Changes to legislation: *The Land Compensation (Northern Ireland) Order 1982 is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1982 No. 712 (N.I. 9)

The Land Compensation (Northern Ireland) Order 1982

- - - - - - *18th May 1982*

PART I N.I.

INTRODUCTORY

Title and commencement N.I.

1.—(1) This Order may be cited as the Land Compensation (Northern Ireland) Order 1982.

(2) This Order shall come into operation on the expiration of one month from the day on which it is made.

Interpretation N.I.

2.—(1) The Interpretation Act (Northern Ireland) 1954[F1] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"acquiring authority", in relation to an interest in land, means the person by whom the interest is, or is proposed to be acquired;

"authority possessing compulsory acquisition powers" means a person with power to acquire an interest in land otherwise than by agreement;

"Housing Executive" means the Northern Ireland Housing Executive;

[F2]"person in need" has the same meaning as in the Health and Personal Social Services (Northern Ireland) Order 1972;

"planning appeals commission" means the planning appeals commission established under **[**[F3]section 203 of the Planning Act (Northern Ireland) 2011**]**;

"statutory provision" has the meaning assigned to it by section 1 *(f)* of the Interpretation Act (Northern Ireland) 1954;

"transferred provision" has the meaning assigned to it by section 1 *(g)* of the Interpretation Act (Northern Ireland) 1954.

(3) For the purposes of section 42 of the Northern Ireland Constitution Act 1973[F4] (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

F1 1954 c. 33 (NI)
F2 1972NI 14
F3 Words in art. 2(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 39** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))
F4 1973 c. 36.

PART II N.I.

DETERMINATION OF QUESTIONS OF DISPUTED COMPENSATION

Tribunal for assessing compensation in respect of land compulsorily acquired N.I.

3. Where by or under any statute (whether passed or made before or after the making of this Order) land is authorised to be acquired compulsorily,—

(a) any question of disputed compensation; and

(b) where any part of the land to be acquired is subject to a lease which comprises land not acquired, any question as to the apportionment of the rent payable under the lease;

shall be referred to and determined by the Lands Tribunal.

Procedure on references under Article 3 N.I.

4.—(1) The following provisions shall have effect with respect to any proceedings on a question referred to the Lands Tribunal under Article 3.

(2) The Lands Tribunal shall sit in public.

(3) Not more than one expert witness on either side shall be heard unless the Lands Tribunal otherwise directs; except that, where the claim includes a claim for compensation in respect of minerals, or disturbance of business, as well as in respect of land, one additional expert witness on either side on the value of the minerals or, as the case may be, on the damage suffered by reason of the disturbance may be allowed.

(4) A member of the Lands Tribunal shall be entitled to enter on and inspect any land which is the subject of the proceedings.

(5) The Lands Tribunal shall, on the application of either party, specify the amount awarded in respect of any particular matter the subject of the award.

(6) It shall not be necessary for a member of the Lands Tribunal to make any declaration before entering into the consideration of any matter which is the subject of the proceedings.

Modifications etc. (not altering text)

C1 Art. 4 applied (with modifications) (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **242(3)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)
C2 Art. 4 applied (9.10.2006) by Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2006 (S.R. 2006/356), regs. 1(1), 35, **Sch. 8 para. 5(3)** (with reg. 3)
C3 Art. 4 applied (with modifications) (1.2.2007) by Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 (S.R. 2006/482), regs. 1, 22(4), **Sch. 2 para. 6(3)**
C4 Art. 4 applied (with modifications) (19.5.2008) by Waste Management Licences (Consultation and Compensation) Regulations (Northern Ireland) 2008 (S.R. 2008/160), **reg. 8(4)**

C5 Art. 4 applied (with modifications) (24.7.2009) by Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009 (S.R. 2009/252), reg. 25(2), **Sch. 5 para. 7(2)**

C6 Art. 4 applied (with modifications) (6.1.2013) by The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012 (S.R. 2012/453), reg. 1, Sch. 6 para. 7(4) (with reg. 5, Sch. 3)

C7 Art. 4 applied (with modifications) (20.6.2013) by The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (S.R. 2013/160), reg. 1, **Sch. 6 para. 7(4)** (with reg. 5, Sch. 3)

Costs N.I.

