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STATUTORY INSTRUMENTS

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**1973 No. 1896**

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

**PART IV**

**PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND**

*Disturbance payments*

**Disturbance payments for persons without compensatable interests**

- 37.—(1) Where a person is displaced from any land in consequence of—
- (a) the acquisition of the land by an authority possessing compulsory acquisition powers;
  - (b) the making or acceptance of a housing order or undertaking in respect of a house on the land;
  - (c) where the land has been previously acquired or appropriated by an authority possessing compulsory acquisition powers and is for the time being held by the authority for the purposes for which it was acquired or appropriated, the carrying out of [<sup>F1</sup> any improvement to a house or building on the land or of] redevelopment on the land;
  - <sup>F1</sup>(d) the carrying out of any improvement to a house or building on the land or of redevelopment on the land by a housing association which has previously acquired the land and at the date of the displacement is registered,]

he shall, subject to the provisions of this Article, be entitled to receive a payment (in this Order referred to as a “disturbance payment”) from—

- <sup>F2</sup>(i) where sub-paragraph ( a ) applies, the acquiring authority;
  - (ii) where sub-paragraph ( b ) applies, the authority who made the order or accepted the undertaking;
  - (iii) where sub-paragraph ( c ) applies, the authority carrying out the improvement or redevelopment; and
  - (iv) where sub-paragraph ( d ) applies, the housing association carrying out the improvement or redevelopment.]
- (2) A person shall not be entitled to a disturbance payment—
- (a) in any case, unless he is in lawful possession of the land from which he is displaced;
  - (b) in a case within paragraph (1)( a ), unless<sup>F3</sup> . . .
    - (i) he has no interest in the land for the acquisition or extinguishment of which he is (or if the acquisition or extinguishment were compulsory would be) entitled to compensation under any other statutory provision,<sup>F3</sup> . . .

*Head (ii) rep. by 1992 NI 15*

*Sub-para. (c) rep. by 1992 NI 15*

<sup>F2</sup>(d) in a case within paragraph (1)( d), unless the displacement occurred on or after 10th November 1976;

<sup>F3</sup> . . .

(3) For the purposes of paragraph (1) a person shall not be treated as displaced in consequence of any such acquisition [<sup>F2</sup> redevelopment or improvement as is mentioned in sub-paragraph ( a), ( c) or ( d)] of that paragraph unless he was in lawful possession of the land—

- (a) in the case of land acquired compulsorily, at the time when the notice of application for, or the notice of intention to make, the vesting order was first published;
- (b) in the case of land acquired under an Act or Measure specifying the land as subject to compulsory acquisition, at the time when the provisions of the Bill for that Act or of the proposed Measure specifying the land were first published;
- (c) in the case of land acquired by agreement, at the time when the agreement was made;

<sup>F4</sup> . . .

<sup>F2</sup>(3A) For the purposes of paragraph (1) a person shall not be treated as displaced in consequence of the acceptance of an undertaking or of the carrying out of any improvement to a house or building unless he is permanently displaced in consequence of the carrying out of the works specified in the undertaking or, as the case may be, of the improvement in question.]

(4) Where a person is displaced from land in circumstances such that, apart from this paragraph, he would be entitled to a disturbance payment from any authority and also to compensation from that authority under [<sup>F5</sup> Article 23 of the Business Tenancies (Northern Ireland) Order 1996] (compensation from landlord where order for new tenancy of business premises precluded on certain grounds) he shall be entitled, at his option, to one or the other but not to both.

(5) Where a person is displaced from land in circumstances such that, apart from this paragraph, he received or would be entitled to receive a disturbance payment from any authority and also a payment from that authority under [<sup>F2</sup> Chapter II of Part V of the Housing (Northern Ireland) Order 1981], section 37 or 38 of the New Towns Act (Northern Ireland) 1965 or Article 60 or 61 of the Planning (Northern Ireland) Order 1972

- (a) in a case where he receives on or before the date of the coming into operation of this Part payment under any of those sections or Articles, he shall not be entitled to a disturbance payment;
- (b) in a case where he has not received on or before that date payment under any of those sections or Articles, he shall be entitled to a disturbance payment but not to any payment under those sections or Articles.

(6) Where—

- (a) a person is displaced from any land as mentioned in paragraph (1); or
- (b) being a person to whom paragraph (3) applies, gives up occupation of a dwelling by arrangement with the Housing Executive or, as the case may be, the acquiring authority;

but in either case is not entitled, as against the authority there mentioned, to a disturbance payment or to compensation for disturbance under any other statutory provision, the authority may, if they think fit, make a payment to him determined in accordance with Article 38(1) to (3).

<sup>F1</sup>(6A) For the purposes of this Article a person shall be deemed to have been displaced from a dwelling in consequence of the making of a housing order in relation thereto if—

- (a) the Housing Executive is satisfied that the dwelling is unfit for human habitation<sup>F3</sup> . . . ; and
- (b) the person vacating the dwelling gives up occupation by arrangement with the Housing Executive.]

(7) A disturbance payment shall carry interest, at such rate as may for the time being be determined by the Ministry of Finance by order under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972 from the date of displacement or, as the case may be, the giving up of occupation until payment.

*Para. (8) rep. by 1977 NI 8*

(9) In this Article “housing order”, “undertaking”, [<sup>F1</sup> “improvement”] and “redevelopment” have the meanings assigned to them by Article 30(9).

(10) This Article applies if the displacement or giving up of occupation is on or after 17th October 1972.

<b>F1</b>	1981 NI 3
<b>F2</b>	1981 NI 3
<b>F3</b>	1992 NI 15
<b>F4</b>	1977 NI 8
<b>F5</b>	1996 NI 5

### **Amount of disturbance payment**

**38.**—(1) The amount of a disturbance payment shall be an amount equal to—

- (a) the reasonable expenses of the person entitled to the payment in removing from the land from which he is displaced; and
- (b) if he was carrying on a trade or business on that land, the loss he will sustain by reason of the disturbance of that trade or business consequent upon his having to quit the land;

subject, where that person is not entitled to or does not receive a home loss payment or any payment corresponding to a home loss payment, to a minimum of 85.

(2) Subject to Article 47(7), in estimating the loss of any person for the purposes of paragraph (1) ( b), regard shall be had to the period for which land occupied by him may reasonably have been expected to be available for the purposes of his trade or business and to the availability of other land suitable for that purpose.

(3) Where the displacement is from a dwelling in respect of which structural modifications have been made for meeting the special needs of a person in need (whether or not the person entitled to the disturbance payment) then, if—

- (a) the Ministry of Health and Social Services has under Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 provided assistance, or
- (b) that Ministry would, if an application had been made, have provided assistance,

for making those modifications, the amount of the disturbance payment shall include an amount equal to any reasonable expenses incurred by the person entitled to the payment in making, in respect of a dwelling to which the person in need removes, comparable modifications which are reasonably required for meeting the special needs of the person in need.

(4) Any dispute as to the amount of a disturbance payment shall be referred to and determined by the Lands Tribunal.

**Changes to legislation:**

There are currently no known outstanding effects for the Land Acquisition and Compensation (Northern Ireland) Order 1973, Cross Heading: Disturbance payments.