

A Clear Guide to

# Compulsory Purchase Orders and Compensation

Client Guide



# Purpose

The purpose of this consumer guide is to give a brief overview of the issues relating to Compulsory Purchase Orders (CPOs) for anyone affected by the CPO process. We hope this leaflet will assist you in understanding some of the issues in this very complex area.

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# What is a Compulsory Purchase Order (CPO)?



A CPO is a legal function that allows certain statutory bodies which need to take land or property to do so without the consent of the owner. The compulsory acquisition of land takes place in Ireland to allow a public infrastructure project to go ahead for the common good.

The current compulsory purchase system, with the public enquiries, notices to treat, notices of entry, is a daunting prospect for the individual property and land owner.



Few people are aware that the first CPOs came into operation following an Act of Parliament of 1757. This Act allowed for the formation of the Wide Streets Commission and facilitated the construction, in Dublin of College Street, D'Olier Street, Westmoreland Street, Capel Street and Dorset Street. These powers were also used in relation to the construction of public utilities, including the canals and railways. While compulsory purchase is wide ranging and often seen as draconian, it would be difficult to progress many national infrastructure projects without these powers.

# What do I do if my property is subject to a Compulsory Purchaser Order?

As soon as you become aware that your property is affected by a CPO process, without delay you should seek the property advice of a chartered valuation surveyor experienced in the area of compulsory purchase. This advice will cover how best to deal with your Notice and preparation of your claim for compensation. The cost of such services are part of a normal claim for compensation.

The aim of any compulsory purchase order should be to leave the affected party, in so far as money can, in the same position as before the property/land was acquired.

It follows therefore, that the affected parties should be duly compensated for their loss/disturbance.

A number of key issues arise from this:

- The basis of compensation for property acquired is market value.
- Principle of Equivalence. This requires that the affected party is left in the same financial position after the CPO as they were prior to the process.
- The compensation should reflect both the actual land acquired and the diminution in value (if any) of the retained area as a result of the CPO.



# Steps in Compulsory Purchase

- A statutory body decides to make a CPO.
- Affected parties will be served with a notice and newspaper notices will be published, compulsory purchase order stating that the Order is about to be put on public display and submitted to An Bord Pleanála for confirmation.
- Objections can be made, but valid objections are generally on planning or legal grounds only.
- A Public Local Enquiry is held at which affected parties can formally put their views forward (If no objections are made An Bord Pleanála can confirm, amend or reject the CPO without a Public Enquiry).
- An Bord Pleanála either confirms, amends or rejects CPO order and publishes details of the decisions in this regard.
- After expiry of objection period, the CPO is operative.
- Acquiring Authority serves Notice to Treat on the affected parties and discussions commence regarding the level of compensation available.
- The affected party lodges a claim for compensation. This can be made by the claimants' valuer.
- On reaching agreement, compensation is paid, otherwise the matter may be referred by either party to the Property Arbitrator to assess compensation.
- Acquisition is finalised, compensation paid.

# How is compensation calculated and how do I claim it?

The assessment of compensation payable by an Acquiring Authority is based on 17 rules laid out by statute and by the relevant case law.

A chartered valuation surveyor experienced in the area of compulsory purchase will be able to assess the compensation payable to clients affected by a compulsory acquisition and to negotiate for the affected property/land owners, in order to obtain their full entitlement to compensation.

The assessment of compensation will generally fall under a number of headings of claim which can include the following:

- Value of land acquired
- Diminution in value of retained lands, if any

- Costs resulting from acquisition
- Disturbance
- Loss of profits or goodwill
- Loss or depreciation of stock in trade
- Professional fees necessary for acquisition

The acquiring authority normally pays the claimants reasonable chartered valuation surveyors fees and also the claimants reasonable legal fees.

An agreement on compensation can often include an extensive list of accommodation works i.e. fencing, walls, water supply, drainage, relocation of septic tank, double glazing etc.



# Terms for easy reference

## 1 Notice to Treat

A notice to treat is served on all claimants whose properties are included in the CPO, requesting them to submit detailed claims for compensation.

## 2 Notice of Entry

Once the CPO is confirmed and the notice to treat is served, the Acquiring Authority may serve a notice on the owner / occupiers to enter on the lands. It gives the statutory authority the right to enter and take possession of land. This may occur before compensation is agreed and before money has been paid.

## 3 Severance

This comes about when part only of the affected party's property is acquired, e.g. for road widening, dividing the retained property into two or more parts, and leaving lands which have been reduced in value as a result of the acquisition. In this case the affected party is entitled to compensation on both the lands taken and the diminution in value of the retained lands.

## 4 Injurious Affection

This comes about if there is a reduction in value of the retained lands caused by something which happens on the other lands acquired from the affected party. An example of this could be where a sewerage treatment works is built next door to your house on land compulsorily acquired from you.

There are also some very limited cases where compensation can be payable resulting from the construction of a scheme on other lands. On occasion the Acquiring Authority can be forced to purchase an entire property even though only a portion of the property is the subject of the compulsory purchase order.

# Other SCSl consumer guides

The SCSl has a range of free guides available for downloading. Some of these include;

- A guide to the Chartered Valuation Surveyor
- A clear guide to selling a home
- A guide to owner management companies in multi-unit developments
- A clear guide to flooding
- Property and Boundaries – A checklist for purchasers
- A clear and impartial guide to boundary disputes
- Surveys of residential property

## Further information

We hope this guide is useful to you. If you'd like to know more about chartered valuations surveyors or how the SCSl can help, please contact us.

## Find a Surveyor

Visit our website [www.scsi.ie](http://www.scsi.ie) or alternatively email [info@scsi.ie](mailto:info@scsi.ie) or call 01 6445500



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