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STATUTORY INSTRUMENTS

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**1973 No. 1896**

**Land Acquisition and Compensation  
(Northern Ireland) Order 1973**

**PART V**

**COMPULSORY ACQUISITION**

*Assessment of compensation*

*Arts. 45,46 rep. by 1982 NI 9*

**Compensation for disturbance where business carried on by person over sixty**

**47**<sup>F1</sup>.—(1) Where a person is carrying on a trade or business on any land and, in consequence of its compulsory acquisition of the whole of that land is required to give up possession thereof to the acquiring authority, then if—

- (a) on the date on which he gives up possession as aforesaid he has attained the age of sixty; and
- (b) on that date the land is or forms part of a hereditament the annual value of which does not exceed the prescribed amount; and
- (c) that person has not disposed of the goodwill of the whole of the trade or business and gives to the acquiring authority the undertakings mentioned in paragraph (3),

the compensation payable to that person in respect of the compulsory acquisition of his interest in the land or, as the case may be, under section 121 of the Lands Clauses Consolidation Act 1845 shall, so far as attributable to disturbance, be assessed on the assumption that it is not reasonably practicable for that person to carry on the trade or business, or, as the case may be, the part thereof the goodwill of which he has retained, elsewhere than on that land.

(2) In paragraph (1) “the prescribed amount” means the amount which on the date mentioned in that paragraph is the amount set out in<sup>F2</sup> Article 4(1)(b) of the Planning Blight (Compensation) (Northern Ireland) Order 1981] (interests qualifying for protection under planning blight provisions) and “annual value” and “hereditament” have the same meanings as in<sup>F2</sup> Article 2(2) of that Order] taking references to the date of service of a blight notice under<sup>F2</sup> Article 5 of that Order] as references to the date mentioned in paragraph (1).

(3) The undertakings to be given by the person claiming compensation are—

- (a) an undertaking that he will not dispose of the goodwill of the trade or business, or, as the case may be, of the part thereof the goodwill of which he has retained; and
- (b) an undertaking that he will not, within such area and for such time as the acquiring authority may require, directly or indirectly engage in or have any interest in any other trade or business of the same or substantially the same kind as that carried on by him on the land acquired.

(4) If an undertaking given by a person for the purposes of this Article is broken an amount equal to the difference between the compensation paid and the compensation that would have been payable if it had been assessed without regard to the provisions of this Article shall be a debt recoverable summarily by the acquiring authority from that person.

(5) This Article shall apply to a trade or business carried on by two or more persons in partnership as if references to the person by whom it is carried on were references to all the partners and as if the undertakings mentioned in paragraph (3) were required to be given by all the partners.

(6) This Article shall apply to a trade or business carried on by a company—

(a) as if paragraph (1)(a) required—

(i) each shareholder, other than a minority shareholder, to be an individual who has attained the age of sixty on the date there mentioned; and

(ii) each minority shareholder to be an individual who either has attained that age on that date or is the spouse [<sup>F3</sup>or civil partner] of a shareholder who has attained that age on that date; and

(b) as if the undertaking mentioned in paragraph (3)(b) were required to be given both by the company and by each shareholder.

(7) This Article shall apply in relation to any disturbance payment assessed in accordance with Article 38(1)(b) as it applies in relation to the compensation mentioned in paragraph (1), and shall so apply subject to the necessary modifications and as if references to the giving up of possession of land to the acquiring authority in consequence of its compulsory acquisition were references to displacement as mentioned in Article 37.

(8) In paragraph (6) “shareholder” means a person who is beneficially entitled to a share or shares in the company carrying voting rights and “minority shareholder” means a person who is so entitled to less than 50 per cent. of those shares.

**F1** Rep. with saving [1982 NI 9](#)

**F2** [1981 NI 16](#)

**F3** Words in art. 47(6)(a)(ii) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), [131](#) (with regs. 6-9)

### Compensation where occupier is rehoused

**48** <sup>F4</sup>—(1) The amount of compensation payable in respect of the compulsory acquisition of an interest in land shall not be subject to any reduction on account of the fact that the Housing Executive has provided, or undertakes to provide or arrange for the provision of residential accommodation under any statutory provision for the person entitled to the compensation.

*Para. (2) rep. by 1982 NI 9*

(3) Paragraph (1) shall apply in relation to any payment to which a person is entitled under Part IV as it applies in relation to the compensation mentioned in that paragraph taking references to the Housing Executive as references to the authority responsible for making that payment.

