



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

1965 CHAPTER 23

^{F1}PART II

^{F1}COMPENSATION FOR PLANNING DECISIONS RESTRICTING NEW DEVELOPMENT

MEASURE OF COMPENSATION

17 ^{F1}Amount of compensation.

- (1) Where compensation is payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision depreciating the value of that compensatable estate, the amount of the compensation shall, subject to subsections (2) to (5), be whichever is the lesser of the following amounts:—
 - (a) the amount by which the value of that compensatable estate (if it is a compensatable estate subsisting only in land to which this section applies), or (if it is a compensatable estate extending to other land) the amount by which the value of the compensatable estate in so far as it subsists in land to which this section applies, is depreciated by the decision;
 - (b) the amount of the balance of development value, immediately before the decision, of so much of the land in which the compensatable estate subsists as is land to which this section applies.
- (2) Land to which this section applies, in relation to a planning decision, is land which—
 - (a) constitutes or forms part of the decision area; and
 - (b) at the time of the decision has a balance of development value.
- (3) If in relation to any land to which this section applies—

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- (a) compensation is payable under this Part in respect of two or more compensatable estates in that land by reason of the same planning decision; and
- (b) the aggregate amount of compensation payable apart from this subsection in respect of the compensatable estates referred to in paragraph (a) would exceed the amount mentioned in subsection (1)(b);

the amount mentioned in subsection (1)(b) shall be allocated between those compensatable estates in proportion to the depreciation of the value of each of them respectively, and the amount of the compensation payable in respect of any of those compensatable estates shall be the sum so allocated to that compensatable estate.

(4) Where—

- (a) at the date of such a planning decision as is mentioned in section 14(1), a public body are entitled to a compensatable estate in the land constituting or forming part of the decision area; and
- (b) by virtue of section 14(2), compensation is not payable in respect of that compensatable estate;

then for the purpose of determining the amount of compensation payable in respect of any other compensatable estate in that land, subsection (3) shall have effect as if the public body had made a claim for and were entitled to compensation under this Part.

(5) Where the land constituting the decision area, taken as a whole, does not satisfy both of the following conditions—

- (a) that at the time of the decision it has a balance of development value; and
- (b) that every compensatable estate subsisting therein, the value of which is depreciated by the decision, subsists in the whole of that land;

subsection (6) shall have effect for the purpose of assessing the compensation payable under this Part in respect of any compensatable estate subsisting in that land or any part thereof.

(6) Where this subsection applies in relation to a compensatable estate in land—

- (a) the depreciation of the value of the compensatable estate by the planning decision shall first be ascertained with reference to the whole of the land which constitutes or forms part of the decision area and is land in which that compensatable estate subsists;
- (b) the land referred to in paragraph (a) shall then be treated as divided into as many parts as may be requisite to ensure that each such part consists of land which either—
 - (i) satisfies both of the conditions mentioned in subsection (5); or
 - (ii) is not land which, at the time of the decision, has a balance of development value;
- (c) the depreciation of the value of the compensatable estate, ascertained in accordance with paragraph (a), shall then be apportioned between those parts, according to the nature of those parts and the effect of the planning decision in relation to each of them;

and the amount of the compensation shall be the aggregate of the amounts which would be payable by virtue of the preceding provisions of this section if the planning decision had been made separately with respect to each of those parts.

(7) In this section “the decision area” in relation to a planning decision means the aggregate of the land to which the decision relates.

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

18 ^{F2}Assessment of depreciation.