[F5]**5.**—(1) Where either—

(a) the acquiring authority has made an unconditional offer in writing of any sum as compensation to any claimant and the sum awarded by the Lands Tribunal to that claimant does not exceed the sum offered; or

(b) the Lands Tribunal is satisfied that a claimant has failed to deliver to the acquiring authority, in time to enable it to make a proper offer, a notice in writing of the amount claimed by him containing the particulars mentioned in paragraph (2);

the Lands Tribunal shall, unless for special reasons it thinks proper not to do so, order the claimant to bear his own costs and to pay the costs of the acquiring authority so far as such costs were incurred after the offer was made or, as the case may be, after the time when in the opinion of the Lands Tribunal the notice should have been delivered.

(2) The notice mentioned in paragraph (1) shall—

(a) state the exact nature of the interest in respect of which compensation is claimed; and

(b) give details of the compensation claimed by—

(i) distinguishing the amounts under separate heads, and

(ii) showing how the amount claimed under each head is calculated.

(3) Where a claimant has delivered a notice as required by paragraph (1) *(b)* the acquiring authority may, at any time within six weeks after the delivery of it, withdraw any notice to treat which has been served on the claimant or on any other person interested in the land authorised to be acquired, but shall be liable to pay compensation to any such claimant or other person for any loss or expenses occasioned by the notice to treat having been given to him and withdrawn, and the amount of such compensation shall, in default of agreement, be determined by the Lands Tribunal.

(4) Where a claimant has delivered a notice as required by paragraph (1) *(b)* and has made an unconditional offer in writing to accept any sum as compensation then, if the sum awarded to him by the Lands Tribunal is equal to or exceeds that sum, the Lands Tribunal shall, unless for special reasons it thinks proper not to do so, order the acquiring authority to bear its own costs and to pay the costs of the claimant so far as such costs were incurred after his offer was made.

(5) The Lands Tribunal may in any case disallow the cost of counsel.

(6) Where the Lands Tribunal orders the claimant to pay the costs, or any part of the costs, of the acquiring authority, the acquiring authority may deduct the amount so payable by the claimant from the amount of the compensation payable to him.

(7) Without prejudice to any other method of recovery, the amount of costs ordered to be paid by a claimant, or such part of it as is not covered by the deduction mentioned in paragraph (6), shall be a debt recoverable summarily by the acquiring authority from the claimant.

F5 mod. by 1983 NI 18

Modifications etc. (not altering text)

C8 Art. 5 applied (with modifications) (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **242(3)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

C9 Art. 5 applied (9.10.2006) by Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2006 (S.R. 2006/356), regs. 1(1), 35, **Sch. 8 para. 5(3)** (with reg. 3)

C10 Art. 5 applied (with modifications) (1.2.2007) by Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 (S.R. 2006/482), regs. 1, 22(4), **Sch. 2 para. 6(3)**

C11 Art. 5 applied (with modifications) (19.5.2008) by Waste Management Licences (Consultation and Compensation) Regulations (Northern Ireland) 2008 (S.R. 2008/160), **reg. 8(4)**

C12 Art. 5 applied (with modifications) (24.7.2009) by Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009 (S.R. 2009/252), reg. 25(2), **Sch. 5 para. 7(2)**

C13 Art. 5 applied (with modifications) (6.1.2013) by The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012 (S.R. 2012/453), reg. 1, Sch. 6 para. 7(4) (with reg. 5, Sch. 3)

C14 Art. 5 applied (with modifications) (20.6.2013) by The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (S.R. 2013/160), reg. 1, **Sch. 6 para. 7(4)** (with reg. 5, Sch. 3)

PART III N.I.

