Land Development Values (Compensation) Act (Northern Ireland) 1965

1965 CHAPTER 23

PART II [F1]

[F1]COMPENSATION FOR PLANNING DECISIONS RESTRICTING NEW DEVELOPMENT

ATTRIBUTION OF DEVELOPMENT VALUE TO LAND

8 [F1]Interpretation (Part II).

(1) In this Part any reference to the development value of land is, subject to the following provisions of this Part, a reference to the value which is determined to be the development value of the land under Part I.

(2) For the purposes of this Part, land shall be taken to have a development value if, and only if, either—
   (a) the land consists of a valued area and of no other land; or
   (b) the land consists of part of a valued area and of no other land.

(3) For the purposes of this Part, the development value of part of a valued area shall be so much of the amount of the development value of the land which forms that area as might reasonably have been attributed to that part if the Ministry had been required to apportion it between that part and the residue of the valued area in accordance with sections 1 to 3, but so that the aggregate of the development values of all the parts of a valued area shall equal the development value of that area.

Subs. (3A) inserted by 1972 NI 17 art. 96 which was rep. by 1973 NI 21

(4) In this section …[F2] "valued area" means any land in respect of which, in pursuance of a Part I application, a development value is determined to exist.

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Changes to legislation: *There are currently no known outstanding effects for the Land Development Values (Compensation) Act (Northern Ireland) 1965. (See end of Document for details)*

F1 rep. with saving by 2001 c. 2 (NI)
F2 1973 NI 21

9 [F3]Reduction or extinguishment of development value following planning compensation.

(1) Where at any time any such compensation as is mentioned in subsection (2) has been paid or becomes payable, then, for the purpose of determining whether the land in question or any part thereof has or had a balance of development value at any subsequent time—

(a) the amount of the compensation shall be deducted from the development value of that land; and

(b) the development value of that land or that part thereof shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

(2) The said compensation is either—

(a) any compensation under the Act of 1944 in relation to—

(i) a planning decision given on an application for planning permission for new development made after 25th February 1963; or

(ii) a planning decision given after the passing of this Act on an application for planning permission for new development made before 26th February 1963; or

(b) any compensation under this Part.

(3) Subsection (1) shall have effect subject to the provisions of this Act relating to the recovery of compensation on subsequent development.

F3 rep. with saving by 2001 c. 2 (NI)

10 [F4]Reduction or extinguishment of development value on initiation of new development.

(1) Where any land has a development value and any new development of that land to which this section applies, is or was initiated, then for the purpose of determining whether that land or any part thereof has or had a balance of development value at any subsequent time:—

(a) if the development relates or related only to that land the value (ascertained in accordance with Schedule 3) of that development; or

(b) if the development relates or related to that land together with other land, so much of the value (so ascertained) of that development as is or was attributable to that land;

shall be deducted from the development value of that land, and that value shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

(2) This section applies to new development other than—

(a) development which, when determining the state of the land for the purposes of section 3, was taken to have been completed at the date of the passing of this Act;

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(b) development initiated in pursuance of a planning decision given (whether with or without conditions) before the passing of this Act on an application for planning permission made before 26th February 1963.

(3) Where, under subsection (1), it becomes necessary to determine whether any land had a balance of development value by reference to a date occurring before the passing of this Act, for the references in subsection (2) to the passing of this Act there shall be substituted references to that date.

F4 rep. with saving by 2001 c. 2 (NI)

11 [F5]Reduction or extinguishment of development value following severance or injurious affection.

(1) Where—

(a) at any time after the passing of this Act, any land is acquired by or sold to a public body; and

(b) compensation is or was payable, or an amount is or was included in the purchase price, in respect of a compensatable estate in land other than the acquired land for damage sustained by reason that the acquired land is or was severed from other land held therewith, or that any other land (whether held with the acquired land or not) is or was injuriously affected;

then for the purpose of determining whether that other land or any part thereof has a balance of development value at any subsequent time, there shall be deducted from the development value of that other land an amount calculated in accordance with subsection (2) and the development value of that land, or of the part thereof in question, as the case may be, shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

(2) The amount required under subsection (1) to be deducted shall be the amount, if any, by which the compensation payable, or amount included in the purchase price as therein mentioned exceeds or exceeded the compensation which would have been so payable or the amount which would have been so included, if the extent of the damage sustained in respect of the other land in question had fallen to be ascertained on the assumption that planning permission would not be granted for any new development of that land, but would be granted for any development thereof other than new development.

(3) In this section "the acquired land" , in relation to an acquisition or sale, means the land acquired or sold.

F5 rep. with saving by 2001 c. 2 (NI)

12 [F6]Supplementary provisions as to deductions from development value.

