STATUTORY INSTRUMENTS

1973 No. 1896 (N.I. 21)

Land Acquisition and Compensation (Northern Ireland) Order 1973

[13th November 1973]

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Modifications etc. (not altering text)

C1 Order (except arts. 39, 42(2), 43(2)): transfer of functions (8.5.2016) from Department of the Environment to Department for Infrastructure by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

C2 Order construed as one with 2016 c. 28 (N.I.) (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (Northern Ireland) 2016 (c. 28 (N.I.)), **s. 5** (with s. 7(3))

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Land Acquisition and Compensation (Northern Ireland) Order 1973.

Para.(2)—Commencement

Para. (3) rep. by 1982 NI 9

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Parliament of Northern Ireland.

(2) In this Order—

"agriculture", "agricultural" and "agricultural land", except in Part VI and Schedule 2, have the same meanings as in section 43 of the Agriculture Act (Northern Ireland) 1949 and references to the farming of land include references to the carrying on in relation to the land of any agricultural activities;

"agricultural unit" has the same meaning as in section 10(1) of the Planning and Land Compensation Act (Northern Ireland) 1971 as amended by Schedule 2;

"acquiring authority", in relation to an interest in land, means the person by whom the interest is, or is proposed to be, acquired;

"authority possessing compulsory acquisition powers" means a person with power to acquire an interest in land otherwise than by agreement;

"aerodrome"**[**[F1] means an airport, as defined in Article 2(2) of the Airports (Northern Ireland) Order 1994**]**

"carriageway" means a way constituting or comprised in a road, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;

"cycle track" means a way constituting or comprised in a road, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot;

"disturbance payment" has the meaning assigned to it by Article 37(1);

"dwelling" means a building or part of a building occupied or (if not occupied) last occupied or intended to be occupied as a private dwelling and (except in Article 30) includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part;

[F2]…

"home loss payment" has the meaning assigned to it by Article 30(1);

[[F3] "housing association" has the meaning assigned to it by Article 114 of the Housing (Northern Ireland) Order 1981 ;]

"Housing Executive" means the Northern Ireland Housing Executive;

"mortgage" includes a charge or lien for securing money or money's worth;

"person in need" has the same meaning as in the Health and Personal Social Services (Northern Ireland) Order 1972 ;

[[F3] "registered", in relation to a housing association, means registered in the register of housing associations established under Article 124 of the Housing (Northern Ireland) Order 1981;]

[[F4]"road" has the same meaning as in the Roads (Northern Ireland) Order 1993;

"road authority" means the Department of the Environment;**]**

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954 ;

"tenancy" includes a tenancy created or renewed in pursuance of any enactment, but does not include—

(a) a mortgage term;

(b) any estate arising in favour of a mortgagor solely by reason of his attorning tenant to his mortgagee;

"transferred provision" has the meaning assigned to it by section 1(*g*) of the Interpretation Act (Northern Ireland) 1954.

Para. (3) rep. by 1993 NI 15

F1 1994 NI 1

F2 Words in art. 2(2) repealed (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 6(a)**, 7(2) (with s. 7(3))

F3 1981 NI 3

F4 1993 NI 15

Art. 3 rep. by SLR 1976

PART II

COMPENSATION FOR DEPRECIATION CAUSED BY USE OF PUBLIC WORKS

Right to compensation

4.—(1) Where the value of an interest in land is depreciated by physical factors caused by the use of public works, then, if—

(a) the interest qualifies for compensation under this Part; and

(b) the person entitled to the interest makes a claim within the time limited by and otherwise in accordance with this Part,

compensation for that depreciation shall, subject to the provisions of this Part, be payable by the responsible authority to the person making the claim (in this Part referred to as "the claimant").

(2) The physical factors mentioned in paragraph (1) are noise, vibration, smell, fumes, smoke and artificial lighting and the discharge on to the land in respect of which the claim is made of any solid or liquid substance.

(3) The public works mentioned in paragraph (1) are—

(a) any road;

(b) any aerodrome; and

(c) any works or land (not being a road or aerodrome) provided or used in the exercise of statutory powers.

(4) The responsible authority mentioned in paragraph (1) is, in relation to a road, the appropriate road authority and, in relation to other public works, the person managing those works.