PROVISIONS DETERMINING AMOUNT OF COMPENSATION

General provisions

Rules for assessing compensation N.I.

6.—(1) Compensation in respect of any compulsory acquisition of land shall, subject to the provisions of this Order and any other enactment, be assessed in accordance with the following rules:—

(1) No allowance shall be made on account of the acquisition being compulsory:

(2) The value of land shall, subject to rules 3 to 6, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise:

(3) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any authority possessing compulsory acquisition powers:

(4) Where the value of the land is increased by reason of the use of it or of any premises on it in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the occupants of the premises or to the public health, the amount of that increase shall not be taken into account:

(5) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, where reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement:

(6) The provisions of rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land.

(2) In assessing compensation to be paid in respect of the compulsory acquisition of any land no account shall be taken—

(a) of any depreciation in the value of the land which is attributable to the fact that (whether by way of designation, allocation or other particulars contained in any scheme or plan or by any other means) an indication has been given that the land is, or is likely to be, acquired by an authority possessing compulsory acquisition powers;

(b) of any increase or diminution in the value of the land which is attributable to the carrying out, or the prospect of the carrying out, of so much of any development on the land or on other land which has been, or is being or is proposed to be acquired (whether compulsorily or other wise) for the purposes of the same scheme or project of development for which the land is being or has been acquired, as would not have been likely to have been, or to be, carried out if the acquiring authority had not acquired or did not propose to acquire that land or that other land;

(c) in a case where the land forms part of an area designated as the site of a new town by an order under the New Towns Act (Northern Ireland) 1965[F6], of any increase or diminution in the value of the land which is attributable to the carrying out, of so much of any development on the land or on other land in that area in the course of the development of that area as a new town, as would not have been likely to have been, or to be, carried out if the area had not been so designated;

(d) **[**[F7]in a case where, on the date on which the vesting order is made, the land is subject to a tenancy, of any increase or diminution in the value of the land which is attributable to, or to the prospect of, the tenant giving up possession in consequence of being provided with other accommodation under Article 40(1)(a) of the 1973 Order (duty to rehouse residential occupiers where land acquired by authority possessing compulsory acquisition powers);**]**

(e) 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.

[[F7](3) In this Article—

(a) "development" in paragraph (2)(b) and (c) includes any building operations or rebuilding operations and any use of the land or any building upon the land for a purpose which is different from the purpose for which the land or building was last being used;

(b) the reference in paragraph (2)(d) to land being subject to a tenancy on the date on which the vesting order is made includes a reference to land which would have been subject to a tenancy on that date if the tenant had not given up occupation of a dwelling as mentioned in Article 30(3) of the 1973 Order (deemed displacement in consequence of compulsory acquisition of interest in dwelling where, in certain circumstances, person displaced gives up occupation by arrangement); and

(c) " the 1973 Order" in paragraph (2)(d) and this paragraph means the Land Acquisition and Compensation (Northern Ireland) Order 1973.**]**

F6 1965 c. 13 (NI)
F7 1997 NI 8

Modifications etc. (not altering text)

C15 Art. 6 applied (with modifications) (1.2.2007) by Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 (S.R. 2006/482), regs. 1(1), 22(4), **Sch. 2 para. 5(1)**

C16 Art. 6 applied (with modifications) (19.5.2008) by Waste Management Licences (Consultation and Compensation) Regulations (Northern Ireland) 2008 (S.R. 2008/160), **reg. 7(2)**

C17 Art. 6 applied (with modifications) (24.7.2009) by Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009 (S.R. 2009/252), reg. 25(2), **Sch. 5 para. 6**

C18 Art. 6 applied (with modifications) (6.1.2013) by The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012 (S.R. 2012/453), reg. 1, **Sch. 6 para. 6** (with reg. 5, Sch. 3)

C19 Art. 6 applied (with modifications) (20.6.2013) by The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (S.R. 2013/160), reg. 1, **Sch. 6 para. 6(2)** (with reg. 5, Sch. 3)

C20 Art. 6(1) rules (2)-(4) applied by 2003 c. 21, Sch. 3A para. 84(3)(c) (as inserted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), **Sch. 1** (with Sch. 2); S.I. 2017/1286, reg. 2(b))

C21 Art. 6(1) rules (2)-(4) applied (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **242(7)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

C22 Art. 6(1) rules (2)-(4) applied (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **242(7)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

C23 Art. 6(1) rules (2)-(4) applied (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **242(7)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Compensation on compulsory acquisition of listed buildings N.I.

