way of purchase, lease, exchange or otherwise.
- (c) The functions conferred on a local authority by *paragraph (a)* may be performed in relation to—
- (i) land, or
- (ii) any easement, way-leave, water-right or other right to which that paragraph applies,

whether situated or exercisable, as the case may be, inside or outside the functional area of the local authority concerned.

- (3) (a) The acquisition may be effected by agreement or compulsorily in respect of land not immediately required for a particular purpose if, in the opinion of the local authority, the land will be required by the authority for that purpose in the future.
- (b) The acquisition may be effected by agreement in respect of any land which, in the opinion of the local authority, it will require in the future for the purposes of any of its functions notwithstanding that the authority has not determined the manner in which or the purpose for which it will use the land.
- (c) *Paragraphs (a) and (b)* shall apply and have effect in relation to any power to acquire land conferred on a local authority by virtue of this Act or any other enactment whether enacted before or after this Act.

(4) A local authority may be authorised by compulsory purchase order to acquire land for any of the purposes referred to in *subsection (2)* of this section and section 10 (as amended by section 86 of the Housing Act, 1966) of the Local Government (No. 2) Act, 1960, shall be construed so as to apply accordingly and the reference to "purposes" in section 10(1)(a) of that Act shall be construed as including purposes referred to in *subsection (2)* of this section.

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Transfer of  
Minister's functions  
in relation to  
compulsory  
acquisition of land  
to Board.

**214.**—(1) The functions conferred on the Minister in relation to the compulsory acquisition of land by a local authority under the following enactments are hereby transferred to, and vested in, the Board and any reference in any relevant provision of those Acts to the Minister, or construed to be a reference to the Minister, shall be deemed to be a reference to the Board except that any powers under those enactments to make regulations or to prescribe any matter shall remain with the Minister:

Public Health (Ireland) Act, 1878;

Local Government (Ireland) Act, 1898;

Local Government Act, 1925;

Water Supplies Act, 1942;

Local Government (No. 2) Act, 1960;

Local Government (Sanitary Services) Act, 1964;

Housing Act, 1966;

Derelict Sites Act, 1990;

Roads Acts, 1993 and 1998;

Dublin Docklands Development Authority Act, 1997.

(2) For the purposes of the compulsory acquisition of land by a local authority the following constructions shall apply:

- (a) the references construed to be references to the Minister in section 203 of the Public Health (Ireland) Act, 1878, shall be construed as referring to the Board and any connected references shall be construed accordingly;
- (b) the references to the Minister in section 68 of, and in the Sixth Schedule to, the Local Government Act, 1925, shall be construed as referring to the Board and any connected references shall be construed accordingly;
- (c) the references to the Minister in sections 4, 8, 9 and 10 of, and in the Schedule to, the Water Supplies Act, 1942, shall be construed as referring to the Board and any connected references shall be construed accordingly;
- (d) the references to the Minister, or to the appropriate Minister, in section 10 (as amended by section 86 of the Housing Act, 1966) of the Local Government (No. 2) Act, 1960, shall be construed as referring to the Board and any connected references shall be construed accordingly;
- (e) the references to the Minister in sections 7, 8, 9 and 16 of the Local Government (Sanitary Services) Act, 1964, shall be construed as referring to the Board and any connected references shall be construed accordingly;
- (f) (i) the references to the Minister, or to the appropriate Minister, in sections 76, 77, 78, 80 and 85 of, and the Third Schedule to, the Housing Act, 1966, shall be construed as referring to the Board and any connected references shall be construed accordingly;

(ii) section 85 of the Housing Act, 1966, shall be construed as if subsections (2) and (3) were deleted; Pt.XIV S.214

(g) the references to the Minister in sections 16 and 17 of the Derelict Sites Act, 1990, shall be construed as referring to the Board and any connected references shall be construed accordingly;

(h) the references to the Minister in section 27(1) of the Dublin Docklands Development Authority Act, 1997, shall be construed as referring to the Board and any connected references shall be construed accordingly.

(3) The transfer of the Minister's functions to the Board in relation to the compulsory purchase of land in accordance with *subsection (1)* shall include the transfer of all necessary ancillary powers in relation to substrata, easements, rights over land (including public rights of way), rights of access to land, the revocation or modification of planning permissions or other such functions as may be necessary in order to ensure that the Board can fully carry out its functions in relation to the enactments referred to in *subsection (1)*.

(4) In this section and *section 216*, "local authority" includes the Dublin Docklands Development Authority.

**215.—**(1) The functions of the Minister in relation to a scheme or proposed road development under sections 49, 50 and 51 of the Roads Act, 1993, are hereby transferred to and vested in the Board and relevant references in that Act to the Minister shall be construed as references to the Board and any connected references shall be construed accordingly, except that any powers under those sections to make regulations or to prescribe any matter shall remain with the Minister.

Transfer of certain Ministerial functions under Roads Acts, 1993 and 1998, to Board.

(2) The references to the Minister in section 19(7) and paragraphs (a), (c), (e) and (f) of section 20(1) of the Roads Act, 1993, shall be deemed to be references to the Board.