**F4** Rep. with saving [1982 NI 9](#)

*Art. 49 rep. by 1982 NI 9*

### *Severance of land*

#### **Vesting order in respect of part of agricultural land**

**50.**—(1) Where a vesting order becomes operative in respect of any agricultural land and any person (whether in occupation or not) having a greater interest in the land than as tenant for a year or from year to year has such an interest in other agricultural land comprised in the same agricultural unit as that to which the vesting order relates, that person (in this Part referred to as “the claimant”) may, within the period of two months beginning with the date on which the vesting order becomes operative, serve on the acquiring authority a notice—

- (a) claiming that the other land is not reasonably capable of being farmed either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
- (b) requiring the acquiring authority to purchase his interest in the whole of the other land.

(2) Where a notice is served under paragraph (1) the claimant shall also, within the period mentioned in that paragraph, serve a copy thereof on any other person who has an interest in the land to which the requirement in the notice relates, but failure to comply with this paragraph shall not invalidate the notice.

(3) Subject to paragraph (4), “other relevant land” in paragraph (1) means—

- (a) land comprised in the same agricultural unit as the land to which the vesting order relates, being land in which the claimant does not have such an interest as is mentioned in that paragraph; and
- (b) land comprised in any other agricultural unit occupied by him on the date of operation of the vesting order, being land in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.

(4) Where the notice of application for, or the notice of intention to make, a vesting order in respect of any of the other agricultural land mentioned in paragraph (1) or in respect of other relevant land as defined in paragraph (3) is first published, then, unless and until the application is withdrawn or refused or, as the case may be, the intention to make the vesting order is abandoned, this Article and Article 51 shall have effect as if that land did not form part of that other agricultural land or did not constitute other relevant land, as the case may be.

(5) This Article is without prejudice to the rights conferred by sections 93 and 94 of the Lands Clauses Consolidation Act 1845 (provisions as to divided land).

#### **Effect of notice under Article 50**

**51.**—(1) If the acquiring authority do not within the period of two months beginning with the date of service of a notice under Article 50 agree in writing to accept the notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal; and on any such reference the Tribunal shall determine whether the claim in the notice is justified and declare the notice valid or invalid.

(2) Where a notice is accepted as, or declared to be, valid under paragraph (1) the acquiring authority shall be deemed—

- (a) to be authorised to acquire compulsorily, under the statutory provision by virtue of which they are empowered to acquire the land in respect of which the vesting order relates, the claimant's interest in the land to which the requirement in the notice relates; and
- (b) at the end of six weeks beginning with the date as mentioned in paragraph (3), to have entered into a contract to purchase the claimant's interest in that land on the date on which the vesting order becomes operative.

(3) A claimant may withdraw a notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the notice has been agreed between the parties or determined by the Lands Tribunal or at any time before the end of six weeks beginning with the date on which the compensation is so agreed or determined; and where a notice is withdrawn by virtue of this paragraph any contract deemed to have been made in consequence thereof shall be deemed not to have been made.

(4) The compensation payable in respect of the acquisition of an interest in land in pursuance of a notice served under Article 50 shall be assessed on the assumptions mentioned in Article 8(2), (3) and (4) as if the claimant's interest in the land to which such notice relates was compulsorily acquired.

(5) Where by virtue of this Article the acquiring authority become, or will become, entitled to a lease of any land but not to the interest of the lessor—

- (a) the authority shall offer to surrender the lease to the lessor on such terms as the authority consider reasonable;
- (b) the question of what terms are reasonable may be referred to the Lands Tribunal by the authority or the lessor and, if at the expiration of three months after the date of the offer mentioned in paragraph (a), the authority and the lessor have not agreed on that question and that question has not been referred to the Tribunal by the lessor, it shall be so referred by the authority;
- (c) if that question is referred to the Tribunal, the lessor shall be deemed to have accepted the surrender of the lease at the expiration of one month after the date of the determination of the Tribunal or on such other date as the Tribunal may direct and to have agreed with the authority on the terms of surrender which the Tribunal has held to be reasonable;

and for the purposes of this paragraph any terms as to surrender contained in the lease shall be disregarded.

(6) Where the lessor refuses to accept any sum payable to him by virtue of paragraph (5), or refuses or fails to make out his title to the satisfaction of the acquiring authority, the authority may pay into court any sum payable to the lessor by virtue of that paragraph; and paragraph 17 of Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall apply to that sum with the necessary modifications.

(7) Where an acquiring authority who become entitled to the lease of any land as mentioned in paragraph (5) are a body incorporated by or under any statutory provision the corporate powers of the authority shall, if they would not otherwise do so, include power to farm that land.