7.—(1) In assessing compensation to be paid in respect of the compulsory acquisition of any land including a building which, before the date of the order vesting the land, was a listed building, it shall be assumed that listed building consent would be granted for any works for the alteration or extension of the building, or for its demolition.

(2) In paragraph (1) "listed building" and "listed building consent" have the same meanings as in the **[**[F8]Planning Act (Northern Ireland) 2011**]** .

F8 Words in art. 7(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 40** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

Compensation for severance or injurious affection where part of claimant's lands is acquired N.I.

8.—(1) In assessing compensation to be paid to any person in respect of the compulsory acquisition of any land, regard shall be had not only to the value of the land acquired but also to the damage, if any, sustained or which may be sustained by that person by reason of the severing of the land from other lands of that person held with that land, or otherwise injuriously affecting such other lands by the exercise of powers conferred on the acquiring authority by any transferred provision.

(2) Where land is acquired or taken from any person for the purpose of works which are to be situated partly on that land and partly elsewhere, compensation payable under paragraph (1) for injurious affecting of land retained by that person shall be assessed by reference to the whole of the works and not only the part situated on the land acquired or taken from him.

(3) Where for the purpose of assessing the amount of any compensation to be paid under this Article the value of any land is required to be determined, that value shall, except in so far as any transferred provision (whether passed before or made or after the making of this Order) otherwise provides, be determined in accordance with rules (2) to (4) of Article 6.

(4) Paragraph (2) shall apply to compensation for injurious affection under section 63 or 121 of the Lands Clauses Consolidation Act 1845[F9] as it applies to compensation under paragraph (1).

F9 1845 c. 18.

Outstanding right to planning compensation N.I.

9. Where in consequence of a decision, determination or order under the enactments relating to planning any person is entitled to, but has not received, compensation for depreciation in the value of an estate or interest in any land (in this Article referred to as "planning compensation"), the compensation to be paid to that person in respect of any compulsory acquisition of that land subsequent to the decision, determination or order shall be assessed as if the planning compensation had been paid to him.

Special cases

Compensation for acquisition of dwelling specially adapted for person in need N.I.

10. The compensation to be paid to a person in respect of any compulsory acquisition of an interest in a dwelling which—

(a) has been constructed or substantially modified to meet the special needs of a person in need; and

(b) is occupied by such a person as his residence immediately before the date when the acquiring authority take possession of the dwelling or was last so occupied before that date;

shall, if that person so elects, be assessed as if the dwelling were land which is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose.

Compensation for disturbance where business carried on by person over sixty N.I.

11.—(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 of the land to the acquiring authority, then if—

(a) on the date on which he gives up possession 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 to be paid 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 of the goodwill of that trade or business 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 Article 4 (1) *(b)* of the Planning Blight (Compensation) (Northern Ireland) Order 1981[F10] (interests qualifying for protection under planning blight provisions) and "annual value" and "hereditament" have the same meanings as in Article 2 (2) of that Order taking references to the date of service of a blight notice under 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 of the goodwill of that trade or business 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 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) 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.

F10 1981 NI 16

Assumptions as to planning permission

General as to assumptions relating to planning permission N.I.

12.—(1) For the purpose of assessing the compensation in respect of any compulsory acquisition of any land, such one or more of the assumptions mentioned in Article 13 as are applicable to the land or any part of it shall be made in ascertaining the value of the interest to be acquired.

