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## STATUTORY INSTRUMENTS

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# 1972 No. 1634

## Planning (Northern Ireland) Order 1972

### PART VIII

#### COMPENSATION

*Art. 64 rep. by 2001 c. 2 (NI)*

#### **Compensation where listed building consent revoked or modified**

**65**<sup>F1</sup>.—<sup>F2</sup>(1) Where listed building consent is revoked or modified by an order under<sup>F3</sup> Article 47 of the Planning Order], then if on a claim made to the Ministry within the time and in the manner prescribed it is shown that a person interested in the building—

- (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.

(2) For the purposes of this Article, 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 paragraph (2), compensation shall not be paid under this Article in respect of—

- (a) any work carried out before the grant of the listed building consent 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 consent.

(4) Sections 22,<sup>F4</sup> 27, 30, 31, 33 and 37] of the Act of 1965 shall, subject to any necessary modifications, have effect for the purposes of a claim for compensation or compensation payable under this Article as they have effect for the purposes of a claim for compensation or compensation payable under section 26 of that Act.

**F1** 1978 NI 18

**F2** mod. by SR 1988/5

**F3** 1991 NI 11

**F4** 2001 c. 2 (NI)

#### **[<sup>F5</sup>Compensation in respect of orders under Article 29A or 37G(3)**

**65A.**—(1) This Article shall have effect where—

- (a) an order is made under<sup>[F6]</sup> Article 39 of the Planning Order] requiring a use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any building or works on land to be altered or removed; or
- (b) an order is made under<sup>[F6]</sup> Article 59(3) of the Planning Order] revoking or modifying a hazardous substances consent for the presence of a hazardous substance on, over or under land.

(2) If, on a claim made to the Department in accordance with paragraph (6), it is shown that any person has suffered damage in consequence of the order by depreciation of the value of an interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, the Department shall pay to that person compensation in respect of that damage.

(3) Without prejudice to paragraph (2), any person who carries out any works in compliance with an order under<sup>[F6]</sup> Article 39 of the Planning Order] or<sup>[F6]</sup> Article 59(3) of the Planning Order] shall be entitled, on a claim made to the Department in accordance with paragraph (6), to recover from the Department compensation in respect of any expenses reasonably incurred by him in that behalf.

(4) Any compensation payable to a person under this Article in respect of such an order as is mentioned in paragraph (1)(a) or (b) shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

(5) No compensation shall be payable under this Article in respect of an order under<sup>[F6]</sup> Article 39 of the Planning Order] if—

- (a) a purchase notice in respect of an estate in land is served in consequence of such an order; and
- (b) that estate is purchased by the Department in accordance with<sup>[F6]</sup> Part VIII of the Planning Order].

(6) A claim under paragraph (2) or (3) shall be made in writing to the Department within 6 months from the date of the order in respect of which the claim is made or within such extended period as the Department may allow.

(7) Any question of disputed compensation under this Article shall be determined by the Lands Tribunal.]

**F5** 1990 NI 14

**F6** 1991 NI 11

### Compensation in respect of tree preservation orders

**66.**—<sup>[F7]</sup>(1) A tree preservation order may make provision for the payment by the Department, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of loss or damage caused or incurred in consequence—

- (a) of the refusal of any consent required under the order; or
- (b) of the grant of any such consent subject to conditions.]

(2) In assessing compensation payable under paragraph (1) account shall be taken of—

- (a) any compensation under paragraph (1) which has been paid whether to the claimant or to any other person, in respect of the same tree; and
- (b) any injurious affection to any land of the claimant which would result from the felling of the tree which is the subject of the claim.

[<sup>F7</sup>(3) Except in so far as may be otherwise provided by any tree preservation order, any question of disputed compensation under paragraph (1) shall be referred to and determined by the Lands Tribunal.]

F7 2003 NI 8

### [<sup>F8</sup>Compensation where hazardous substances consent modified or revoked under Article 60 of the Planning Order

66A.—(1) Where—

- (a) there is a change of the person in control of part of the land to which a hazardous substances consent relates; and
- (b) on an application made under Article 60(2) of the Planning Order, the Department modifies or revokes the consent,

it shall pay to the person in control of the whole of the land before the change compensation in respect of any loss or damage sustained by him and directly attributable to the modification or revocation.

(2) Any question of disputed compensation under this Article shall be determined by the Lands Tribunal.]

F8 1991 NI 11

### Compensation in respect of orders under Article 100 of the Planning Order

66B.—(1) Any person who, at the time of an order under Article 100(1) of the Planning Order coming into force, has an estate in land having lawful access to a road to which the order relates shall be entitled to be compensated by the Department in respect of any depreciation in the value of his estate which is directly attributable to the order and of any other loss or damage which is so attributable.

(2) In paragraph (1) “lawful access” means access authorised by virtue of planning permission or [<sup>F9</sup> Article 80 of the Roads (Northern Ireland) Order 1993], or access in respect of which no such authorisation is necessary.

(3) A claim for compensation under paragraph (1) shall be made to the Department within the time and in the manner prescribed.

(4) [<sup>F10</sup>Sections 31 and 33] of the Act of 1965 shall, subject to any necessary modifications, have effect in relation to compensation under paragraph (1) as they have effect in relation to compensation payable under Part III of that Act.

F9 1993 NI 15

F10 2001 c. 2 (NI)

### [<sup>F11</sup>Compensation for loss due to stop notice

67.—(1) A person who, when a stop notice under Article 73 of the Planning Order is first served, has an estate in or occupies the land to which the stop notice relates shall, in any of the circumstances mentioned in paragraph (2), be entitled to be compensated by the Department in respect of any loss or damage directly attributable to the prohibition contained in the notice (or, in a case within subparagraph (b) of that paragraph, [<sup>F12</sup> the prohibition of such of the activities prohibited by the stop notice as cease to be relevant activities]).