(5) Physical factors caused by an aircraft arriving at or departing from an aerodrome shall be treated as caused by the use of the aerodrome whether or not the aircraft is within the boundaries of the aerodrome; but, save as aforesaid, the source of the physical factors must be situated on or in the public works the use of which is alleged to be their cause.

(6) Compensation shall not be payable under this Part in respect of the physical factors caused by the use of any public works other than a road unless immunity from actions for nuisance in respect of that use is conferred (whether expressly or by implication) by a statutory provision relating to those works or, in the case of an aerodrome and physical factors caused by aircraft, the aerodrome is one to which section 41(2) of the Civil Aviation Act 1949 (immunity from actions for nuisance) for the time being applies.

(7) Compensation shall not be payable under this Part in respect of physical factors caused by accidents involving vehicles on a road or accidents involving aircraft.

(8) Compensation shall not be payable under this Part on any claim unless the relevant date in relation to the claim falls on or after 17th October 1969.

(9) Subject to Article 12, "the relevant date" in this Part means—

(a) in relation to a claim in respect of a road, the date on which it was first open to public traffic;

(b) in relation to a claim in respect of other public works, the date on which they were first used after completion.

Interests qualifying for compensation

5.—(1) An interest qualifies for compensation under this Part if it was acquired by the claimant before the relevant date in relation to the claim and the requirements of paragraph (2) or, as the case

may be, paragraph (3) are satisfied on the date on which notice of the claim for compensation in respect of that interest is served.

(2) If and so far as the interest is in land which is a dwelling, the said requirements are—

(a) that the interest is an owner's interest; and

(b) where the interest carries the right to occupy the land, that the land is occupied by the claimant in right of that interest as his residence.

(3) If and so far as the interest is not in such land as aforesaid, the said requirements are—

(a) that the interest is that of an owner-occupier; and

(b) that the land is or forms part of either—

(i) a hereditament the annual value of which does not exceed the prescribed amount; or

(ii) an agricultural unit.

(4) In this Article "owner's interest", in relation to any land, means a freehold interest (whether legal or equitable) or a tenancy granted or extended for a term of years of which, on the date of service of the notice of claim in respect thereof, not less than three years remain unexpired.

(5) In this Article "owner-occupier", in relation to land in a hereditament, means a person who occupies, in right of an owner's interest, the whole or a substantial part of the land and, in relation to land in an agricultural unit, means a person who occupies the whole of that unit and is entitled while so occupying it to an owner's interest in the whole or in any part of that land.

(6) In this Article "the prescribed amount" means the amount for the time being set out in**[**[F5] Article 4(1)(b) of the Planning Blight (Compensation) (Northern Ireland) Order 1981**]** (interests qualifying for protection under planning blight provisions) and "annual value" and "hereditament" have the same meanings as in**[**[F5] Article 2(2) of that Order**]** taking references to the date of service of a blight notice under**[**[F5] Article 5 of that Order**]** as references to the date on which notice of the claim is served.

(7) This Article has effect subject to Articles 13(4), 14 and 15.

F5 1981 NI 16

Claims

6.—(1) A claim under this Part shall be made by serving on the responsible authority a notice containing particulars of—

(a) the land in respect of which the claim is made;

(b) the claimant's interest and the date on which, and the manner in which, it was acquired;

(c) the claimant's occupation of the land (except where the interest qualifies for compensation without occupation);

(d) any other interests in the land so far as known to the claimant;

(e) the public works to which the claim relates;

(f) the amount of compensation claimed;

(g) any land contiguous or adjacent to the land in respect of which the claim is made, being land to which the claimant was entitled in the same capacity (within the meaning of Article 9) on the relevant date.

(2) Subject to the provisions of this Article and of Articles 15 and 16, no claim shall be made otherwise than in the claim period, that is to say, the period of two years beginning on the expiration of twelve months from the relevant date.

(3) Paragraph (2) shall not preclude the making of a claim in respect of an interest in land before the beginning of the claim period if—

(a) the claimant has during the said twelve months made a contract for disposing of that interest or (in so far as the interest is in land which is not a dwelling) for the grant of a tenancy of that land; and

(b) the claim is made before the interest is disposed of or the tenancy is granted;

but compensation shall not be payable before the beginning of the claim period on any claim made by virtue of this paragraph.

