



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

1965 CHAPTER 23

PART III

COMPENSATION FOR OTHER PLANNING RESTRICTIONS

^{F1}26 **Compensation where planning permission is revoked or modified.**

(1) ^{F2} Where any planning permission is revoked or modified by an order under [^{F3}section 68 or 72 of the Planning Act] then, if on a claim duly made to the Ministry in accordance with this section, it is shown that a person interested in the land to which the permission related—

- (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or
- (b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification;

the Ministry shall pay to him compensation in respect of that expenditure, loss or damage unless compensation under the Act of 1944 has been paid or is payable in respect of the order in question.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to subsection (2), compensation shall not be paid under this section in respect of—

- (a) any work carried out before the grant of the permission which is revoked or modified; or
- (b) any other loss or damage (not being loss or damage consisting of depreciation of the value of a compensatable estate in any land) arising out of anything done or omitted to be done before the grant of that permission.

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- (4) Where an order under [^{F4}section 68 or 72 of the Planning Act] revokes or modifies any planning permission granted for the carrying out of any new development, then in calculating, for the purposes of this section, the amount of any loss or damage consisting of depreciation of the value of a compensatable estate in any land, it shall be assumed that planning permission would not be granted for any new development of the land but would be granted for any development other than new development.
- (5) Where an order under [^{F5}section 68 or 72 of the Planning Act] revokes or modifies any planning permission granted for the carrying out of any development other than new development, the amount of compensation for depreciation payable under this section shall be the amount of compensation which would be payable under section 29 if subsections (3) and (7) of that section were omitted and the order were such a planning decision as is mentioned in section 29(1) which, in the case of an order revoking any permission, refused planning permission to carry out the development in question, or, in the case of an order modifying any permission, granted planning permission to carry out the development in question subject to the like conditions as are specified in the order.
- (6) Section 20(2) shall have effect in relation to a claim for compensation under this section as it has effect in relation to a claim for compensation under Part II and section 22 shall have effect in relation to a claim for compensation for depreciation (within the meaning of section 27) as it has effect in relation to a claim for compensation under Part II, and in particular those provisions shall have effect as if for any reference to the date of a planning decision there were substituted a reference to the date of an order under [^{F6}section 68 or 72 of the Planning Act] made after 25th February 1963.
- (7) The Ministry may make regulations under this section as to the manner in which any claims for compensation under this section must be made.
- [^{F7}(8) Claims under this section shall be made to and paid by the council which made the order in question or, where the order was made by the Department under section 72 of the Planning Act, the council which is treated as having made it under that section.]

F1 1978 NI 18; Mod., 1972 NI 17

F2 1972 NI 17

F3 Words in s. 26(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. 4 para. 4](#) (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 Words in s. 26(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. 4 para. 4](#) (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)

F5 Words in s. 26(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. 4 para. 4](#) (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)

F6 Words in s. 26(6) 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. 4 para. 4](#) (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)

F7 S. 26(8) inserted (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. 4 para. 5](#) (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)

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Modifications etc. (not altering text)

- C1** S. 26 applied (with modifications) (1.4.2015) by [The Planning \(Control of Advertisements\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/66\)](#), regs. 1, **17(1)**
- C2** S. 26(1)-(6) certain functions transferred (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. 179(2)(a), 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)

^{F8}27 Registration and apportionment of compensation for depreciation.

- (1) Where compensation payable under section 26 includes compensation for depreciation of an amount exceeding fifty pounds, the Ministry may, if it appears to it to be practicable to do so—
- (a) apportion the amount of the compensation for depreciation between different parts of the land to which the claim for that compensation relates; and
 - (b) give particulars of any such apportionment to the claimant and to every other person, if any, entitled to an estate in the land which appears to the Ministry to be substantially affected by the apportionment.
- (2) In making an apportionment under subsection (1) the Ministry—
- (a) shall divide the land into parts; and
 - (b) shall distribute the compensation between those parts, according to the manner in which the different parts appear to the Ministry to be differently affected by the order in respect of which the compensation for depreciation is payable.
- (3) Section 23, and any regulations made by virtue thereof, shall have effect with respect to any apportionment under subsection (1)^{F9}
- (4) On a reference to the Lands Tribunal by virtue of subsection (3), subsections (1) and (2), so far as they relate to the making of an apportionment, shall apply as if for the references in those subsections to the Ministry there were substituted references to the Lands Tribunal.
- (5) Section 24 shall, subject to subsection (6), have effect with respect to compensation for depreciation payable under section 26 as it has effect with respect to compensation payable under Part II, [^{F10}with the substitution—
- (a) for references to a planning decision, of references to the order under section 68 or 72 of the Planning Act in consequence of which the compensation for depreciation is payable;
 - (b) for paragraph (a) of subsection (1) of the following paragraph—
 - (a) the council must serve on—
 - (i) any person making a claim in relation to the compensation; and
 - (ii) the Department,

a notice in the prescribed form containing particulars of the payment and, if an apportionment has been made under section 21, of that apportionment;]
- (6) Where any compensation for depreciation under section 26 specified in a notice registered under section 24(2) (as applied by subsection (5)) became payable in respect of an order modifying planning permission, any development carried out in

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accordance with that permission as so modified shall not be deemed to constitute relevant development within the meaning of section 24.