- (1) For the purposes of this Part, the value of a compensatable estate in land, or of a compensatable estate in so far as it subsists in particular land, shall be taken to be depreciated by a planning decision (in this section referred to as “the relevant decision”) if, and to the extent to which, that value, calculated in accordance with subsections (2) to (5), falls short of what that value, so calculated, would have been if the relevant decision had been a decision to the contrary effect.
- (2) Subject to subsections (3) to (5), any such value shall for the purposes of this section be calculated as at the time of the relevant decision, but—
 - (a) as affected by that decision, by any grant of planning permission made in relation to the land in question after that decision and by any [^{F3} direction under Article 69 of the Order of 1972]; and
 - (b) on the assumption that, after the relevant decision, and apart from any such permission or [^{F3} direction] as is mentioned in paragraph (a), planning permission would not be granted for any new development of the land in question but would be granted for any development thereof other than new development.
- (3) If in consequence of another planning decision or of an order under [^{F4}section 68 or 72 of the Planning Act] revoking or modifying any planning permission, being a decision given or order made—
 - (a) before the relevant decision; and
 - (b) either in respect of the whole or part of the land to which the relevant decision relates, or in respect of land which includes the whole or part of that land;compensation to which this subsection applies has been paid or is payable in respect of a compensatable estate subsisting in land which is the subject of that other planning decision or that order, the calculation to be made under this section shall be made as if that other planning decision had been a decision to the contrary effect, or that order had not been made, as the case may be.
- (4) Where under this section a calculation has to be made as if a planning decision were a decision to the contrary effect or an order under [^{F4}section 68 or 72 of the Planning Act] had not been made the calculation shall be made on the footing that any development must comply with the provisions of any statutory provision (other than the Planning [^{F5}Act]) which would be applicable thereto.
- (5) Subsection (3) applies—
 - (a) to any compensation under the Act of 1944;
 - (b) to any compensation under this Part; and
 - (c) to so much of any compensation as is payable or was paid under section 26 in respect of loss or damage consisting of depreciation of the value of a compensatable estate in land.
- (6) In this section and in section 19 “a decision to the contrary effect” means—
 - (a) in relation to a decision refusing permission, a decision granting the permission subject to such conditions, if any, of a description falling within section 15(4) as the person giving the decision might reasonably have been expected to impose had he not refused the permission;

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- (b) in relation to a decision granting the permission subject to conditions, a decision granting the permission subject only to such of those conditions, if any, as fall within section 15(4).

- F2** rep. with saving by 2001 c. 2 (NI)
F3 1972 NI 17
F4 Words in s. 18(3)(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. 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)
F5 Word in s. 18(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. 3](#) (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)

19 ^{F6}Further provisions as to calculation of depreciation.

- (1) For the purpose of calculating in accordance with section 18 the value of a compensatable estate subsisting in any relevant land on the basis that the relevant decision had been a decision to the contrary effect, the following provisions shall have effect:—
- (a) where a person entitled to a compensatable estate in the relevant land is also at the date of a relevant decision entitled to a compensatable estate in any other land, the value of the first-mentioned compensatable estate shall be reduced by the amount, if any, by which the value of the second-mentioned compensatable estate would be depreciated if any development permitted by a decision to the contrary effect to the relevant decision were carried out; and
 - (b) the value of the compensatable estate in the relevant land shall be reduced by the amount, if any, of any loss in the nature of disturbance in respect of the purposes for which the relevant land was being used at the date of the relevant decision which would necessarily be involved if any development permitted by a decision to the contrary effect were carried out.
- (2) Where a compensatable estate in any land is vested in any trustees or in the beneficiaries under a settlement, then the trustees or beneficiaries shall not, for the purposes of subsection (1), be taken to be entitled to a compensatable estate in any other land unless that other land and the relevant land are held on trust or settled under the same instrument or series of instruments.
- (3) In this section “relevant decision” has the same meaning as in section 18 and “relevant land” means land to which a relevant decision relates.

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

20 ^{F7}Claims for compensation.

- (1) Compensation under this Part shall not be payable unless a claim for it is duly made to the Ministry in accordance with this section.
- (2) A claim for compensation under this Part shall not have effect unless it is made before the end of the period of six months beginning with the date of the planning decision to which it relates or beginning with the passing of this Act, whichever period last expires, but the Ministry may in any particular case (either before, on or after the date

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on which the time for claiming compensation under this Part would otherwise have expired) allow an extended, or further extended, period for making such a claim.

- (3) Regulations made under this section may—
- (a) require claims for compensation under this Part to be made in a form prescribed by the regulations;
 - (b) require a claimant to provide such evidence and information in support of the claim and as to the interests of other persons in the land to which the claim relates (being evidence, information or interests of which the claimant is aware) as may be so prescribed.
- (4) Where a claim is made to the Ministry under subsection (1)—
- (a) if it appears to the Ministry—
 - (i) that the development to which the planning decision related was not new development; or
 - (ii) that at the time of the planning decision no part of the land to which the claim relates had a balance of development value; or
 - (iii) that compensation is excluded by section 15 or 16;the Ministry shall notify the claimant accordingly, stating on which of those grounds it appears to the Ministry that compensation is not payable;
 - (b) in any other case or if a claimant disputes the Ministry's findings, the Ministry shall serve notice of the claim on every other person appearing to it to be entitled to an estate in the land to which the claim relates and, where the land is the subject of a settlement, on the trustees of the settlement, if any, if an estate in the land is not vested in them.