(2) Any planning permission which is to be assumed in accordance with Article 13, is in addition to any planning permission which may be in force at the date on which the vesting order becomes operative.

(3) Nothing in this Part shall be construed as requiring it to be assumed that planning permission would necessarily be refused for any development which is not development for which, in accordance with this Part, the granting of planning permission is to be assumed; but in determining whether planning permission for any development could in any particular circumstances reasonably have been expected to be granted in respect of land, regard shall be had to any contrary opinion expressed in relation to that land in any certificate issued under Articles 15 and 17.

(4) For the purposes of any reference in this Article or Article 13 to planning permission which is in force on the date of acquisition, it is immaterial whether the planning permission in question was granted—

(a) unconditionally or subject to conditions, or

(b) in respect of the land in question taken by itself or in respect of an area including that land,

and for those purposes where development is permitted by an interim development order, that order shall be taken to be planning permission for that development.

Modifications etc. (not altering text)

C24 Art. 12 modified (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), **ss. 196(7)**, 254(1), (2) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

Assumptions as to grant of planning permission N.I.

13.—(1) In a case where—

(a) the interest is to be compulsorily acquired for purposes which involve the carrying out of proposals of the acquiring authority for development of the land in which the interest subsists or part of it, and

(b) on the date on which the vesting order becomes operative there is not in force planning permission for that development,

it shall be assumed that planning permission would be granted in respect of that land or that part of it, as the case may be, such as would permit development of it in accordance with the proposals of the acquiring authority.

(2) It shall be assumed that planning permission would be granted in respect of that land or any part of it, for development of any class specified in Schedule 1 to the Land Development Values (Compensation) Act (Northern Ireland) 1965[F11] (development not constituting new development).

(3) Where a certificate is issued under Article 15 or 17, it shall be assumed that any planning permission which, according to the certificate might reasonably have been expected to be granted in respect of that land or part of it would be so granted, but, where any conditions are, in accordance with those Articles, specified in the certificate, only subject to those conditions and, if any future time is so specified, only at that time.

F11 1965 c. 23 (NI)

Modifications etc. (not altering text)

C25 Art. 13 modified (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), **ss. 196(7)**, 254(1), (2) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

Special assumptions deriving from development plans N.I.

14.—(1) If the land in which the interest to be compulsorily acquired subsists or any part of it (not being land in a proposed redevelopment area or in the area of a proposed development scheme) consists or forms part of an area shown in the **[**[F12]local development plan**]** as an area allocated primarily for a use specified in the plan in relation to that area, it shall be assumed that planning permission would be granted in respect of that land or that part of it, as the case may be, for any development which—

(a) is development for the purposes of that use of that land or that part of it; and

(b) is development for which planning permission might reasonably have been expected to be granted in respect of that land or that part of it as the case may be.

(2) If that land or any part of it (not being land in a proposed redevelopment area or in the area of a proposed development scheme) consists or forms part of an area shown in the **[**[F12]local development plan**]** as an area allocated primarily for a range of two or more uses specified in the plan in relation to the whole of that area, it shall be assumed that planning permission would be granted, in respect of that land or that part of it, as the case may be, for any development which—

(a) is development for the purposes of a use of that land or that part of it, being a use falling within that range of uses; and

(b) is development for which planning permission might reasonably have been expected to be granted in respect of that land or that part of it as the case may be.

F12 Words in art. 14 substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 41** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

PART IV N.I.

CERTIFICATION OF ALTERNATIVE DEVELOPMENT VALUE

Certificate of alternative development value N.I.

15.—(1) Where an interest in land is proposed to be acquired by an authority possessing compulsory acquisition powers and that land or part of it is in a proposed redevelopment area or in the area of a proposed development scheme or does not consist or form part of an area—

(a) which that authority propose to develop for residential, commercial, or industrial use or for a range of two or more uses any of which is residential, commercial or industrial; or

(b) indicated in the **[**[F13]local development plan**]** for a use which is primarily residential, commercial or industrial or for a range of two or more uses any of which is residential, commercial or industrial;

then, subject to paragraph (2), either of the parties directly concerned may apply to the **[**[F14]council within whose district the land is situated**]** for a certificate under this Article.