**216.—**(1) Where a compulsory purchase order is made in respect of the acquisition of land by a local authority in accordance with any of the enactments referred to in *section 214(1)* and—

Confirmation of compulsory purchase order where there are no objections.

(a) no objections are received by the Board or the local authority, as the case may be, within the period provided for making objections,

(b) any objection received is subsequently withdrawn at any time before the Board makes its decision, or

(c) the Board is of opinion that any objection received relates exclusively to matters which can be dealt with by a property arbitrator,

the Board shall, where appropriate, inform the local authority and the local authority shall, as soon as may be, confirm the order with or without modification, or it may refuse to confirm the order.

(2) *Subsection (1)* shall not prejudice any requirement to obtain approval for a scheme in accordance with section 49 of the Roads Act, 1993, or proposed road development in accordance with section 51 of the Roads Act, 1993, or for proposed development under *section 175* of this Act.

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(3) This section shall not apply with respect to a compulsory purchase under the Derelict Sites Act, 1990.

Certain time limits in respect of compulsory purchase of land, etc.

**217.**—(1) Where an objection is made to a sanitary authority in accordance with section 6 of the Water Supplies Act, 1942, and not withdrawn, the sanitary authority shall, within 6 weeks of receiving the objection, apply to the Board for a provisional order in accordance with section 8 of that Act.

(2) Where an objection is made to a sanitary authority in accordance with section 8 of the Local Government (Sanitary Services) Act, 1964, and not withdrawn, the sanitary authority shall, within 6 weeks of receiving the objection, apply to the Board for its consent to the compulsory acquisition of the land in accordance with that section.

(3) Subject to *section 216*, where a local authority complies with the notification provisions in relation to a compulsory purchase order under paragraph 4 of the Third Schedule to the Housing Act, 1966, it shall, within 6 weeks of complying with those provisions, submit the compulsory purchase order to the Board for confirmation.

(4) Where a road authority complies with the notification provisions in relation to a scheme in accordance with section 48 of the Roads Act, 1993, it shall, within 6 weeks of complying with those provisions, submit the scheme to the Board for approval.

(5) A notice of the making of a confirmation order to be published or served, as the case may be, in accordance with section 78(1) of the Housing Act, 1966, shall be published or served within 12 weeks of the making of the confirmation order.

(6) Notwithstanding section 123 of the Lands Clauses Consolidation Act, 1845, where a compulsory purchase order or provisional order is confirmed by a local authority or the Board and becomes operative and the local authority decides to acquire land to which the order relates, the local authority shall serve any notice required under any enactment to be served in order to treat for the purchase of the several interests in the land (including under section 79 of the Housing Act, 1966) within 18 months of the order becoming operative.

(7) (a) A decision of the Board made in the performance of a function transferred to it under *section 214* or *215* shall become operative 3 weeks from the date on which notice of the decision is first published.

(b) *Subsections (8) and (9)* of section 52 of the Roads Act, 1993 (as inserted by section 5 of the Roads (Amendment) Act, 1998) and subsections (2) to (4) of section 78 of the Housing Act, 1966, shall not apply in relation to decisions of the Board under this Part.

Oral hearings in relation to compulsory acquisition of land.

**218.**—(1) Where, as a result of the transfer of functions under *sections 214* and *215*, the Board would otherwise be required to hold a local inquiry or public local inquiry in regard to any of its transferred functions, it shall instead hold an oral hearing.

(2) For the avoidance of doubt, it is hereby declared that the provisions of the Local Government Acts, 1941, 1946, 1955 and 1991, in relation to public local inquiries shall not apply in relation to oral hearings held by the Board in accordance with *subsection (1)*.

(3) For the purposes of this Part, the references to local inquiries or public local inquiries in the following provisions shall be deemed to be references to oral hearings under this section: Pt.XIV S.218

(a) section 10 of the Local Government (No. 2) Act, 1960;

(b) section 78 of, and the Third Schedule to, the Housing Act, 1966;

(c) Part IV of the Roads Act, 1993.

(4) *Sections 135, 143 and 146* shall apply and have effect in relation to the functions transferred to the Board under *sections 214 and 215* and those sections shall be construed accordingly.

**219.**—(1) Where an oral hearing is held under *section 218*, the Board may in its absolute discretion direct the payment of such sum as it considers reasonable by a local authority concerned in the oral hearing— Power to direct payment of certain costs in relation to oral hearing.

(a) to the Board towards the costs incurred by the Board in holding the hearing,

(b) to any person appearing at the hearing as a contribution towards the costs, other than the costs referred to in *section 135*, incurred by that person,

and the local authority shall pay the sum.

(2) A reference to costs in *subsection (1)* shall be construed and have effect as a reference to such costs as the Board in its absolute discretion considers to be reasonable costs.

(3) Where a local authority fails to pay a sum as directed in accordance with *subsection (1)*, the Board or any other person concerned (as may be appropriate) may recover the sum as a simple contract debt in any court of competent jurisdiction.