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

21 ^{F8}Apportionment of compensation.

- (1) Where on a claim for compensation which is payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision, the Ministry determines that compensation exceeding fifty pounds is payable, the Ministry may, if it appears to it to be practicable to do so, apportion the amount of compensation between different parts of the land to which the claim relates.
- (2) In making an apportionment under subsection (1) the Ministry shall divide the land into parts and distribute the compensation between those parts, according to the manner in which the different parts of the land appear to the Ministry to be differently affected by the planning decision in respect of which the claim for compensation is made.
- (3) On a reference to the Lands Tribunal under section 23, subsections (1) and (2) shall, unless the decision of the Tribunal will not affect the amount of the compensation or any apportionment thereof by the Ministry, have effect as if for references to the Ministry there were substituted references to the Lands Tribunal.

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

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)

F¹⁰22 F⁹ Payment of compensation.

- (1) Where any compensation (in this Act referred to as “Part II compensation”) is payable under this Part in respect of a compensatable estate in land (other than a compensatable estate which at the date of the relevant decision is the subject of a settlement), the Ministry shall pay that compensation to the person who was entitled to that estate at the date of the relevant decision, except that if that person does not make a claim for the compensation, the Ministry may pay the compensation to any person or persons (being persons entitled to equitable interests) who as against the person in whom the compensatable estate is vested are entitled absolutely to that estate.
- (2) Where any Part II compensation is payable in respect of a compensatable estate in land (being a compensatable estate which at the date of the relevant decision is the subject of a settlement), the Ministry shall pay that compensation to the trustees of the settlement, except that where the trustees do not make a claim for the compensation, the Ministry may—
 - (a) where the compensatable estate in question is vested in trustees, pay the compensation to the persons, if any, who as against the trustees are entitled absolutely to that estate;
 - (b) where the compensatable estate is not vested in trustees, pay the compensation to the persons, if any, who as against the trustees of the settlement are entitled absolutely to the capital moneys of the settlement.
- (3) Where under subsection (1) or (2) the Ministry is required to pay any Part II compensation to any trustees, the Ministry may, if there is only one trustee or the others cannot be found (or being corporations have been dissolved), pay the compensation to one trustee of a trust or settlement, notwithstanding anything in any enactment or any instrument.
- (4) Where the amount of any Part II compensation which is payable in respect of a compensatable estate does not exceed fifty pounds, the Ministry may, without prejudice to subsections (1) and (2), pay the compensation to any person who at the date of the relevant decision was entitled to the rents and profits of the compensatable estate in respect of which the compensation was payable or, where he is under a disability, to his guardian or committee.
- (5) Where the Ministry is unable to determine to whom any Part II compensation is payable under this section, the Ministry may—
 - (a) where the amount of the compensation does not exceed[F¹¹ £30,000], pay the money into the county court, and that court may exercise all the jurisdiction exercisable by the High Court under the Lands Clauses Acts in relation to the compensation;
 - (b) where the amount of the compensation exceeds[F¹¹ £30,000], pay the money into the High Court, and that Court may deal with the compensation under the Lands Clauses Acts as if the compensation were purchase money under those Acts coming to persons having limited interests.
- (6) Where the Ministry pays any Part II compensation to any person under this section or into court under subsection (5), the liability of the Ministry to pay the compensation shall, to the extent of the payment, be discharged.
- (7) Subsections (1) to (6) shall have effect subject to section 32.
- (8) In this section “relevant decision” has the same meaning as in section 18.