(2) If in the case of an interest in land falling within paragraph (1), the acquiring authority have purchased it or have been granted or have made a vesting order in respect of it, and a reference has been made to the Lands Tribunal to determine the amount of the compensation payable in respect of that interest, no application for a certificate under this Article shall be made by the person entitled to the interest or the acquiring authority after the date of that reference except either—

(a) with the consent in writing of the other of those parties, or

(b) with the leave of the Lands Tribunal.

(3) An application under this Article made by either of those parties—

(a) shall specify one or more classes of development appearing to the applicant to be classes of development which would be appropriate for the land in question if it were not proposed to be acquired by an authority possessing compulsory acquisition powers; and

(b) shall be accompanied by a statement specifying the date on which a copy of the application has or will be served upon the other of those parties.

(4) Where an application is made to the **[**[F15]council**]** for a certificate under this Article in respect of an interest in the land, that **[**[F16]council**]** shall, not earlier than twenty-one days after the date specified in the statement mentioned in paragraph (3) *(b)*, issue to the applicant a certificate stating either of

the following to be the opinion of that **[**[F16]council**]** regarding the planning permission that might have been expected to be granted in respect of the land in question, if it were not proposed to be acquired by an authority possessing compulsory acquisition powers—

(a) that planning permission for development of one or more classes specified in the certificate (whether specified in the application or not) might reasonably have been expected to be granted; or

(b) that planning permission could not reasonably have been expected to be granted for any development other than the development, if any, which is proposed to be carried out by the authority by whom the interest is proposed to be acquired.

(5) Where, in the opinion of the **[**[F17]council **]**planning permission might reasonably have been expected to be granted as mentioned in paragraph (4) *(a)* but would only have been granted subject to conditions, or at a future time, or both subject to conditions and at a future time, the certificate shall specify those conditions or that future time or both as the case may be, in addition to the other matters required to be contained in the certificate.

(6) Where an application for a certificate under this Article relates to land of which part (but not the whole) consists or forms part of such an area as mentioned in paragraph (1) *(a)* or *(b)*, any certificate issued under this Article in pursuance of that application shall be limited to so much of that land as does not fall within any such area.

(7) In determining, for the purposes of the issue of a certificate under this Article, whether planning permission for any particular class of development might reasonably have been expected to be granted in respect of any land, the **[**[F18]council**]** shall not treat development of that class as development for which planning permission would have been refused by reason only that it would have involved development of the land in question (or of that land together with other land) otherwise than in accordance with the provisions of the **[**[F13]local development plan**]** relating to the land.

(8) On issuing to one of the parties directly concerned a certificate under this Article in respect of an interest in land, the **[**[F19]council **]** shall serve a copy of the certificate on the other of those parties.

(9) For the purpose of this Article an interest in land shall be taken to be an interest proposed to be acquired by an authority possessing compulsory acquisition powers—

(a) where an application for the making of a vesting order in respect of that interest has been made under any statutory provision; or

(b) where an offer in writing has been made by or on behalf of the authority to negotiate for the purchase of that interest; or

(c) where a notice requiring the purchase of that interest has been served under any statutory provision and under that statutory provision there is deemed to be a contract to sell the interest to the authority.

(10) In this Article "the parties directly concerned" in relation to an interest in land means the person entitled to the interest and the authority by whom it is proposed to be acquired.

F13 Words in art. 15 substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 41** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

F14 Words in art. 15(1) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 42** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

F15 Words in art. 15(4) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 44** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

F16 Words in art. 15(4) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 43** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

F17 Words in art. 15(5) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 44** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

F18 Words in art. 15(7) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 44** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

F19 Words in art. 15(8) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 44** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

Appeal against certificate under Article 15 N.I.