(2) A person shall be entitled to compensation under paragraph (1) in respect of a prohibition contained in a stop notice in any of the following circumstances—

- (a) the enforcement notice is quashed on grounds other than those mentioned in Article 69(3) (a) of the Planning Order;
- (b) the enforcement notice is varied, otherwise than on the grounds mentioned in Article 69(3) (a) of the Planning Order, so that<sup>F12</sup> any activity the carrying out of which is prohibited by the stop notice ceases to be a relevant activity];
- (c) the enforcement notice is withdrawn by the Department otherwise than in consequence of the grant of planning permission for the development to which the notice relates<sup>F12</sup>. . . ;
- (d) the stop notice is withdrawn.

(3) A claim for compensation under this Article shall be made to the Department within the time and in the manner specified by a development order.

(4) The loss or damage in respect of which compensation is payable under this Article in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.

[<sup>F12</sup>(5) No compensation is payable under this Article—

- (a) in respect of the prohibition in a stop notice of any activity which, at any time when the notice is in force, constitutes or contributes to a breach of planning control; or
- (b) in the case of a claimant who was required to provide information under Article 67C or 125 of the Planning Order in respect of any loss or damage suffered by him which could have been avoided if he had provided the information or had otherwise co-operated with the Department when responding to the notice.]

(6) Any question of disputed compensation under this Article shall be determined by the Lands Tribunal.]

**F11** 1991 NI 11

**F12** 2003 NI 8

### [<sup>F13</sup>**Compensation for loss or damage caused by service of building preservation notice**

**67A.**—(1) This Article applies where a building preservation notice ceases to have effect without the building having been included in a list compiled by the Department under Article 42 of the Planning Order.

(2) Any person who at the time when the notice was served had an estate in the building shall, on making a claim to the Department within the prescribed time and in the prescribed manner, be entitled to be paid compensation by the Department in respect of any loss or damage directly attributable to the effect of the notice.

(3) The loss or damage in respect of which compensation is payable under paragraph (2) shall include a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect to it.]

**F13** 2003 NI 8

VALID FROM 10/06/2006

**[<sup>F14</sup>Compensation for loss due to temporary stop notice**

**67B.**—(1) This Article applies if and only if a temporary stop notice is issued and at least one of the following sub-paragraphs applies—

- (a) the activity which is specified in the notice is authorised by planning permission or a development order;
- (b) a certificate in respect of the activity is issued under Article 83A of the Planning Order or granted under that Article by virtue of Article 83E of that Order;
- (c) the Department withdraws the notice.

(2) Paragraph (1)(a) does not apply if the planning permission is granted on or after the date on which a copy of the notice is first displayed as mentioned in Article 67E(6) of the Planning Order.

(3) Paragraph (1)(c) does not apply if the notice is withdrawn following the grant of planning permission as mentioned in paragraph (2).

(4) A person who at the time the notice is served has an estate in the land to which the notice relates is entitled to be compensated by the Department in respect of any loss or damage directly attributable to the prohibition effected by the notice.

(5) A claim for compensation under this Article shall be made to the Department within the time and in the manner specified by a development order.

(6) The loss or damage in respect of which compensation is payable under this Article in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.

(7) No compensation is payable under this Article—

- (a) in respect of the prohibition in a temporary stop notice of any activity which, at any time when the notice is in force, constitutes or contributes to a breach of planning control; or
- (b) in the case of a claimant who was required to provide information under Article 67C or 125 of the Planning Order in respect of any loss or damage suffered by him which could have been avoided if he had provided the information or had otherwise co-operated with the Department when responding to the notice.

(8) Any question of disputed compensation under this Article shall be determined by the Lands Tribunal.]

**F14** Art. 67B inserted (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), **13(2)**

**Compensation where planning permission required under this Order but not under the Act of 1944**

**68.**—(1) This Article shall apply—

- (a) where the development of land was permitted before<sup>[F15]</sup> 1st October 1973] by virtue of Article 4 of, and paragraph 5 of the Schedule to, the Planning (Interim Development) Order (Northern Ireland) 1944 (development by mining undertakers); or
- (b) where by virtue of section 9(1)(i) of the Act of 1944, the erection before<sup>[F15]</sup> 1st October 1973] of certain buildings for the purpose of agriculture did not constitute development,

if in either such case, by virtue of<sup>F15</sup> the Planning Order], planning permission is required, and that permission is refused or granted subject to conditions.

- (2) In a case falling within paragraph (1), section 26 of the Act of 1965 shall apply as if—
- (a) planning permission had been granted for the development; and
  - (b) on the date of the planning decision in question that permission had been revoked or modified under Article 29.

**F15** 1991 NI 11

### **Compensation where planning permission assumed for other development**

**69.** Where a claim for compensation is made to the Ministry under<sup>F16</sup> section 26 of the Act of 1965 in relation to an order], the Ministry may, if it appears to it that planning permission might reasonably be expected to be granted (either unconditionally or subject to conditions) for some development of the land to which the claim relates, direct that in assessing the compensation payable in respect of<sup>F16</sup> the order] it shall be assumed that permission for that development would granted either unconditionally or subject to such conditions as may be specified in the direction.

**F16** 2001 c. 2 (NI)

*Art. 69A rep. by 2001 c. 2 (NI)*

### **Interpretation of this part**

- 69B.**—(1) In this Part “the Planning Order” means the Planning (Northern Ireland) Order 1991.
- (2) In this Part “compensatable estate” has the same meaning as in the Act of 1965.

**Status:**

Point in time view as at 01/01/2006. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Planning (Northern Ireland) Order 1972, PART VIII.