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F9 rep. with saving by 2001 c. 2 (NI)

F10 1972 NI 17

F11 SR 1992/372

Modifications etc. (not altering text)

C1 S. 22 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](#))

23 ^{F12}**Determination of claims.**

- (1) Provision shall be made by regulations under this section—
- (a) for requiring claims for compensation under this Part to be determined by the Ministry in such manner as may be prescribed;
 - (b) for regulating the practice and procedure to be followed in connection with the determination of such claims;
 - (c) for requiring the Ministry, on determining any such claim to give notice of its findings to the claimant, and to every other person, if any, who has made a claim for compensation under this Part in respect of the same planning decision, and, if the Ministry's findings include an apportionment, to give particulars of the apportionment to any other person entitled to an estate in land appearing to the Ministry to be an estate substantially affected by the apportionment.
- (2) Subject to subsection (3), provision shall be made by regulations under this section—
- (a) for enabling the claimant or any other person to whom notice of the Ministry's findings has been given in accordance with subsection (1), if he wishes to dispute the findings, and any other person to whom particulars of an apportionment included in those findings have been so given, or who establishes that he is entitled to an estate in land which is substantially affected by such an apportionment, if he wishes to dispute the apportionment, to require the findings or, as the case may be, the apportionment to be referred to the Lands Tribunal;
 - (b) for enabling the claimant and every other person to whom notice of any findings or apportionment has been given as mentioned in paragraph (a) to be heard by the Lands Tribunal on any reference under this section of those findings or of that apportionment, as the case may be; and
 - (c) for requiring the Lands Tribunal, on any such reference, either to confirm or to vary the Ministry's findings or the apportionment, as the case may be, and to notify the parties of the decision of the Lands Tribunal.
- (3) Where on a reference to the Lands Tribunal under this section it is shown that an apportionment—
- (a) relates wholly or partly to the same matters as a previous apportionment; and
 - (b) is consistent with that previous apportionment in so far as it relates to those matters;

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

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- (4) Any reference in this section to any findings of the Ministry includes a reference to any decision of the Ministry as to the person to whom any compensation under this Part is payable.

F12 rep. with saving by 2001 c. 2 (NI)

24 ^{F14} ^{F13} **Recovery of compensation on subsequent development.**

- (1) Where compensation exceeding fifty pounds becomes payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision—
- (a) the Ministry shall serve on any person making a claim in relation to the compensation and on the planning authority to whom the application for planning permission was made a notice in the prescribed form containing particulars of the payment and, if an apportionment has been made under section 21, of that apportionment;
 - (b) the following condition shall be observed with respect to the relevant land and to every part of that land, namely, no relevant development shall be initiated thereon or therein until such amount, if any, of the compensation as is repayable under this section has been paid to or secured to the Ministry under this section.
- (2) The condition specified in subsection (1) and any notice served under that subsection shall be included amongst the matters which are required to be registered in the Statutory Charges Register ... ^{F15}.
- (3) Where any relevant development is to be carried out on any relevant land, the amount repayable under this section in respect of the compensation—
- (a) if the land on which the relevant development is to be carried out (in this section referred to as “the development area”) is identical with or includes (with other land) the whole of the relevant land, shall be the amount of that compensation;
 - (b) if the development area forms part of the relevant land, or includes part of that land together with other land, shall be so much of the compensation as is attributable to the development area in accordance with subsection (4).
- (4) In subsection (3)(b) the reference to so much of the compensation as is attributable to the development area is a reference—
- (a) where the compensation is not apportioned under section 21, to the amount of the compensation distributed rateably according to area over the relevant land;
 - (b) where the compensation is so apportioned, to the amount of the compensation distributed in accordance with the apportionment between the different parts of the land by reference to which the apportionment is made, and so much of the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part.
- (5) If any person initiates any relevant development on any relevant land without complying with the condition attached to that land by virtue of subsection (1)(b), the Ministry may serve a notice on him—