16.—(1) Where the **[**[F20]council **]** has issued a certificate under Article 15 in respect of an interest in land—

(a) the person for the time being entitled to that interest; or

(b) the authority possessing compulsory acquisition powers by whom that interest is proposed to be acquired;

may appeal to the planning appeals commission against that certificate.

(2) On any appeal under this Article against a certificate, the planning appeals commission shall consider the matters to which the certificate relates as if the application for the certificate had been made to it in the first instance, and shall either confirm the certificate or vary it or cancel it and issue a different certificate in its place, as the commission may consider appropriate.

(3) Before determining any appeal under this Article the commission shall, if any such person or authority as is mentioned in paragraph (1) *(a)* or *(b)* so desires, afford to each such person or authority and to the **[**[F20]council **]** an opportunity of appearing before and being heard by the commission.

F20 Words in art. 16 substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 44** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

Applications and notices of appeal N.I.

17.—(1) The Department of the Environment may by regulations made subject to negative resolution make provision with respect to the manner in which applications under Article 15 are to be made and dealt with.

[[F21](2) Regulations under paragraph (1) may include provisions—

(a) as to the manner in which notices of appeals are to be given and the time for giving any such notice; and

(b) requiring councils to furnish the Department of the Environment and such other persons (if any) as may be prescribed by the regulations, with such information as may be so prescribed with respect to applications under Article 15.”**]**

F21 Art. 17(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 45** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

PART V N.I.

COMPENSATION FOR INJURIOUS AFFECTION CAUSED BY EXECUTION OF WORKS

Compensation for injurious affection caused by execution of works N.I.

18.—(1) Where, by reason of the execution of works on land acquired (whether compulsorily or otherwise) by an authority possessing compulsory acquisition powers, and other land is injuriously affected, the authority shall, subject to any provision to the contrary in any transferred provision and subject to and in accordance with the following provisions of this Article, pay compensation in respect of the injurious affection.

(2) Compensation in respect of injurious affection shall not be paid under this Article to any person from whom any land has been acquired by the acquiring authority for the purpose of executing the works and to whom any compensation is payable under Article 8 by the authority in respect of that injurious affection.

(3) Compensation shall be paid under this Article only in respect of injurious affection which would, but for the provisions of the transferred provision authorising the execution of the works, have given rise to a right of action for damages against any person causing the injurious affection.

(4) In assessing compensation to be paid under this Article, regard shall be had to any benefit which the person entitled to the compensation may derive from any works carried out or to be carried out on the land acquired by the authority.

(5) Where the authority undertakes before the compensation to be paid under this Article is agreed upon or determined, to make alterations or additions or to construct additional works or to abandon part of the land acquired or to grant other lands or easements, the compensation shall be determined having regard to such undertaking.

(6) Where for the purpose of assessing the amount of any compensation to be paid under this Article the value of any land is required to be determined, that value shall, except in so far as any other transferred provision (whether passed or made before or after the making of this Order) otherwise provides, be determined in accordance with rules (2) to (4) of Article 6.

(7) Compensation under this Article shall carry interest, at such rate as may for the time being be determined by the Department of Finance by order under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972[F22], from the date of the claim until payment.

F22 1972 c. 9 (NI)

Modifications etc. (not altering text)

C26 Art. 18 applied by 2003 c. 21, Sch. 3A para. 85(5) (as inserted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), **Sch. 1** (with Sch. 2); S.I. 2017/1286, reg. 2(b))

PART VI N.I.

MISCELLANEOUS AND GENERAL

Right to advance payment of compensation N.I.

19.—(1) Where a vesting order has become operative the acquiring authority shall, if a request in that behalf is made in accordance with paragraph (2), make an advance payment on account of the compensation payable by them for the compulsory acquisition of any interest in that land.

(2) Any request under this Article shall be made by the person entitled to the compensation (in this Article referred to as "the claimant"), shall be in writing, shall give particulars of the claimant's interest in the land and shall be accompanied or supplemented by such other particulars as the acquiring authority may reasonably require to enable it to estimate the amount of the compensation in respect of which the advance payment is to be made.