(4) Where notice of a claim has been served on a responsible authority, any person authorised in writing by that authority (in this Article referred to as an "authorised person") may, on production if required of his credentials, at any reasonable time enter any land for the purpose of survey, valuation or examination in connection with the claim.

(5) A power of entry under paragraph (4) shall not be exercisable in relation to any land except—

(a) with consent given by the occupier of the land; or

(b) after at least twenty-four hours' notice of intended entry has been served on the occupier or owner of the land.

(6) If any person, other than the owner or occupier of the land, knowingly prevents or obstructs an authorised person in the exercise of the powers conferred by paragraph (4) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**[F6] level 3 on the standard scale**]**.

(7) If any person, being the owner or occupier of land, knowingly prevents or obstructs an authorised person in the exercise of the powers conferred by paragraph (4), a court of summary jurisdiction on proof thereof may order him to permit to be done on the land all things requisite for carrying into effect the survey, valuation or examination; and, if he fails to comply with the order, he shall be guilty of an offence and shall, for every day during which the failure continues, be liable on summary conviction to a fine not exceeding**[**[F6] level 2 on the standard scale**]**.

(8) Where under paragraph (4) an authorised person enters any land, he shall ensure that the land is not left less secure by reason of the entry, and the responsible authority shall make good or pay compensation for any damage to property caused by, or in consequence of, the authorised person exercising any right under paragraph (4) or failing to perform any duty under this paragraph.

(9) Any reference in this Article to an occupier or to an owner shall be construed as including a reference to a person appointed in writing by the occupier or owner as his representative for purposes including all or any of the purposes of this Article.

(10) Any power conferred by paragraph (4) shall be construed as including power to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil therein and to take and carry away for examination specimens of the subsoil found therein.

(11) Where compensation is payable by a responsible authority on a claim there shall be payable by the authority, in addition to the compensation, any reasonable valuation or legal expenses incurred by the claimant for the purposes of the preparation and prosecution of the claim; but this paragraph is without prejudice to the powers of the Lands Tribunal in respect of the costs of proceedings before the Tribunal by virtue of Article 18.

F6 1984 NI 3

Assessment of compensation: general provisions

7.—(1) The compensation payable on any claim shall be assessed by reference to prices current on the first day of the claim period.

(2) In assessing depreciation due to the physical factors caused by the use of any public works, account shall be taken of the use of those works as it exists on the first day of the claim period and of any intensification that may then be reasonably expected of the use of those works in the state in which they are on that date.

(3) In assessing the extent of the depreciation there shall be taken into account the benefit of any relevant works—

(a) which have been carried out, or in respect of which a grant has been paid, under Article 22 or**[**[F7] Article 22 of the Airports (Northern Ireland) Order 1994**]** [[F8] or under any provision of a scheme operated by a person managing an aerodrome which provides for the payment of sound-proofing grants in respect of buildings near the aerodrome];

(b) which have been carried out under Article 25 or 28;

and it shall be assumed that any relevant works which could be or could have been carried out, or in respect of which a grant could be or could have been paid, under any of the provisions mentioned in sub-paragraph (*a*) have been carried out but, in a case where the authority having functions under that provision have a discretion whether or not to carry out the works or pay the grant, only if they have undertaken to do so.

[[F9] In paragraph (*a*) above "sound-proofing grants", in relation to any buildings, means grants towards the cost of insulating those buildings or parts of those buildings against noise.]

(4) The value of the interest in respect of which the claim is made shall be assessed—

(a) subject to paragraph (5), by reference to the nature of the interest and the condition of the land as it subsisted on the date of service of notice of the claim;

(b) subject to Article 8, in accordance with rules (2) to (4) in**[**[F10] Article 6(1) of the Land Compensation (Northern Ireland) Order 1982**]**;

(c) if the interest is subject to a mortgage or a contract of sale or to a contract made after the relevant date for the grant of a tenancy, as if it were not subject to the mortgage or contract.

(5) In assessing the value of the interest in respect of which the claim is made there shall be left out of account any part of that value which is attributable to—

(a) any building, or improvement or extension of a building, on the land if the building or, as the case may be, the building as improved or extended, was first occupied after the relevant date; and

(b) any change in the use of the land made after that date.

