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LAND ACT 2005

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[No. 24.]

Land Act 2005.

[2005.]

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Number 24 of 2005

LAND ACT 2005

AN ACT TO AMEND AND EXTEND THE LAND PURCHASE ACTS.

[26th October, 2005]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, save where the context otherwise requires— Interpretation.

“Department” means Department of Agriculture and Food;

“land purchase annuity” means either a land reclamation annuity or a purchase annuity;

“land reclamation annuity” has the same meaning as it has in the Land Act 1984;

“Minister” means Minister for Agriculture and Food;

“purchase annuity” has the same meaning as it has in the Land Act 1984;

“register” has the same meaning as it has in the Registration of Title Act 1964;

“registered owner” includes a person who is entitled to be registered as the owner of the property;

“Registrar” has the same meaning as it has in the Registration of Title Act 1964.

(2) In this Act, save where the context otherwise requires, a reference to a section is a reference to a section of this Act and a reference to a subsection or a paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs.

2.—(1) Land which is subject to a land purchase annuity in respect of which annuity the sum payable per annum is not more than €200 on 13 July 2004 shall stand discharged from the annuity (including arrears of annuity payments outstanding) with effect from the day this section comes into operation. Discharge of land purchase annuities.

(2) The Registrar shall, upon application by the registered owner or such other person as appears to the Registrar to have a good and sufficient interest in the land concerned, make an entry in the register to that effect.

Redemption of purchase price.

3.—(1) A person in possession of land which is subject to a land purchase annuity to which the provisions of *section 2* do not apply may, if there are no unpaid arrears of such annuity, apply to redeem the annuity concerned by a single payment of an amount equal to 75 per cent of the redemption price of such annuity, pursuant to a scheme made under this section.

(2) An application referred to in *subsection (1)* shall be made in the prescribed form.

(3) The Minister may by regulations—

(a) with the consent of the Minister for Finance, establish a scheme providing for the redemption of land purchase annuities in accordance with the provisions of *subsection (1)*, which scheme may contain conditions relating to the redemption of such annuities, including the time and date by which applications are to be received by the Minister and the latest time and date on or before which the payment of the redemption amount is to be discharged,

(b) prescribe a form to be completed by a person seeking to redeem a land purchase annuity pursuant to this section.

Set off of payments.

4.—Where a sum of money is due by the Department to a person having an interest in land which is subject to a land purchase annuity, the Department may set off any arrears of payments outstanding in respect of the land purchase annuity against such sum of money which would otherwise be payable by the Department to the person concerned.

Production of certificate in case of transfers.

5.—(1) Where land is subject to a land purchase annuity, the Registrar shall refuse to register a dealing which is a transaction to which this section applies unless there is furnished to the Registrar a certificate issued by the Minister certifying that all annuity payments in respect of the land concerned have, up to the date of the certificate, been paid, the date of such certificate being not more than 4 months prior to the date of the instrument effecting the transaction.

(2) A transaction to which this section applies is a transaction relating to an interest in land, which transaction is in the opinion of the Registrar—

(a) a transfer on sale,

(b) a voluntary transfer,

(c) a transmission on death,

(d) an application for registration of ownership under section 49 of the Registration of Title Act 1964, or

(e) a lease,

of the land concerned.

(3) *Subsection (1)* shall not apply to a transaction which relates solely to the creation of a joint tenancy between spouses in respect of a family home where the house was immediately prior to such

transaction owned by either of the spouses or by both spouses otherwise than as joint tenants.

6.—Section 28 of the Land Act 1933 is amended by inserting the following after subsection (4):

Amendment of section 28 of Land Act 1933.

“(4A) A warrant issued under this section shall be deemed, for the purposes of the attachment of debts, garnishee proceedings or the appointment of a receiver by way of equitable execution, to be a judgment of a court of competent jurisdiction for payment of the sum specified in that warrant.”.

7.—Section 30 of the Land Act 1950 is amended—

Amendment of section 30 of the Land Act 1950.