(3) Subject to paragraph (6), the amount of any advance payment under this Article shall be equal to 90 per cent of the following amount, that is to say—

(a) if the acquiring authority and the claimant have agreed on the amount of the compensation, the agreed amount;

(b) in any other case, an amount equal to the compensation as estimated by the acquiring authority.

(4) Any advance payment under this Article shall be made not later than three months after the date on which a request for the payment is made in accordance with paragraph (2).

(5) Where an advance payment is made on the basis of an estimate under paragraph (3) *(b)* and the amount of that payment exceeds the compensation as finally determined or agreed, the excesses shall be repaid; and if after an advance payment has been made to any person it is discovered that he was not entitled to it the amount of the payment shall be a debt recoverable summarily by the acquiring authority from the claimant.

(6) No advance payment shall be made on account of compensation payable in respect of any land which is subject to a mortgage the principal of which exceeds 90 per cent of the amount mentioned in paragraph (3); and where the land is subject to a mortgage the principal of which does not exceed 90 per cent of that amount, the advance payment shall be reduced by such sum as the acquiring authority considers will be required by it for securing the release of the interest of the mortgagee.

(7) Any advance payment on account of compensation in respect of an interest which is settled land for the purposes of the Settled Land Acts 1882 to 1890 shall be made to the persons entitled to give a discharge for capital money and shall be treated as capital money arising under those Acts.

Certification of value N.I.

20. The Lands Tribunal may on the application of any person certify the value of land being sold by him to an authority possessing compulsory acquisition powers and the sale of the land to that authority at the price so certified shall be deemed to be a sale at the best price that can reasonably be obtained.

Effect of Order on certain existing enactments N.I.

21. The provisions of any enactment passed before 19th August 1919 by which land is authorised to be acquired shall, in relation to the matters dealt with in this Order, have effect subject to this Order, and so far as inconsistent with this Order those provisions shall not have effect.

Application to the Crown N.I.

22. This Order applies in relation to the acquisition of interests in land (whether compulsorily or by agreement) by government departments being authorities possessing compulsory acquisition powers, as it applies in relation to the acquisition of interests in land by such authorities who are not government departments.

Savings, consequential amendments and repeals N.I.

23.—(1) Schedule 1 (which contains saving provisions) shall have effect.

Para.(2)—Amendments

Para.(3)—Repeals

SCHEDULES

SCHEDULE 1 N.I.

Article 23 (1).

Savings

1.—(1) Nothing in this Order shall apply to any purchase of the whole or any part of any statutory undertaking under any enactment in that behalf prescribing the terms on which the purchase is to be effected.

(2) In this paragraph "statutory undertaking" means an undertaking established by an enactment.

2. Nothing in Article 6 (2) *(c)* shall affect the compensation payable in respect of land compulsorily acquired before 15th June 1971 if the amount of that compensation—

(a) has been agreed between the person entitled to the compensation and the person liable to pay it; or

(b) has been determined by the Lands Tribunal.

3. Nothing in Article 6 (2) *(d)* or *(e)*, 8 (2) or (4), 10 or 11 shall affect any compensation which fell or falls to be assessed by reference to prices current on a date before 17th October 1972.

4 [F23]**.** Nothing in this Order shall apply in relation to any compensation payable in respect of the acquisition of land for purposes for which the Parliament of Northern Ireland had not power to make laws.

F23 mod. by SI 1994/570

5. Nothing in this Schedule prejudices the operation of sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954.

N.I.

Schedule 2—Amendments

N.I.

Schedule 3—Repeals

Changes to legislation:
The Land Compensation (Northern Ireland) Order 1982 is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:
Whole provisions yet to be inserted into this Order (including any effects on those provisions):

– art. 6(2)-(4) applied (by S.I. 1996/725 (N.I.), art. 18B 18C (as inserted)) by 2022 c. 46 s. 64(2)