F7 1994 NI 1
F8 1980 c.60
F9 1980 c.60
F10 1982 NI 9

Assessment of compensation: assumptions as to planning permission

8.—(1) The following assumptions shall be made in assessing the value of the interest in respect of which the claim is made.

(2) Subject to paragraph (3), it shall be assumed that planning permission would be granted in respect of the land in which the interest subsists ("the relevant land") or any part thereof for

development of any class specified in Schedule 1 to the Land Development Values (Compensation) Act (Northern Ireland) 1965 .

(3) Notwithstanding paragraph (2)—

(a) it shall not by virtue of that paragraph be assumed that planning permission would be granted, in respect of the relevant land or any part thereof, for development of any class specified in the said Schedule 1 if it is development for which planning permission has been refused and compensation under section 29 of the said Act of 1965 has become payable in respect of that refusal;

(b) where planning permission has been granted, in respect of the relevant land or any part thereof, for development of any class specified in the said Schedule 1 but was so granted subject to conditions, and compensation under the said section 29 has become payable in respect of the imposition of the conditions, it shall not by virtue of paragraph (2) be assumed that planning permission for that development, in respect of the relevant land or that part thereof, as the case may be, would be granted otherwise than subject to those conditions;

(c) where planning permission had been granted, in respect of the relevant land or any part thereof, for development of any class specified in the said Schedule 1 but that permission was revoked or modified by an order under Article 29 of the Planning (Northern Ireland) Order 1972 or section 3 of the Planning (Interim Development) Act (Northern Ireland) 1944 and compensation under section 26 of the said Act of 1965 has become payable in respect of that revocation or modification, it shall not by virtue of paragraph (2) be assumed that planning permission would be granted for so much of that development on the relevant land as is not permitted by virtue of that order.

(4) It shall be assumed that planning permission would not be granted in respect of the relevant land or any part thereof for any development other than such development as is mentioned in paragraph (2); and, if planning permission has been granted in respect of the relevant land or any part thereof for such other development, it shall be assumed that the planning permission has not been granted in so far as it relates to development that has not been carried out.

(5) In this Article any expression which is also used in the said Act of 1965 has the same meaning as in that Act.

Reduction of compensation where other land is benefited

9.—(1) The compensation payable on a claim shall be reduced by an amount equal to any increase in the value of—

(a) the claimant's interest in the land in respect of which the claim is made; and

(b) any interest in other land contiguous or adjacent to the land mentioned in sub-paragraph (*a*) to which the claimant was entitled in the same capacity on the relevant date,

which is attributable to the existence of or the use or prospective use of the public to works to which the claim relates.

(2) Articles 7 and 8 shall not apply to the assessment, for the purposes of paragraph (1), of the value of the interest mentioned in sub-paragraph (*a*) of that paragraph.

(3) Where, for the purpose of assessing compensation on a claim in respect of any interest in land, an increase in the value of an interest in other land has been taken into account under paragraph (1), then, in connection with any subsequent acquisition to which this paragraph applies, that increase shall not be left out of account by virtue of**[**[F11] Article 6(2)(b) and (3) of the Land Compensation (Northern Ireland) Order 1982**]** or taken into account by virtue of paragraph 13(3) of Schedule 6 to the Local Government Act (Northern Ireland) 1972 , paragraph 12(4)[F12] of Schedule 5 to the Roads

Act (Northern Ireland) 1948 or any provision corresponding to that paragraph which is contained in any other statutory provision, in so far as it was taken into account in connection with that claim.

(4) Paragraph (3) applies to any subsequent acquisition, not being an acquistion of the land in respect of which the claim is made where either—

(a) the interest acquired by the subsequent acquistion is the same as the interest previously taken into account (whether the acquisition extends to the whole of the land in which that interest previously subsisted or only to part of that land); or

(b) the person entitled to the interest acquired is, or directly or indirectly derives title to that interest from, the person who at the time of the claim mentioned in that paragraph was entitled to the interest previously taken into account;

and in this paragraph "the interest previously taken into account" means the interest the increased value of which was taken into account as mentioned in paragraph (2).

