Status: *Point in time view as at 18/04/2011.*
Changes to legislation: *There are currently no known outstanding effects for the Land Registration Act (Northern Ireland) 1970. (See end of Document for details)*

SCHEDULES

SCHEDULE 9

COMPENSATION PAYABLE UNDER THE ACT

RIGHT TO COMPENSATION

1 (1) Subject to paragraphs 2, 3, 4, and 5, compensation shall be payable to any person who has sustained any loss by reason of—

(a) the rectification of**[**[F1] the register**]** pursuant to section 69; or

(b) an error in, or omission from,**[**[F1] the register**][**[F1] whether or**]** not rectified pursuant to section 69; or

[[F1](bb) the loss or destruction by the Land Registry of any document lodged at the Registry for the purpose of inspection, registration or safe keeping, other than a document destroyed in accordance with Land Registry Rules;**]**

(c) an error in a certificate issued as a result of an official search made pursuant to Land Registry Rules; or

(d) a copying error made in a certified copy of, or a certified extract from,**[**[F1] the register**]** or**[**[F1] a**]** document, where the copy or extract is provided in accordance with Land Registry Rules.

[[F1](e) an error in or omission from a filed copy of, or an error in a filed extract from, a document referred to in the title register, where the error or omission was made in preparing the copy or the error was made in preparing the extract.**]**

(2) A person deriving title from a person to whom compensation is payable under sub-paragraph (1) shall be entitled to such compensation in the place of the person from whom he so derived title.

F1 1992 NI 7

2 Subject to paragraphs 3, 4 and 5, the owner of any land claiming in good faith under a forged disposition shall, where**[**[F2] the register**]** is rectified, be deemed, for the purposes of paragraph 1(1)(a), to have suffered loss by reason of such rectification.

F2 1992 NI 7

3 Compensation shall not be payable—

[[F3](a) where the claimant has himself or by his agent caused or substantially contributed to the loss by his act or omission; or

(aa) where the claimant himself or by his agent contributed to the loss by his fraudulent act or fraudulent omission; or

(ab) where the claimant derives title (otherwise than under a registered disposition taken by him in good faith and for valuable consideration) from a person to whom sub-paragraph (a) or (aa) applies; or

(ac) where the error or omission which gave rise to the loss was occasioned by an error in or omission from an assent or transfer in the prescribed form on the correctness of which the Registrar is required to rely in pursuance of paragraph 6A of Schedule 4 or Land Registry Rules;**]**

(b) by reason of a purchaser acquiring any interest under a registered disposition from a body corporate referred to in section 58 free from any such incumbrances as are mentioned in that section which are not registered or protected as required by that section.

F3 1992 NI 7

[[F4]3A Where lack of proper care on the part of the claimant or his agent has contributed to the loss, the amount of compensation to which the claimant would have been entitled had he or his agent not so contributed to the loss shall be reduced to such extent as is just having regard to his or his agent's responsibility for the loss.**]**

F4 1992 NI 7

4 (1) Subject to **[**[F5] sub-paragraph (2) and paragraph 4A**]**, a claim for compensation shall not be entertained after the expiration of six years from the time when the right to compensation accrued unless—

(a) on the expiration of that period, the claimant was under any legal disability; and

(b) the claim is made within two years from the termination of the disability.

[[F6](2) For the purposes of sub-paragraph (1), a right to compensation shall be deemed to accrue—

(a) where the right to compensation arises from the rectification of**[**[F7] the register**]** pursuant to section 69 and the claim, or part thereof, is made by virtue of paragraph 5, on the date on which the claimant discovers the error or omission or could with reasonable diligence have discovered it;

(b) in any other case where the right to compensation arises from the rectification of**[**[F7] the register**]** pursuant to section 69, on the date on which the order for rectification is made under that section;

(c) where the right to compensation arises from an error in, or omission from**[**[F7] the register**]** which is not rectified pursuant to section 69, on the date on which the claimant discovers the error or omission or could with reasonable diligence have discovered it;

[[F7](cc) where the right to compensation arises from the loss or destruction of a document or an error in, or omission from, a filed copy of, or an error in a filed extract from, a document referred to in the title register, on the date on which the claimant discovers the loss, destruction, error or omission or could with reasonable diligence have discovered it.**]**

(d) in regard to an error in a certificate referred to in paragraph 1(1)(c) or in a certified copy or extract referred to in paragraph 1(1)(d) on the date on which the claimant discovers the error or could with reasonable diligence have discovered it.