**220.**—(1) The person holding an oral hearing in relation to the compulsory acquisition of land, which relates wholly or in part to proposed development by a local authority which is required to comply with *section 175* or any other statutory provision to comply with procedures for giving effect to the Council Directive, shall be entitled to hear evidence in relation to the likely effects on the environment of such development. Certain procedures to run in parallel.

(2) Where an application for the approval of a proposed development which is required to comply with *section 175* is made to the Board and a compulsory purchase order or provisional order has been submitted to the Board for confirmation and where the proposed development relates wholly or in part to the same proposed development, the Board shall, where objections have been received in relation to the compulsory purchase order, make a decision on the confirmation of the compulsory purchase order at the same time.

**221.**—(1) It shall be the duty of the Board to ensure that any matters submitted in accordance with the functions transferred to it under *sections 214 and 215* are disposed of as expeditiously as may be and, for that purpose, to take all such steps as are open to it to Objective of the Board in relation to transferred functions.

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ensure that, in so far as is practicable, there are no avoidable delays at any stage in the determination of those matters.

(2) Without prejudice to the generality of *subsection (1)* and subject to *subsections (3), (4), (5) and (6)*, it shall be the objective of the Board to ensure that—

(a) the matter is determined within a period of 18 weeks beginning on the last day for making objections, observations or submissions, as the case may be, in accordance with the relevant enactment referred to in *section 214* or *215*, or

(b) the matter is determined within such other period as the Minister may prescribe in relation to *paragraph (a)*, either generally or in respect of a particular class or classes of matter.

(3) (a) Where it appears to the Board that it would not be possible or appropriate, because of the particular circumstances of the matter with which the Board is concerned, to determine the matter within the period prescribed under *subsection (2)*, the Board shall, by notice in writing served on any local authority involved and any other person who submitted objections, representations, submissions or observations in relation to the matter before the expiration of that period, inform the authority and those persons of the reasons why it would not be possible or appropriate to determine the matter within that period and shall specify the date before which the Board intends that the matter shall be determined.

(b) Where a notice has been served under *paragraph (a)*, the Board shall take all such steps as are open to it to ensure that the matter is determined before the date specified in the notice.

(4) The Minister may by regulations vary the period as specified in *subsection (2)* either generally or in respect of a particular class or classes of matters with which the Board is concerned, in accordance with the transferred functions under this Part, where it appears to him or her to be necessary, by virtue of exceptional circumstances, to do so and, for so long as the regulations are in force, this section shall be construed and have effect in accordance therewith.

(5) Where the Minister considers it to be necessary or expedient that certain functions of the Board (being functions transferred under *section 214* or *215*) performable in relation to matters of a class or classes that—

(a) are of special strategic, economic or social importance to the State, and

(b) are submitted to the Board for the performance by it of such functions,

be performed as expeditiously as is consistent with proper planning and sustainable development, he or she may give a direction to the Board that in the performance of the functions concerned priority be given to matters of the class or classes concerned, and the Board shall comply with such direction.

(6) *Subsection (2)* shall not apply in relation to the functions under the Public Health (Ireland) Act, 1878, the Local Government Act, 1925, or the Water Supplies Act, 1942, which are transferred to the Board under *section 214*. Pt.XIV S.221

(7) For the purposes of meeting its duty under this section, the chairperson may, or shall when so directed by the Minister, assign the functions transferred to the Board under *sections 214* and *215* to a particular division of the Board in accordance with *section 112*.

(8) The Board shall include in each report made under *section 118* a statement of the number of matters which the Board has determined within a period referred to in *paragraph (a)* or *(b)* of *subsection (2)* and such other information as to the time taken to determine such matters as the Minister may direct.

**222.**—Section 10 (inserted by section 86 of the Housing Act, 1966) of the Local Government (No. 2) Act, 1960, is hereby amended— Amendment of section 10 of Local Government (No. 2) Act, 1960.

(a) by the deletion of subsection (2), and

(b) in subsection (4), by the substitution for paragraph (d) of the following paragraph:

“(d) Where—

(i) an order is made by virtue of this section, and

(ii) there is a public right of way over the land to which the order relates or any part thereof or over land adjacent to or associated with the land or any part thereof,

the order may authorise the local authority, by order made by them after they have acquired such land or part, to extinguish the right of way.”.

**223.**—(1) A reference in any regulations, prescribed forms or other instruments made under the enactments referred to in *section 214* or *215* to the Minister, and which relate to the functions transferred under those sections, shall be deemed to be references to the Board. References to transferred functions in regulations, etc.

(2) A reference in any regulations, prescribed forms or other instruments made under the enactments referred to in *section 214* or *215* to local inquiries or public local inquiries, and which relate to functions transferred to the Board under those sections, shall be deemed to be references to oral hearings by the Board.

## PART XV

### Development on the Foreshore

**224.**—In this Part—

Definition.

“development” includes development consisting of the reclamation of any land on the foreshore;

“foreshore” has the meaning assigned to it by the Foreshore Act, 1933, but includes land between the line of high water of ordinary or