(5) For the purposes of this Article a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—

(a) to both of them beneficially; or

(b) to both of them as trustee of one particular trust; or

(c) to both of them as personal representative of one particular person;

and in this Article references to a person deriving title from another person include references to any successor in title of that other person.

F11 1982 NI 9
F12 1980 NI 11

Exclusion of minimal compensation

10. Compensation shall not be payable on any claim unless the amount of the compensation exceeds 50.

Other restrictions on compensation

11.—(1) Where a claim has been made in respect of depreciation of the value of an interest in land caused by the use of any public works and compensation has been paid or is payable on that claim, compensation shall not be payable on any subsequent claim in relation to the same works and the same land or any part thereof (whether in respect of the same or a different interest) except that, in the case of land which is a dwelling, this paragraph shall not preclude the payment of compensation both on a claim in respect of the fee simple and on a claim in respect of a tenancy.

(2) Where a person is entitled to compensation in respect of the acquisition of an interest in land by an authority possessing compulsory acquisition powers, or would be so entitled if the acquisition were compulsory, and—

(a) the land is acquired for the purposes of any public works; and

(b) that person retains land which, in relation to the land acquired, constitutes other land or lands within the meaning of section 63 of the Lands Clauses Consolidation Act 1845 or**[**[F13] Article 8 of the Lands Compensation (Northern Ireland) Order 1982**]** (compensation for acquisition to include compensation for injurious affection of other land retained),

then, whether or not any sum is paid or payable in respect of injurious affection of the land retained, compensation shall not be payable under this Part in relation to those works on any claim made after the date on which a vesting order in respect of the land acquired becomes operative (or, if the acquisition is by agreement, the date of the agreement) in respect of any interest in the land retained.

(3) Paragraph (2) applies whether the acquisition is before, on or after the date on which this Part comes into force (in this Part referred to as "the commencement date [F14]") and, where it is on or after that date, the public works for the purposes of which the land is acquired shall be taken to be those specified in the relevant particulars registered under paragraph (4).

(4) Where on or after the commencement date an authority possessing compulsory acquisition powers acquires land for the purposes of any public works and the person from whom the land is acquired retains land which, in relation to the land acquired, constitutes other land or lands within the meaning of the sections mentioned in paragraph (2), particulars of the land retained and the nature and extent of those works shall be included amongst the matters which are required to be registered in the Statutory Charges Register and accordingly … *residue adds para.31 to sch.11 of 1970 c.18 (NI)*

(5) In a case in which compensation for injurious affection fell or falls to be assessed otherwise than in accordance with Article 45, paragraph (2) shall not preclude the payment of compensation under this Part in respect of depreciation by public works so far as situated elsewhere than on the land acquired.

(6) Where after a claim has been made in respect of any interest in land the whole or part of the land in which that interest subsists is compulsorily acquired, then, if—

(a) the value of that land has been diminished by the public works to which the claim relates; but

(b) the compensation in respect of the compulsory acquisition falls to be assessed without regard to the diminution,

the compensation in respect of the acquisition shall be reduced by an amount equal to the compensation paid or payable on the claim or, if the acquisition extends only to part of the land, to so much of the last-mentioned compensation as is attributable to that part.

(7) Without prejudice to the foregoing provisions of this Article, compensation shall not be payable in respect of the same depreciation both under this Part and any other statutory provision.

F13 1982 NI 9
F14 i.e. 13.12.1973

Alterations to public works and changes of use

12.—(1) This Article has effect where, whether before, on or after the commencement date—

(a) the carriageway of a road has been altered after the road has been open to public traffic;

(b) any public works other than a road have been reconstructed, extended or otherwise altered after they have been first used; or

(c) there has been a change of use in respect of any public works other than a road or aerodrome.

(2) If and so far as a claim in respect of the road or other public works relates to depreciation that would not have been caused but for the alterations or change of use, this Part shall, subject to paragraph (3), have effect in relation to the claim as if the relevant date (instead of being the date specified in Article 4(9)) were—

(a) the date on which the road was first open to public traffic after completion of the alterations to the carriageway;

(b) the date on which the other public works were first used after completion of the alterations; or

(c) the date of the change of use,

as the case may be.

