

SECTION 72 DECLARATION

LAND REGISTRY

COUNTY DONEGAL

FOLIO 36728F

I Jimmy Winston, Solicitor, Department of Agriculture, Food and the Marine, an authorised officer, on behalf of the Minister for Agriculture, Food and the Marine ("The Minister"), the owner of the property referred to in paragraph 1 hereof aged 18 years and upwards **DO SOLEMNLY AND SINCERELY DECLARE** that:

1. The Minister is the registered owner of the lands comprised in Folios 36728F of the register County Donegal.
2. I am a Solicitor in the Legal Services Division of the Department of Agriculture, Food and The Marine and am duly authorised by the Department to make this Statutory Declaration on its behalf.
3. I am advised that section 72(1) of the Registration of Title Act 1964 subject to the amendments thereto referred to in this Statutory Declaration, is as follows:

"72(1) Subject to subsection (2), all registered land shall be subject to such of the following burdens as for the time being affect the land, whether those burdens are or are not registered, namely:-

- a) estate duty, succession duty, former crown rents, tithe rents charges and payments in lieu of tithe or tithe rent charge;
- b) land improvement charges and drainage charges;
- c) annuities or rent charges for the repayment of advances made under the provisions of any of the Land Purchase Acts on account of purchase money;
- d) rights of the Land Commission or of any person under a vesting order, vesting fiat, final list or transfer made or published under the Land Purchase Acts;
- e) rights of the Land Commission upon the execution of an order for possession issued under section 37 of the Land Act 1927;
- f) rights of the public or of any class of the public;
- g) customary rights, franchises and liabilities arising from tenure;
- h) easements and profits a prendre, unless they are respectively created by express grant or reservation after the first registration of the land;
- i) tenancies created for any term not exceeding twenty-one years or for any less estate or interest, in cases where there is an occupation under such tenancies;

- j) the rights of every person in actual occupation of the land or in receipt of the rents and profits thereof, save where, upon enquiry made of such person, the rights are not disclosed;
- k) in the case of land registered with a possessory, qualified or good leasehold title, all rights excepted from the effect of registration;
- l) a perpetual yearly rent (in this section referred to as the superior rent) which is superior to another such rent (in this section referred to as the registered rent) registered as a burden on registered land and which, as between the said registered land and the registered rent, is primarily payable out of the registered rent in exoneration of such land;
- m) the covenants and conditions contained in the deed or other document creating the superior rent, in so far as those covenants and conditions affect such land;
- n) a purchase annuity payable in respect of a cottage which is the subject of a vesting order under the Labourers Act 1936;
- o) restrictions imposed by section 21 of the Labourers Act 1936 on the mortgaging or charging of cottages purchased under that Act;
- p) rights acquired or in course of being acquired under the Statute of Limitations 1957;
- q) burdens to which sections 59 or 73 apply"

4. I am advised that subsection (2) of section 72 of the Registration of Title Act 1964 is as follows:

"(2) Where it is proved to the satisfaction of the Registrar that any land registered or about to be registered is exempt from, or has ceased to be subject to, any estate duty, succession duty, former crown rent, tithe rentcharge, payment in lieu of tithe or tithe rentcharge, land improvement charge, drainage charge or annuity or rentcharge for the repayment of any advance made on account of purchase money as hereinbefore is mentioned, the Registrar may enter on the register notice of the fact"

5. I am advised also that sections 59 and 73 of the Registration of Title Act 1964 are as follows:

"59(1) Nothing in this Act shall affect the provisions of any enactment by which the alienation, assignment, subdivision or subletting of any land is prohibited or in any way restricted.

(2) It shall be the duty of the Registrar to note upon the register in the prescribed manner the prohibitive or restrictive provisions of any such enactment; but such provisions shall be, though not registered, burdens on the land under section 72"

"73(1) A person may be registered as owner of the land with or without all or any of the mines and minerals therein, or as owner of any mines and minerals.

(2) A person registered as owner of land shall not, merely by virtue of such registration, be deemed to be owner of the mines and minerals therein.

- (3) Where a person is registered as owner of land, but the registration does not extend to all the mines and minerals therein, all such powers of working, way leaves or rights of way, rights of water and drainage and other powers, easements, rights and privileges for or incident to or connected with the mining purposes, as are for the time being subsisting over the land, and are not created by express grant or reservation after the first registration of the land, shall be, though not registered, burdens on the land under section 72"

6. I am advised that section 43 of the Gas Act 1976 is as follows:

"43. Section 72 of the Registration of Title Act 1964 is hereby amended by —

a) the insertion after paragraph (h) of Subsection (1) of the following paragraph:

"(hh) any wayleave which is a wayleave to which this section applies;" and

b) the insertion after subsection (3) of the following subsection:

"(4) This section applies to any wayleave on, over or beneath the surface of land which:

- a) pursuant to an agreement in writing is granted to or by The Irish Gas Board, or pursuant to an acquisition order within the meaning of the Gas Act 1976, is granted to that Board, and
- b) is intended to be used, or is used, in providing a pipeline for the transmission of gas, and
- c) in case the wayleave is granted under such an agreement, under the agreement it is to be enforceable against persons deriving title to the land under a party to the agreement".

