
STATUTORY INSTRUMENTS

1995 No. 1625

**Historic Monuments and Archaeological
Objects (Northern Ireland) Order 1995**

PART II

HISTORIC MONUMENTS

Protection of scheduled monuments

Compensation for refusal of scheduled monument consent

9.—(1) Subject to the following provisions of this Article, where a person who has an estate in the whole or any part of a monument incurs expenditure or otherwise sustains any loss or damage in consequence of the refusal, or the granting subject to conditions, of a scheduled monument consent in relation to any works of a description mentioned in paragraph (2), the Department shall pay to that person compensation in respect of that expenditure, loss or damage.

References in this Article and in Article 10 to compensation being paid in respect of any works are references to compensation being paid in respect of any expenditure incurred or other loss or damage sustained in consequence of the refusal, or the granting subject to conditions, of a scheduled monument consent in relation to those works.

- (2) The following are works in respect of which compensation is payable under this Article—
- (a) works which are reasonably necessary for carrying out any development for which planning permission had been granted (otherwise than by a general development order) before the time when the monument in question became a scheduled monument and was still effective at the date of the application for scheduled monument consent;
 - (b) works which do not constitute development, or constitute development such that planning permission is granted therefor by a general development order; and
 - (c) works which are reasonably necessary for the continuation of any use of the monument for any purpose for which it was in use immediately before the date of the application for scheduled monument consent.

For the purposes of sub-paragraph (c), any use in contravention of any legal restrictions for the time being applying to the use of the monument shall be disregarded.

(3) The compensation payable under this Article in respect of any works within paragraph (2) (a) shall be limited to compensation in respect of any expenditure incurred or other loss or damage sustained by virtue of the fact that, in consequence of the Department's decision, any development for which the planning permission in question was granted could not be carried out without contravening Article 4(1).

(4) A person shall not be entitled to compensation under this Article by virtue of paragraph (2) (b) if the works in question or any of them would or might result in the total or partial demolition or destruction of the monument.

(5) In a case where scheduled monument consent is granted subject to conditions, a person shall not be entitled to compensation under this Article by virtue of paragraph (2)(c) unless compliance with those conditions would in effect make it impossible to use the monument for the purpose there mentioned.

(6) In calculating, for the purposes of this Article, the amount of any loss or damage consisting of depreciation of the value of an estate in land—

- (a) it shall be assumed that any subsequent application for scheduled monument consent in relation to works of a like description would be determined in the same way; but
- (b) if, in the case of a refusal of scheduled monument consent, the Department, on refusing that consent, undertook to grant such consent for some other works affecting the monument in the event of an application being made in that behalf, regard shall be had to that undertaking.

(7) Sections 32 and 33 of the Land Development Values (Compensation) Act (Northern Ireland) 1965⁽¹⁾ shall, subject to any necessary modifications, have effect in relation to any compensation payable under this Article in respect of any loss or damage consisting of depreciation of the value of an estate in land as they have effect in relation to compensation payable under Part III of that Act.

(8) In this Article “development” and “planning permission” have the same meanings as in the Planning (Northern Ireland) Order 1991⁽²⁾ and “general development order” means an order made as mentioned in Article 13(3)(a) of that Order.

(1) 1965 c. 23 (N.I.)
(2) 1991 NI 11