

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

1965 CHAPTER 23

PART IV

MISCELLANEOUS PROVISIONS

S. 32 rep. by 2001 c. 2 (NI)

33^{F1} **Calculation of value.**

(1)^{F2} In calculating the value of a compensatable estate in and for^{F3} the purposes of section 26]

- (a) subject to subsection (2), rules (2) to (4) of the rules set out in^{F4} Article 6(1) of the Land Compensation (Northern Ireland) Order 1982] shall, so far as applicable have effect as they have effect for the purpose of assessing compensation for the compulsory purchase of land; and
- (b) if a compensatable estate to be valued is mortgaged, it shall be treated as if the mortgage had been discharged.

Subs. (2) rep. by 2001 c. 2 (NI)

(3) Where, for the purposes of^{F3} section 26]

- (a) value falls to be calculated by reference to the duration of a tenancy; and
- (b) by reason of any option or other contractual right with respect to the determination, renewal or continuance of the tenancy the date of expiry of the tenancy is not ascertainable with certainty;

that date shall be taken to be such as appears reasonable and probable having regard to the interests of the party by whom the option is exercisable, or in whose favour the right operates, and to any other material considerations subsisting at the time when the calculation of value falls to be made.

Status: Point in time view as at 01/01/2006.

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

F2	1972 c. 5 (NI)
F3	2001 c. 2 (NI)
F4	1982 NI 9

Ss. 34#36 rep. by 1972 NI 17

37^{F5} Application of s.24 to compensation payable otherwise than under Part II.

- (1) Section 24 shall have effect in relation to any compensation to which this section applies in like manner as it has effect in relation to compensation payable under Part II with the substitution for the reference in subsection (1)(a) to any person who claims any part of compensation exceeding fifty pounds which becomes payable under Part II of a reference to any person who is entitled to an estate in the land in question, being a person who appears to the Ministry to be substantially affected by the registration of a notice under that section as applied by this section.
- (2) This section applies to any compensation which has been paid or is payable under section 6(4) of the Act of 1944 after 25th February 1963 in relation to the refusal or grant subject to conditions of planning permission for any new development or the revocation or modification by an order under section 3 of the Act of 1944 of planning permission for any new development.
- (3) Where section 24 has effect in relation to any compensation to which this section applies, any person who is entitled to an estate in any relevant land may, if he has acquired that estate in the land after the date of the decision or order in respect of which the compensation in question has been paid or is payable but before the date of passing of this Act, make an application to the Ministry claiming—
 - (a) that the consideration which he furnished in order to acquire his estate or the obligations which he has incurred by virtue of acquiring the estate, are greater than they might reasonably be expected to have been if the notice had been registered in the Statutory Charges Register before the date on which he entered into the contract to acquire that estate; or
 - (b) if he has not furnished any consideration in order to acquire his estate, that any consideration furnished after the date of that decision or order by any person from whom he derived his estate is greater than it might reasonably be expected to have been if the notice had been registered in the Statutory Charges Register before the date on which the person from whom his estate is derived entered into the contract to acquire the estate from which the claimant derives his estate.
- (4) Where a person makes an application to the Ministry under subsection (3), the Ministry shall consider the matters referred to in the application, and may if it thinks fit either cancel the notice or serve on him a notice specifying therein such lesser amount as the Ministry considers to be appropriate in lieu of the amount specified in the first notice, and section 24 shall, subject to any necessary modifications, have effect in relation to any notice served under this subsection as it has effect in relation to a notice served under that section.
- (5) Where any dispute arises under subsection (4) as to the cancellation or service of a notice, it shall be referred to the Lands Tribunal for determination.

Subs. (6) rep. by 2001 c. 2 (NI)

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- (7) In this section “relevant land” means any land in respect of which a notice is served under section 24 as applied by this section.

F5 1972 NI 17

Ss. 38, 39 rep. by 2001 c. 2 (NI)