7. I am advised that section 28 of the Landlord and Tenant (Ground Rents) (No. 2) Act 1978 is as follows:

"28 (1) Where a person having an interest in land acquires the fee simple in the land, all covenants subject to which he held the land, other than a covenant specified in subsection (2), shall thereupon cease to have effect and no new covenant shall be created in conveying the fee simple

(2) In the case of a covenant:

- (a) which protects or enhances the amenities of any land occupied by the immediate lessor of the grantee; or
- (b) which relates to the performance of a duty imposed by statute on any such person; or
- (c) which relates to a right of way over the acquired land or a right of drainage or other right necessary to secure or assist the development of other land;

the covenant shall, notwithstanding anything contained in this Act, continue in full force and effect and shall be enforceable as follows:

- i) in the case of a covenant which does not relate to a right of way, right of drainage or other right aforesaid, by any such person or his personal representatives or successors in title, as if the acquisition had not occurred, and
- ii) in the case of a covenant which does so relate, by any person aggrieved by breach of the covenant.

(3) In any case where the fee simple in land was acquired since the commencement of the Act of 1967 by a person who had an interest in the land, any covenant subject to which the grantee held the land, other than a covenant specified in subsection (2), shall be deemed to have ceased to have effect at the date of the acquisition.

(4) Section 72(1) of the Registration of Title Act 1964 (which relates to burdens that affect land without registration) is hereby amended by the insertion of:

“(r) covenants which continue in force by virtue of section 28 of the Landlord and Tenant (Ground Rents) (No. 2) Act 1978”.

8. I am advised that section 22 of the Gas (Amendment) Act 2000 is as follows:

“22. Section 72 of the Registration of Title Act 1964, is amended by the substitution in subsection (4) (inserted by the Principal Act) of the following paragraph for paragraph (a):

“(a) pursuant to an agreement in writing is granted to or by the Irish Gas Board or a relevant person (within the meaning of section 20 of the Gas (Amendment) Act 2000) or pursuant to an acquisition order within the meaning of the Gas Act 1976, is granted to that Board or such a person, and”.

9. I am advised that section 60 of the Registration of Deeds and Title Act 2006 is as follows:

“60. Section 72 (burdens affecting land without registration) of the Act of 1964 is amended in subsection (1)(i) by the insertion of “(or such other period as may be prescribed)” after “twenty-one years”.

10. I am advised that regulation 38(2)(b) of the European Communities (Internal Market in Natural Gas and Electricity) Regulations 2011 (S.I. No. 630 of 2011) is as follows:

“(b) Without prejudice to the generality of paragraph (1), reference to the “Board” in section 72 (4) of the Registration of Title Act 1964 (No. 16 of 1964) shall be taken to include the ITO.”

11. To the best of my knowledge, information and belief none of the burdens set out in Section 72 of the Registration of Title Act 1964 (as amended), and therein stated to be capable of affecting registered land without registration, and which are not so registered, affect the Property.

12. Before making this Declaration the full effect, meaning and purport of all such burdens was explained to me by my Solicitor and I understood the same.

I make this solemn declaration conscientiously believing the same to be true, for the satisfaction of
and by virtue of the Statutory Declarations Act 1938.

DECLARED before me

.....
(name of commissioner/practising solicitor in capitals)
a commissioner for oaths / practising solicitor*

by
(name of [first] declarant)

at
.....
...

in the City/County
of.....

this day of
20....

Commissioner for Oaths / Practising Solicitor *

*If being declared before another person empowered to take or receive statutory declarations, please refer to Statutory Declarations Act 1938 (as amended) and amend jurat as appropriate.

**If using a form of identification per the Civil Law (Miscellaneous Provisions) Act 2008 (i.e. passport / national identity card / Aliens Passport / refugee travel document / travel document other than refugee travel document) please refer to the Act and insert appropriate jurat clause.

LAND REGISTRY

COUNTY DONEGAL

Part Folio 36728F

STATUTORY DECLARATION

**Eileen Creedon
Chief State Solicitor
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PG/2015/02464**