- (7) In this section^{F9}. . . “compensation for depreciation” means so much of any compensation payable under section 26 as is payable in respect of loss or damage consisting of depreciation of the value of a compensatable estate in land attributable to an order revoking or modifying any planning permission granted for the carrying out of any new development.

F8 1972 NI 17

F9 2001 c. 2 (NI)

F10 Words in s. 27(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. 4 para. 6](#) (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](#))

Modifications etc. (not altering text)

C3 S. 27 applied (with modifications) (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. 181\(4\), 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](#))

C4 S. 27 certain functions transferred (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. 179\(2\)\(b\), 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](#))

S. 28 rep. by 2001 c. 2 (NI)

29^{F12} **F11 Compensation for planning decisions restricting development other than new development.**

- (1) This section shall, subject to^{F13} subsections (2A), (3) and (3A)], have effect in relation to any planning decision given in pursuance of an application made after 25th February 1963 whereby permission to carry out any development of a class specified in Schedule 1 is refused or is granted subject to conditions.
- (2) If on a claim duly made to the Ministry, it is shown that the value of a compensatable estate in the land which is the subject of the planning decision in question, is less than it would have been if the permission had been granted, or had been granted unconditionally, as the case may be, compensation of an amount equal to the difference shall be payable under this section unless compensation under the Act of 1944 has been paid or is payable in respect of the planning decision in question.

^{F13}(2A) Compensation shall not be payable under this section in relation to such a planning decision as is mentioned in subsection (1) whereby permission to carry out any development of a class specified in paragraphs 1 to 3 of Schedule 1 in relation to a building is refused if by virtue of any other previous planning permission it remains a condition of such planning permission (however expressed) that the building be demolished or cease to be used as a dwelling house.]

- (3) Compensation shall not be payable under this section in relation to such a planning decision as is mentioned in subsection (1) whereby permission to use as two or more separate dwelling houses a building which at a material date (as defined in Schedule 1) was used as a single dwelling house is refused or granted subject to conditions unless it appears that the lower value of the compensatable estate in the land to which the planning decision relates (as calculated for the purposes of subsection (2)), is

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not reasonable having regard to the value of any other comparable dwelling houses situated in the area in which the building in question is situated.

[^{F13}(3A) Compensation shall not be payable under this section on more than one occasion in relation to any estate in land.]

(4) Any dispute under subsection (3) as to whether a vendor would receive a reasonable price for a building in the circumstances mentioned in that subsection shall be referred to the Lands Tribunal for determination.

(5) In determining, for the purposes of subsection (2), whether or to what extent the value of a compensatable estate in land is less than it would have been if the permission had been granted, or had been granted unconditionally—

(a) it shall be assumed that any subsequent application for the like planning permission would be determined in the same way; but

(b) if, in the case of a refusal of planning permission, the Ministry undertook to grant planning permission for some other development of the land in the event of an application being made in that behalf, regard shall be had to that undertaking.

(6) Where planning permission to carry out any such development as is mentioned in subsection (1) is granted subject to conditions for regulating the design or external appearance of buildings, or the size or height of buildings, those conditions shall be disregarded in assessing the compensation, if any, payable under this section.

^{F14}(6A) Section 24 shall have effect with respect to compensation payable under this section as it has effect with respect to compensation payable under Part II, except that the definition of “relevant development” shall have effect as if for the words “any new development” there were substituted the words “any development of a class specified in Schedule 1” .]

Subs. (7)(8) rep. by 1972 NI 17

(9) Sections 20(2) and 22 shall have effect for the purposes of a claim for compensation under this section as they have effect for the purposes of a claim under Part II.

(10) The Ministry may make regulations under this section as to the manner in which any claims for compensation under this section must be made.

F11 rep. with saving by [2001 c. 2 \(NI\)](#)

F12 [1972 NI 17](#)

F13 [1982 NI 20](#)

F14 [1972 NI 17](#)

[^{F15} 30 **Public bodies in relation to compensation under section 26.**

Where a public body are entitled to a compensatable estate in any land, compensation under section 26 shall not be payable to that body in respect of an order under [^{F16}section 68 or 72 of the Planning Act] whereby any planning permission is revoked or modified unless the order is in respect of any land specified in any regulations under section 4 or land of a class or description so specified.]

F15 [2001 c. 2 \(NI\)](#)

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F16 Words in s. 30 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. 4 para. 4](#) (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)

Modifications etc. (not altering text)

C5 S. 30 applied (with modifications) (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. 181\(4\)](#), 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)

^{F17}31 Reference of disputes under Part III to the Lands Tribunal.

Any question of disputed compensation under this Part shall be referred to and determined by the Lands Tribunal.

F17 1969 c. 48; 1972 c. 5 (NI); 1972 NI 17

Modifications etc. (not altering text)

C6 S. 31 applied (with modifications) (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. 181\(4\)](#), 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)

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