40 Powers of entry.

- (1) Any person duly authorised in writing by the Ministry may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim^{F6} . . . for compensation under this Act.
- (2)^{F7} Subject to subsections (3) to (8), the power conferred by subsection (1) to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein.
- (3)^{F7} A person authorised under subsection (1) to enter upon any land—
- (a) shall, if so required, produce evidence of his authority before so entering; and
 - (b) shall not demand admission as of right to any land which is occupied unless three days' notice of the intended entry has been given to the occupier.
- (4)^{F7} Any person who wilfully obstructs a person acting in the exercise of his powers under subsection (1) shall be liable on summary conviction to a fine not exceeding^{F8} level 2 on the standard scale].
- (5)^{F7} If any person who, in compliance with subsection (1), is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of performing his duty in connection with the survey or estimate for which he was authorised to enter the premises, be liable on summary conviction to a fine not exceeding^{F8} level 3 on the standard scale] or to imprisonment for a term not exceeding three months.
- (6) Where any land is damaged in the exercise of a right of entry conferred under subsection (1), or in the making of any survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the land from the Ministry.
- (7) Any question of disputed compensation recoverable under subsection (6) shall be referred to and determined by the Lands Tribunal.
- (8)^{F7} Where, under subsection (1) a person proposes to carry out any works authorised by virtue of subsection (2), he shall not carry out those works unless notice of his intention to do so was included in the notice required by subsection (3)(b).

F6 2001 c. 2 (NI)

F7 1969 c. 48

F8 1984 NI 3

Status: Point in time view as at 01/01/2006.

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41 Regulations, etc.

- (1) The Ministry may make regulations for prescribing anything which, under this Act is authorised or required to be prescribed.
- (2) Any regulations made under this Act shall be subject to negative resolution.

42 Expenses.

- (1) Any expenses incurred by the Ministry under this Act shall, subject to subsection (2), be defrayed either out of moneys provided by Parliament or, if the Ministry of Finance so directs, by means of sums charged on and issued out of the Consolidated Fund.
- (2) The aggregate of the sums charged on and issued out of the Consolidated Fund under subsection (1) shall not, unless and until Parliament otherwise determines, exceed [^{F9} four million six hundred thousand pounds].
- (3) The Ministry of Finance may borrow money for the purpose of providing money for issues out of the Consolidated Fund under subsection (1).
- (4) Any money borrowed under subsection (3) shall be repaid within any period or periods not exceeding twenty-five years from the date of borrowing, and provision for such repayment may be made out of moneys provided by Parliament.

F9 1974 c. 2 (NI)

43 Interpretation.

- (1) In this Act—

Definition rep. by 1972 NI 17

“the Act of 1944” means the Planning (Interim Development) Act (Northern Ireland) 1944 ;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

Definitions rep. by 2001 c. 2 (NI)

“clearing”, in relation to land, means the removal of buildings or materials from the land or the levelling of the surface of the land;

“compensatable estate” means—

- a legal fee simple absolute; or
- a tenancy;

but does not include a legal fee simple absolute to which a person is entitled as a mortgagee, and section 45(2) of the Interpretation Act (Northern Ireland) 1954 shall not apply for the purposes of this Act;

“erection” in relation to buildings includes extension, alteration and re-erection;

“estate” means—

- a legal or equitable life estate;
- a legal or equitable fee tail;
- a legal or equitable fee simple absolute;

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a tenancy; or
an equity of redemption in relation to a mortgage of any of the above estates;

but does not include a legal or equitable life estate, fee tail or fee simple absolute to which a person is entitled as a mortgagee;

“land” means any corporeal hereditament, including a building, and accordingly section 45(1) of the Interpretation Act (Northern Ireland) 1954 shall not apply for the purposes of this Act;

“the Lands Tribunal” means the Lands Tribunal for Northern Ireland;

[^{F10} “local authority” means a district council;]

“minerals” includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working, except that it does not include turf cut for purposes other than sale;

“the Ministry” means the Ministry of Development^{F11};

“mortgage” includes (without prejudice to subsection (8)) any charge or lien on any property for securing money or money's worth;

“new development” means development which is not of a class specified in Schedule 1;

[^{F12} “the Order of 1972” means the Planning (Northern Ireland) Order 1972 ;]

“Part II compensation” means any compensation payable under Part II;

“Part III compensation” means any compensation payable under section 26^{F13} . . . ;

Definition rep. by 1972 NI 17

“planning decision” means a decision given on an interim development application [^{F12} or an application under Part IV of the [^{F14} Planning Order]];]

[^{F14} “the Planning Order” means the Planning (Northern Ireland) Order 1991;]

“possession” includes the receipt of rents and profits, or the right to receive them;

“prescribed” means prescribed by regulations under this Act;

“public body” means one of the following, that is to say:—

an authority all the members of which are appointed or elected by one or more local authorities;

a department of the Government of Northern Ireland;

an industrial training board established under section 1 of the Industrial Training Act (Northern Ireland) 1964 ;

a local authority;

...