(3) Paragraph (2) shall not by virtue of any alterations to an aerodrome apply to a claim in respect of physical factors caused by aircraft unless the alterations are runway or apron alterations.

(4) Where a claim relates to such depreciation as is mentioned in paragraph (2) the notice of claim shall specify, in addition to the matters mentioned in Article 6, the alterations or change of use alleged to give rise to the depreciation; and if and so far as the claim relates to such depreciation—

(a) Article 9 shall have effect as if the increase in value to be taken into account were any increase that would not have been caused but for the alterations or change of use in question;

(b) paragraph (1) of Article 11 shall not preclude the payment of compensation unless the previous claim was in respect of depreciation that would not have been caused but for the same alterations or change of use, and paragraph (2) of that Article shall not preclude the payment of compensation unless the works for which the land was acquired were works resulting from the alteration, or works used for the purpose, to which the claim relates.

(5) For the purposes of this Article the carriageway of a road is altered if, and only if—

(a) the location, width or level of the carriageway is altered (otherwise than by re-surfacing); or

(b) an additional carriageway is provided for the road beside, above or below an existing one;

and the reference in paragraph (2) to depreciation that would not have been caused but for alterations to the carriageway of a road is a reference to such depreciation by physical factors which are caused by the use of, and the source of which is situated on, the length of carriageway which has been altered as mentioned in sub-paragraph (*a*) or, as the case may be, the additional carriageway and the corresponding length of the existing one mentioned in paragraph (*b*).

(6) In this Article "runway or apron alterations" means—

(a) the construction of a new runway, the major re-alignment of an existing runway or the extension or strengthening of an existing runway; or

(b) a substantial addition to, or alteration of, a taxiway or apron, being an addition or alteration whose purpose or main purpose is the provision of facilities for a greater number of aircraft.

(7) For the avoidance of doubt it is hereby declared that references in this Article to a change of use do not include references to the intensification of an existing use.

Mortgages, trusts for sale and settlements

13.—(1) Where an interest is subject to a mortgage—

(a) a claim may be made by any mortgagee of the interest as if he were the person entitled to that interest but without prejudice to the making of a claim by that person;

(b) no compensation shall by payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage);

(c) any compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall in either case be applied by him as if it were proceeds of sale.

(2) Where the interest is held on trust for sale the compensation shall be dealt with as if it were proceeds of sale arising under the trust.

(3) Where the interest is settled land for the purposes of the Settled Land Acts 1882 to 1890 the compensation shall be treated as capital money arising under those Acts.

(4) Where an interest in land is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Acts 1882 to 1890) and a person beneficially entitled (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the land,

Article 5 shall have effect as if occupation by that person were occupation by the trustees in right of the interest vested in them.

Interests acquired by inheritance

14.—(1) So much of Article 5(1) as requires an interest qualifying for compensation under this Part to have been acquired by the claimant before the relevant date shall not apply to any interest acquired by him by inheritance from a person who acquired that interest, or a greater interest out of which it is derived, before the relevant date.

(2) For the purposes of this Article an interest is acquired by a person by inheritance if it devolves on him by virtue only of testamentary dispositions taking effect on, or the law of intestate succession or the right of survivorship between joint tenants as applied to, the death of another person or the successive deaths of two or more other persons.

(3) For the purposes of paragraph (2) a person who acquires an interest by appropriation of it in or towards satisfaction of any legacy, share in residue or other share in the estate of a deceased person shall be treated as a person on whom the interest devolves by direct bequest.

(4) Where an interest is settled land for the purposes of the Settled Land Acts 1882 to 1890 and on the death of a tenant for life within the meaning of those Acts a person becomes entitled to the interest in accordance with the settlement, or by any appropriation by the personal representatives in respect of the settled land, paragraph (2) shall apply as if the interest had belonged to the tenant for life absolutely and the trusts of the settlement taking effect after his death had been trusts of his will.

(5) Paragraph (4) shall apply, with any necessary modifications, where a person becomes entitled to an interest on the termination of a settlement as it would apply if he had become entitled in accordance with the terms of the settlement.

