

WHAT IS A CPO AND HOW TO DEAL WITH IT

Over recent years, there's been an explosion in the number of state-sponsored infrastructure projects being built through, over or under agricultural land. These range from roads to cycleways and walkways, gas pipelines, new waterlines, or sewer lines, and recently an ever-increasing number of overhead power cables.

In many cases, farmers, and other landowners, are being encouraged to accept a voluntary scheme of compensation by the promoters of these projects. Many of these deals are being sold by the promoters as too good to miss.

Recently, many farmers are asking a simple question is this the best option or perhaps is it a case of "when it looks too good to be true then it is not true".

WHAT IS A COMPULSORY PURCHASE ORDER

A compulsory purchase order (CPO) describes the legal mechanism that grants the government or authorized bodies the power to acquire privately owned land for public purposes. The rules date back to the *1845 Lands Clauses Consolidation Acts* of parliament as adopted into Irish law and subsequently amended. Many state bodies including Local authorities, Bord Gáis, Uisce Éirann, CIE and the ESB have been given powers of compulsory purchase to allow them to proceed with public projects which are deemed necessary for the public good. Such works include new roads, railways, sewers, waterworks, and power lines.

While the acquisition of land through a CPO may be necessary for the development of infrastructure projects, it is intended that affected landowners are fairly compensated for the loss or damage to their property and any other associated losses.

APPLYING FOR A CPO

Prior to being granted the right to acquire land under compulsory purchase, the acquiring authority must go through a rigorous application procedure and submit a Compulsory Purchase draft Order Application to An Bord Pleanála. This will normally involve the preparation of an Environmental Impact Assessment Report, Appropriate Assessment Screening Report and Natura Impact Statement, Plan of the proposed works, Compulsory Purchase Order schedule indicating the identity of the owners and occupiers of lands described in the plans, identification of the extent of the lands required for the project.

The authority must demonstrate the need for the proposed project and land acquisition. Further, they are required to demonstrate that they have examined all alternatives, such as other technologies, or in the case of roads alternative routes. They are required to carry out detailed public consultation and take the views of the public and affected landowners into account. In most cases, the proposals will be subject to a public inquiry held under the auspices of An Bord Pleanála.

Having considered the application An Bord Pleanála will either make the order, refuse it or more likely make amendments and issue the order.

NEXT STEPS

When the order is made, the acquiring authority is required to publish details in local papers and unless there is an application for judicial review within eight weeks, the order becomes operative.

From the date the acquiring authority is granted a compulsory purchase order, they have a period of eighteen months to issue the affected landowners with a formal document, known as "*A Notice to Treat*". The notice to treat is how the acquiring authority indicates its intention to proceed with the acquisition and that is willing to negotiate for the purchase.

The notice to treat document, and the date it is served on the landowner are of crucial importance. Firstly, the notice confers the right on the acquiring authority to issue a "*Notice of Entry*", and fourteen days later, enter onto the lands and take possession even though no value or compensation has been agreed or paid.

Secondly, the date of the notice is the official date of valuation for the market value of land for the purposes of assessing compensation. This can be very significant because negotiations can drag on for years with the consequent changes in the value of land and nonetheless compensation will be based on the value at the date on which the notice is issued.

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