(3) A person deriving title (otherwise than for valuable consideration and in good faith) from another shall be deemed for the purposes of sub-paragraph (2)(a) (c)**[**[F7], (cc)**]** and (d) to have discovered an**[**[F7] error, omission, loss or destruction**]** on the date on which that other person discoverd or could with reasonable diligence have discovered it.**]**

F5 Words in Sch. 9 para. 4(1) substituted (18.4.2011) by Cross-Border Mediation Regulations (Northern Ireland) 2011 (S.R. 2011/157), **reg. 4(2)** (with reg. 1(2))
F6 1982 NI 7
F7 1992 NI 7

[[F8]4A (1) Sub-paragraph (2) applies where—

(a) there is mediation in relation to a relevant cross border dispute giving rise to a claim for compensation; and

(b) the period of 6 years referred to in paragraph 4(1) ("the limitation period") would, apart from this paragraph, expire—

(i) in the period of 8 weeks after the date on which the mediation ends;

(ii) on the date on which the mediation ends; or

(iii) after the date on which all of the parties to the dispute agree to participate in the mediation but before the date on which the mediation ends.

(2) Where this sub-paragraph applies, the limitation period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.

(3) For the purposes of sub-paragraph (1) and (2), a mediation in relation to a relevant cross-border dispute ends on the date of the first of these to occur—

(a) all of the parties reach an agreement in resolution of the dispute;

(b) all of the parties agree to end the mediation;

(c) a party notifies all of the other parties of that party's withdrawal;

(d) a period of 14 days expires after a request made by one party to another party for confirmation of whether the other party has withdrawn and the other party does not respond in that period; or

(e) a period of 14 days expires after the date on which the mediator's tenure ends (by reason of death, resignation or otherwise) and a replacement mediator has not been appointed in that period.

(4) In this paragraph—

"the Directive" means Directive 2008/52/EC of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

"mediation" and "mediator" have the meanings given by Article 3 of the Directive; and

"relevant cross-border dispute" means a cross-border dispute within the meaning given by Article 2 of the Directive.**]**

F8 Sch. 9 para. 4A inserted (18.4.2011) by Cross-Border Mediation Regulations (Northern Ireland) 2011 (S.R. 2011/157), **reg 4(3)** (with reg. 1(2))

5 In any case of the rectification, pursuant to section 69, of an error, the costs reasonably incurred by the claimant in obtaining the rectification shall be deemed to be a loss to which this Schedule applies.

QUANTUM OF COMPENSATION

6 When compensation is payable under this Schedule, the amount thereof (excluding costs) shall not exceed—

(a) where**[**[F9] the register**]** is not rectified, the value of the land at the time when the error was made or, as the case may be, the omission happened;

(b) where**[**[F9] the register**]** is rectified, the value (if there had been no rectification) of the land immediately prior to such rectification.

F9 1992 NI 7

7 Except for the purposes of paragraph 6, compensation payable under this Schedule shall include any reasonable costs properly incurred by the claimant in establishing his claim.

SPECIAL PROVISIONS IN RESPECT OF SETTLED LAND

8 Where compensation is paid in respect of settled land, and not in respect of any particular estate, remainder or reversion therein, the compensation shall be paid to the trustees of the settlement and held by them as capital money for the purposes of the Settled Land Acts.

PROCEDURE FOR CLAIMING COMPENSATION

[[F10]9 The Department shall be the respondent to every claim for compensation made under this Schedule; and notice of every such claim shall be served by the claimant on such persons as may be prescribed.**]**

F10 1992 NI 7

10 Where any question arising as to whether a person is entitled to compensation, or as to the amount of compensation, is not settled between that person and the Department, that question shall be referred to and determined by the Lands Tribunal.

11 Before or instead of determining a question referred to it under paragraph 10, the Lands Tribunal may exercise any power which is exercisable by the court under section 69(1) and (3) or paragraph 4 of Schedule 10 (rectification of errors); and an order made in exercise of such a power is an order of a court of competent jurisdiction for the purposes of section 9(1) (Registrar to obey court orders in relation to registered land) and section 9(2) (clarification of orders).

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