(a) in subsection (7), by inserting the following paragraph after paragraph (d):

“(da) the transfer, at the request of the trustees, of the entire or a part of the property the subject of the scheme,”.

and

(b) in subsection (15) by inserting “paragraph (da) or” after “an authorisation under”.

8.—(1) The Minister may at any time publish in *Iris Oifigiúil* a notice of the making of a vesting order vesting any holding or part of a holding which was comprised or could under Part III of the Land Act 1931 have been comprised in a list of congested districts holdings or a list of holdings of untenanted land in the person named in such order subject to the purchase annuity and upon the terms and conditions stated in such order.

Vesting orders in respect of holdings.

(2) Every person named in a vesting order or his or her solicitor shall be served by registered pre-paid post with a copy of such order.

(3) Every person named in a vesting order made under this section as the tenant of a holding, or part of a holding, thereby vested shall be deemed to have entered on the date of such vesting order into a purchase agreement for the purchase annuity and upon the terms and conditions stated in such vesting order.

(4) The Minister shall, in respect of every vesting order made under this section, afford to all parties concerned an opportunity for making objections to such order and the Minister shall consider and decide every such objection duly made and there shall be a right of appeal to the President of the High Court from every decision of the Minister on any such objection and the decision of the President of the High Court on any such appeal shall be final, save that an appeal shall lie on questions of law only from such decision of the President of the High Court to the Supreme Court.

(5) In this section “President of the High Court” includes an ordinary judge of the High Court assigned by that President to exercise the jurisdiction formerly vested in the office of Judicial Commissioner and in the Appeal Tribunal.

Amendment of section 3(1) of Land Act 1933.

9.—Section 3 of the Land Act 1933 is amended by substituting the following for subsection (1):

“(1) The Minister may, after consultation with the judge of the High Court exercising the jurisdiction of the Judicial Commissioner and with the President of the Law Society of Ireland, make rules for carrying into effect the provisions (other than the provisions relating to land purchase finance) of the Land Purchase Acts including this Act (except Part II thereof) and in this Act ‘prescribed’ means prescribed by such rules.”.

Write-off in certain circumstances.

10.—(1) The obligation of a person to pay to the Land Commission in respect of a payment to which this section relates—

- (a) an amount of less than €6.35 in the case of a payment falling due for payment on or after 1 November 1989, or
- (b) an amount of less than €12.70 in the case of a payment falling due for payment on or after 1 May 1993,

stands discharged.

(2) This section relates to payments in respect of—

- (a) a purchase annuity,
- (b) a land reclamation annuity, or
- (c) any other annual or half-yearly payment payable to the Land Commission.

Discharge of redemption price.

11.—(1) Where—

- (a) a person discharged the arrears of annuity payments, if any, due in respect of a land purchase annuity, on or before 1 December 1992, and
- (b) an amount of not less than half of the amount required to redeem the land purchase annuity on the redemption calculation date was paid after 18 March 1993 and before 1 June 1993,

the land purchase annuity is deemed to stand discharged with effect from the date of such payment.

(2) *Subsection (1)* also applies in a case where a determination of a type referred to in section 6 of the Land Act 1984 was made under that section.

(3) This section has effect notwithstanding the provisions of section 12 of the Land Act 1950.

(4) In this section “redemption calculation date” means—

- (a) 1 May 1993, in the case of a land purchase annuity where the annuity purchase payment was payable on 1 May of each year, or
- (b) 1 June 1993, in the case of a land purchase annuity where the annuity purchase payment was payable on 1 June of each year.

12.—The following provisions are repealed—

Repeals.

- (a) section 3(2) and section 3(4) of the Land Act 1927,
- (b) section 28 of the Land Act 1931,
- (c) section 6 of the Land Act 1946, and
- (d) section 12 and section 45 of the Land Act 1965.

13.—(1) This Act may be cited as the Land Act 2005.

Short title,
construction,
collective citation
and
commencement.

(2) This Act shall be construed as one with the Land Purchase Acts and may be cited with those Acts.

(3) This Act comes into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.