### **Acquisition of part of tenanted agricultural holding**

52.—(1) Where—

- (a) a person is in occupation of an agricultural holding being a person having no greater interest therein than as tenant for a year or from year to year; and
- (b) a vesting order becomes operative in respect of part only of that holding; and
- (c) the acquiring authority require that person to give up possession of that part before the date on which his term or interest therein would apart from the operation of the vesting order have expired;

that person (in this Article referred to as “the claimant”) may, within the period of two months beginning with the date on which he was required to give up possession as aforesaid, serve on the acquiring authority a notice—

- (i) claiming that the remainder of the holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
- (ii) electing to treat the requirement to give up possession as relating to the entire holding.

(2) Where a notice is served under paragraph (1) the claimant shall also, within the period mentioned in that paragraph, serve a copy thereof on the landlord of the holding, but failure to comply with this paragraph shall not invalidate the notice.

(3) Subject to paragraph (4), “other relevant land” in paragraph (1) means—

- (a) land comprised in the same agricultural unit as the agricultural holding; and
- (b) land comprised in any other agricultural unit occupied by the claimant on the date on which he was required to give up possession as mentioned in paragraph (1)(c) being land in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.

(4) Where an acquiring authority have published notice of application for, or intention to make, a vesting order in respect of land in the agricultural holding other than that to which the requirement to give up possession relates or in respect of other relevant land as defined in paragraph (3) then unless and until the application is withdrawn or refused, or, as the case may be, the intention to make the vesting order is abandoned, this Article and Article 53 shall have effect as if that land did not form part of the holding or did not constitute other relevant land as the case may be.

(5) In this Article and Article 53 “agricultural holding” means the aggregate of the agricultural land comprised in a contract of tenancy.

#### **Effect of notice under Article 52**

**53.**—(1) If the acquiring authority do not within the period of two months beginning with the date of service of a notice under Article 52 agree in writing to accept the notice as valid the claimant or the authority may within two months after the end of that period refer it to the Lands Tribunal; and on any such reference the Tribunal shall determine whether the claim in the notice is justified and declare the notice valid or invalid.

(2) Where a notice is accepted as, or declared to be, valid under paragraph (1) then if before the expiration of twelve months after it has been so accepted or declared the claimant has given up possession of every part of the agricultural holding to the acquiring authority—

- (a) the requirement to give up possession shall be deemed to have extended to that part of the holding to which it did not relate; and
- (b) the claimant shall be deemed to have given up possession of that part in pursuance of that requirement on the day before the expiration of the year of the tenancy which is current when the notice is so accepted or declared.

(3) Where the claimant gives up possession of an agricultural holding to the acquiring authority as aforesaid but the authority have not been empowered to acquire the landlord's interest in, or in any of, the part of the holding to which the requirement to give up possession did not relate (“the land not subject to compulsory acquisition”)—

- (a) neither the claimant nor the authority shall be under any liability to the landlord by reason of the claimant giving up possession of the land not subject to compulsory acquisition or the authority taking or being in possession of it;
- (b) immediately after the date on which the authority take possession of the land not subject to compulsory acquisition they shall give up to the landlord, and he shall take, possession of that land;
- (c) the tenancy shall be treated as terminated on the date on which the claimant gives up possession of the holding to the acquiring authority or (if he gives up possession of different parts at different times) gives up possession as aforesaid of the last part but without prejudice to any rights or liabilities of the landlord or the claimant which have accrued before that date;

- (d) any rights of the claimant against, or liabilities of the claimant to, the landlord which arise on or out of the termination of the tenancy by virtue of sub-paragraph ( c ) (whether under the contract of tenancy or any statutory provision or otherwise) shall be rights and liabilities of the authority and any question as to the payment to be made in respect of any such right or liability shall be referred to and determined by the Lands Tribunal;
- (e) any increase in the value of the land not subject to compulsory acquisition which is attributable to the landlord's taking possession of it under sub-paragraph ( b ) shall be deducted from the compensation payable in respect of the acquisition of his interest in the remainder of the holding.

#### **Determination of material detriment where part of house etc., is compulsorily acquired**

**54.** In determining under—

- (a) section 13(3)<sup>F5</sup> of the Local Government and Roads Act (Northern Ireland) 1968 ; or  
*Para. (b) rep. by 1981 NI 16*
- (c) paragraph 10(3) of Schedule 6 to the Local Government Act (Northern Ireland) 1972 or any provision corresponding to that paragraph which is contained in any other statutory provision including (except where otherwise provided) a statutory provision passed after the making of this Order;

whether part of a house, building or factory can be taken without material detriment to the house, building or factory the Lands Tribunal shall take into account not only the effect of the severance but also the use to be made of the part proposed to be acquired and, in a case where the part is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.

<b>F5</b> 1980 NI 11
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*Art. 55 rep. by 1982 NI 9*

**Changes to legislation:**

There are currently no known outstanding effects for the Land Acquisition and Compensation (Northern Ireland) Order 1973, PART V.