^{F15}[^{F16} a new town commission established under the New Towns Act (Northern Ireland) 1965 ;]

the Northern Ireland Fire Authority^{F17};

the Northern Ireland General Health Services Board^{F18};

the Northern Ireland Hospitals Authority^{F18};

[^{F16} the Northern Ireland Housing Executive;]

the Northern Ireland Housing Trust^{F19};

the Northern Ireland Training Executive;

the Northern Ireland Youth Employment Service Board^{F20};

[^{F16} the Police Authority for Northern Ireland;]

the Trustees of the Ulster Folk Museum^{F21};

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the Trustees of the Ulster Museum;

“settlement” has the same meaning as in the Settled Land Acts 1882 to 1890 and accordingly section 2(2) of the Settled Land Act 1882 has effect for the purposes of this Act as it has effect for the purposes of that Act;

“statutory provision” has the same meaning as in the Interpretation Act (Northern Ireland) 1954 ;

“tenancy” includes a tenancy created by an agreement for a lease and a tenancy created under any enactment but does not include—

(a) a mortgage term; or

(b) a tenancy for a year (or any shorter term) or from year to year (or any other periodic tenancy having reference to any period less than a year);
or

(c) a tenancy at will;

“trustee” includes an implied or constructive trustee and a personal representative;

“trustees of the settlement” means the trustees of a settlement for the purposes of the Settled Land Acts 1882 to 1890;

“war damage” has the same meaning as in the War Damage Act 1943 ;

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- ...
- (2) Where under this Act any statutory provision (including any section or other division of this Act) is applied for any of the purposes of this Act, that statutory provision shall be construed so that its application for those purposes is grammatical and effective.
- (3) For the purposes of this Act—
- (a) where a compensatable estate in any land is mortgaged; and
- (b) but for this subsection, any person entitled to an equity of redemption in relation to that compensatable estate would not be entitled to a compensatable estate in that land;
- that person shall be taken to be entitled to the compensatable estate in the land to which he would be entitled if he redeemed the mortgage.
- (4) For the purposes of this Act, where a compensatable estate in land is vested in any beneficiaries under a settlement, the interests vested in the beneficiaries shall be taken to constitute the compensatable estate which would exist if those interests were vested in one person and constituted one interest; and the beneficiaries shall^{F13} . . . be taken to be entitled to that interest.
- (5) Any reference in this Act to a contract is a reference to a contract in writing, or a contract of which a memorandum or note thereof in writing has been made and signed by the parties thereto or by some other person or persons authorised by them in that behalf, and, in relation to a compensatable estate in land conveyed or assigned without a preliminary contract, is a reference to the conveyance or assignment; and any reference to the making of a contract is a reference to the signing thereof or (if it was not in writing) to the signing of the memorandum or note thereof.
- (6) Where—
- (a) under any provision of this Act, a document or notice is required to be served on a person entitled to an estate in any land; and
- (b) it is not practicable, after reasonable inquiry, to ascertain the name or address of any such person;

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that document or notice shall be taken to have been duly served if it is addressed to that person by his name, if known to the Ministry, or if his name is not so known, if it is addressed to “all persons entitled to an estate” in the land (describing it) and in either case by delivering the document or notice to some responsible person on the land or, if there is no such person on the land to whom it may be delivered, by affixing the document or notice or a copy thereof so addressed to a conspicuous object on the land.

- (7) Where under any provision of this Act the value of an estate in any land is required to be assessed on the assumption that planning permission would be granted for development other than new development that assumption shall be made on the footing that any such development must comply with the provisions of any statutory provision, other than the Planning Acts (Northern Ireland) 1931^{F23} and 1944^{F23}, which would be applicable thereto.
- (8) In the application of this Act to registered land in respect of which a charge for the payment of a principal sum has been created under section 40^{F24} of the Local Registration of Title (Ireland) Act 1891
- (a) any reference to a mortgage shall be construed as a reference to the charge;
 - (b) any reference to a mortgagee shall be construed as a reference to the registered owner of the charge.

F10	1978 NI 18
F11	Functions transf.SRO (NI) 1973/504; 1976 NI 6
F12	1972 NI 17
F13	2001 c. 2 (NI)
F14	1991 NI 11
F15	1966 c. 28 (NI)
F16	1971 c. 23 (NI)
F17	1973 NI 9
F18	1972 NI 14
F19	SR 1971/307
F20	1974 NI 7
F21	1973 NI 7; 1981 NI 14
F22	1972 NI 17
F23	1972 NI 17
F24	1970 c. 18 (NI)

S. 44 spent

S. 45, with Schedule 5, effects repeals

46 Short title.

- (1) This Act may be cited as the Land Development Values (Compensation) Act (Northern Ireland) 1965.

Subs.(2) rep. by 1972 NI 17

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

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