(1) Where—

(a) any land taken as a whole has a development value; and

(b) an act or event occurs or has occurred in relation to part of that land such that, in accordance with any of the preceding provisions of this Part, an amount is required to be deducted from the development value of that part of that

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land for the purpose of determining whether that part has or had a balance of development value at any subsequent time;

then (without prejudice to the operation of any of the preceding provisions of this Part with respect to any part of the land taken separately) the land taken as a whole shall be treated as not having (or as not having had) any such balance at that subsequent time.

(2) Where in accordance with any of the preceding provisions of this Part an amount is required to be deducted from the development value of any land, there shall be attributed to the various parts of that land so much of that amount as might reasonably be expected to have been attributed thereto if the authority determining the amount had been required to apportion it between those parts in accordance with the same principles as applied to its determination.

(3) Where two or more acts or events occur or have occurred in relation to the same land such that in accordance with any of the preceding provisions of this Part, an amount is required to be deducted from the development value of that land or any part thereof—

(a) those provisions shall apply cumulatively; and

(b) the requisite deduction from the development value of that land or that part shall be made by reference to each of those acts or events.

F6 rep. with saving by 2001 c. 2 (NI)

13 [F7]Information relating to development value.

(1) Subject to subsections (2) to (9), the Ministry shall, on application being made to it by any person, and may if it thinks fit without any such application issue a certificate in the prescribed form with respect to any land—

(a) stating whether any of that land has a development value;

(b) if it has, specifying the amount of the development value;

(c) giving a general statement of what was taken to be the state of the land for the purposes of Part I and specifying any planning decision which, under section 3(4), affected the development value of that land.

(2) Any such certificate issued with respect to any land shall contain additional information with respect to acts or events (being acts or events of which the Ministry is aware) which are or may be relevant for the purpose of determining the balance of the development value of that land under this Part.

(3) Nothing in subsection (1) shall be construed as entitling any person to the issue of a certificate under this section unless and until the development value, if any, of any land to which the application relates has been determined in accordance with Part I.

(4) Where the issue of a certificate under this section with respect to any land involves a new apportionment, then—

(a) except where the certificate is a certificate which the Ministry proposes to issue without an application in that behalf, the certificate shall not be issued otherwise than on the application of a person who is for the time being entitled to an estate in the land;

(b) before issuing the certificate, the Ministry shall serve a notice in writing on any person entitled to an estate in land appearing to it to be an estate which will be substantially affected by the apportionment—

(i) giving particulars of the proposed apportionment; and

(ii) stating that objections or other representations with respect thereto may be made to the Ministry within the period of thirty days from the date of the notice; and

(c) the certificate shall not be issued before the end of that period, and if within that period an objection to the proposed apportionment has been made by any person to whom notice has been given under paragraph (*b*), or by any other person who establishes that he is entitled to an estate in land which is substantially affected by the apportionment, and that objection has not been withdrawn, subsection (5) shall have effect.

(5) Where, by virtue of subsection (4)(*c*) this subsection has effect, then—

(a) if within a further period of thirty days the person by whom any such objection was made requires the matter to be referred to the Lands Tribunal, the matter shall be so referred, and the certificate shall not be issued until either the Tribunal has decided the matter or the reference to the Tribunal has been withdrawn;

(b) the certificate may be issued before the end of that further period if every such objection has been withdrawn;

(c) the certificate shall be issued at the end of that further period notwithstanding that every such objection has not been withdrawn, if a requirement has not been made within that period under paragraph (*a*).

(6) Where, on a reference to the Lands Tribunal under this section, it is shown—

(a) that a new apportionment relates partly to the same matters as a previous apportionment; and

(b) that the new apportionment is consistent with the previous apportionment in so far as it relates to those matters;

the Tribunal shall not vary the new apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.

(7) A certificate under this section shall be sufficient proof of any facts stated therein unless the contrary is shown.

(8) An application for a certificate under this section—

(a) shall be made in such form and manner as may be prescribed; and

(b) shall be accompanied by sufficient particulars, including a map if necessary, to enable the land to be identified, and, where a new apportionment will be involved—

(i) particulars of the nature of the applicant's estate; and

(ii) such information as to the nature of any other estate in the land, and as to the name and address of the person entitled to that other estate, as may be known to the applicant.

(9) On any application under subsection (1)—

(a) the applicant shall pay in the prescribed manner a fee of [[F8] 25p]; and

(b) if the application involves a new apportionment the certificate shall not be issued until the applicant has paid in the prescribed manner a further fee of [[F8] 75p].

(10) In this section "new apportionment" means an apportionment which relates wholly or partly to any matter to which no previous apportionment related.

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F7 rep. with saving by 2001 c. 2 (NI)
F8 1969 c. 19

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