
STATUTORY INSTRUMENTS

1978 No. 459

Property (Northern Ireland) Order 1978

PART II

IDENTIFICATION, AND MODIFICATION OR EXTINGUISHMENT, OF CERTAIN IMPEDIMENTS TO THE ENJOYMENT OF LAND

Application and interpretation of Part II

3.—(1) Subject to paragraph (2), the provisions of this Part apply to any of the following impediments to the enjoyment of land (whether the impediment exists at the commencement of those respective provisions or comes into existence thereafter, and whether the land affected by the impediment is registered or unregistered):

- (a) a restriction, whether general or specific, arising—
 - (i) under a covenant, condition or agreement contained or implied in a deed, will or other instrument (but not in a mortgage), or
 - (ii) under a statutory provision of a local or personal character (not including a provision contained in a statutory instrument made or deemed to be made by a government department or a district council);
 - (b) any of the following obligations, not being an obligation imposed under a statutory provision of a public general character, namely—
 - (i) an obligation to execute works or do any thing, or to permit works to be executed or any thing to be done, on the land for the benefit of, or to facilitate the better enjoyment of, other land, or
 - (ii) an obligation to pay, or contribute to, the cost of works to be executed, or any thing to be done, on other land where the execution of those works or the doing of that thing benefits, or facilitates the better enjoyment of, the land or specified land which includes the land;
 - (c) an easement;
 - (d) a profit appurtenant to other land; or
 - (e) a profit in gross.
- (2) Articles 5 and 6(2)(a) do not apply—
- (a) to an impediment created or imposed for naval, military or air force purposes (other than one created or imposed in connection with the use of any land as an aerodrome), so long as the impediment is enforceable by or on behalf of the Crown; or
 - (b) to an impediment created or imposed for civil aviation purposes or in connection with the use of any land as an aerodrome, so long as the impediment is enforceable by or on behalf of the Crown, a district council, a public body or an international authority.
- (3) In any provision of this Part—
- “enjoyment” in relation to land includes its use and development;

“government department” includes a department of the Government of the United Kingdom;

“impediment” means an impediment to which, by virtue of paragraphs (1) and (2), that provision of this Part applies;

“lease” includes a sub-lease;

“mortgage” includes a charge;

“mortgagee” includes a chargee and any person deriving title under the original mortgagee;

“public body” means a body established by or under a statutory provision;

“statutory instrument” means an instrument (as defined by section 1(c) of the Interpretation Act (Northern Ireland) 1954 made under an Act of the Parliament of Northern Ireland or a Measure of the Assembly, an Order in Council having the effect of such an Act or Measure or an Act of the Parliament of the United Kingdom;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 .

(4) Any reference in this Part to a person interested in land includes a person who is contemplating acquiring an estate in the land and a person who has an interest in the proceeds of any future sale of the land.

Changes to legislation:

There are currently no known outstanding effects for the Property (Northern Ireland) Order 1978, Section 3.