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- (a) specifying the amount appearing to it to be the amount repayable under this section in respect of the compensation in question; and
 - (b) requiring him to pay that amount within such period, not being less than three months after the service of the notice, as may be specified in the notice.
- (6) Where the Ministry is satisfied having regard to the probable value of any proper development of any relevant land, that such development is unlikely to be carried out unless the condition attached thereto by virtue of subsection (1)(*b*) is modified, it may in relation to any particular development remit the whole or part of any amount otherwise repayable to it under this section.
- (7) Where, in connection with the development of any land, an amount becomes repayable under this section, then, except where, and to the extent that, payment of that amount has been remitted under subsection (6), no amount shall be repayable under this section in respect of that compensation, in so far as it is attributable to that land, in connection with any subsequent development thereof.
- (8) No amount shall become repayable under this section in respect of any compensation by reference to which a sum has become recoverable by the Ministry under section 38.
- (9) Where any of the following events occurs in relation to any relevant land, or any part thereof, that is to say—
- (a) an amount repayable under this section is repaid to the Ministry or secured to the Ministry under this section; or
 - (b) an amount repayable under this section is remitted in part under subsection (6); or
 - (c) an amount which, but for subsection (8), would otherwise be repayable under this section becomes recoverable by the Ministry under section 38;
- the Ministry shall notify the Registrar of Titles of that event, describing the land to which it relates and giving such further information as appears to the Ministry to be necessary for the purpose, and the Registrar shall note the information so provided in the entry relating to that land in the Statutory Charges Register.
- (10) An amount repayable under this section shall be paid as a single capital payment, without interest, except that where the person seeking to initiate the relevant development makes representations to the Ministry in that behalf, the Ministry may direct that the amount shall be paid—
- (a) as a single capital payment, with interest, at such time as the Ministry may direct; or
 - (b) as a series of instalments of capital and interest combined, or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the Ministry may direct.
- (11) An amount repayable under this section—
- (a) shall be payable to the Ministry;
 - (b) shall be recoverable by the Ministry as a civil debt; and
 - (c) shall, unless it is payable as a single capital payment without interest, be secured by the person by whom the development is to be carried out in such a manner (whether by mortgage, charge, bond or otherwise) as the Ministry may direct.
- (12) Where any person makes default in paying an amount repayable under this section as a single capital payment without interest, the Ministry may recover that amount,

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together with interest thereon at such rate as may for the time being be prescribed by an order under section 14 of the Administrative and Financial Provisions Act (Northern Ireland) 1956 , as a civil debt due to the Ministry.

(13) Any interest payable by virtue of subsection (10) shall be at such rate as is prescribed by an order under section 14 of the Administrative and Financial Provisions Act (Northern Ireland) 1956 .

(14) In this section—

“proper development” means any development which the Ministry, ...^{F16} considers to be desirable for securing the most appropriate planning of the area in question;

“relevant development” means, subject to subsections (15) and (16), any new development—

(a) which is development of a residential, commercial or industrial character and consists wholly or mainly of the construction of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination thereof; or

(b) which, having regard to the probable value of the development, the Ministry determines should constitute relevant development for the purposes of this section;

“relevant land” means any land in respect of which a notice has been served under subsection (1); and

any reference to a sum which becomes recoverable under section 38 includes a reference to a sum which would be so recoverable but for subsection (4) of that section.

(15) The Ministry shall not have power to make a determination under paragraph (b) of the definition of relevant development in relation to any development if, on an application made to the Ministry for the purpose, the Ministry has certified that, having regard to the probable value of the development, it is not reasonable that the development should constitute relevant development for the purposes of this section.

(16) Where any person is aggrieved by the refusal of the Ministry to issue a certificate under subsection (15), he may apply to the Lands Tribunal for a certificate for the purposes of that subsection, and any certificate issued by that Tribunal shall have the like effect as a certificate of the Ministry under that subsection.

(17) Where any such compensation as is referred to in subsection (1) became payable in respect of the imposition of conditions on the granting of planning permission to develop any land, “relevant development” does not include the development for which that permission was granted.

F13 rep. with saving by 2001 c. 2 (NI)

F14 1972 NI 17

F15 1970 c. 18 (NI)

F16 1972 NI 17

25 ^{F17}Amounts repayable in relation to balances of development value.

(1) Where an amount has become repayable under section 24 in respect of any compensation paid under this Part, subsection (2) shall have effect for the purpose of

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determining any question as to the balance of development value of any land at any subsequent time.

- (2) Except where, and to the extent that, payment of the amount mentioned in subsection (1) has been remitted under section 24(6), so much, if any, of the compensation paid under this Part as is attributable to the land in question shall, for the purpose mentioned in subsection (1), be treated as not having become payable, and accordingly (notwithstanding anything in section 9) shall not be deducted from the balance of development value of that land.

F17 rep. with saving by [2001 c. 2 \(NI\)](#)

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