Tenants entitled to enlargement or extension under the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971

15.—(1) This Article has effect where a person is entitled under the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 as respects any land to enlarge an estate into a fee simple or to obtain an extension of a leasehold estate as incident to his existing estate in the land (in this Article referred to as “the qualifying estate”) and—

(a) has on or before the relevant date served notice under section 2 of that Act; and

(b) has not enlarged his estate into a fee simple or obtained an extension of his leasehold estate before that date.

(2) The qualifying estate shall be treated as an owner's interest as defined in Article 5(4) whether or not the unexpired term on the date of service of the notice of claim is of the length there specified.

(3) If no claim is made in respect of the qualifying estate before the claimant has ceased to be entitled to it by reason of his enlargement of the estate into a fee simple or his extension of the leasehold estate he may make a claim in respect of the qualifying estate as if he were still entitled to it.

(4) No claim shall be made by virtue of paragraph (3) after the claimant has ceased to be entitled to the fee simple or extended leasehold estate but such a claim may be made before the beginning of the claim period if it is made before the claimant has disposed of the fee simple or extended leasehold estate and after he has made a contract for disposing of it.

(5) Compensation shall not be payable before the beginning of the claim period on any claim made by virtue of paragraph (4).

(6) Any notice of a claim made by virtue of this Article shall contain, in addition to the matters mentioned in Article 6, a statement that it is made in respect of a qualifying estate and, if made by virtue of paragraph (3) or (4), sufficient particulars to show that it falls within that paragraph.

(7) In relation to a claim made by virtue of paragraph (3) Article 7(4)(*a*) shall have effect as if the reference to the date of service of notice of the claim were a reference to the relevant date.

Art. 16 spent

Information for ascertaining relevant date

17.—(1) The responsible authority in relation to a road or other public works shall keep a record and, on demand, furnish a statement in writing of—

(a) the date on which the road was first open to public traffic, or was first open to public traffic after completion of any particular alterations to the carriageway of the road;

(b) the date on which the public works were first used after completion, or were first used after completion of any particular alterations to those works;

(c) in the case of public works other than a road or aerodrome, the date on which there was a change of use in respect of the public works.

(2) A certificate issued by the Ministry of Development[F15] stating that runway or apron alterations have or have not been carried out at an aerodrome and the date on which an aerodrome at which any such alterations have been carried out was first used after completion of the alterations shall be conclusive evidence of the facts stated.

(3) In this Article references to alterations to the carriageway of a road, to runway or apron alterations and to a change of use shall be construed in the same way as in Article 12; and paragraph (1) shall not apply unless the date in question falls on or after the commencement date.

F15 Now D/Env., SRO (NI) 1973/504

Disputes

18.—(1) Any question of disputed compensation under this Part shall be referred to and determined by the Lands Tribunal.

(2) No such question arising out of a claim made before the beginning of the claim period shall be referred to the Lands Tribunal before the beginning of that period.

Action for nuisance following unsuccessful claim where responsible authority have disclaimed statutory immunity

19. Where, in resisting a claim under this Part, a responsible authority contend that no statutory provision relating to the works in question confers immunity from actions for nuisance in respect of the use to which the claim relates, then if—

(a) compensation is not paid on the claim; and

(b) an action for nuisance in respect of the matters which were the subject of the claim is subsequently brought by the claimant against the authority,

no statutory provision relating to those works, being a statutory provision in force when the contention was made, shall afford a defence to that action in so far as it relates to those matters.

Interest on compensation

20. Compensation under this Part shall carry interest, at such rate as may for the time being be determined by the Ministry of Finance by order under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972 , from—

(a) the date of service of the notice of claim; or

(b) if that date is before the beginning of the claim period, from the beginning of the claim period,

until payment.

Interpretation of Part II

21.—(1) In this Part— the appropriate road authority means—

(a) except where sub-paragraph (*b*) applies, the road authority who constructed the road to which the claim relates;

(b) if and so far as the claim relates to depreciation that would not have been caused but for alterations to the carriageway of a road, the road authority who carried out the alterations;

"claim" means a claim under this Part and "the claimant" means the person making such a claim;

"the claim period" has the meaning assigned to it by Article 6(2) but subject to Article 16(1) and paragraph (3);

"commencement date [F16]" means the date on which this Part comes into operation;

"public road" has the same meaning as in the Private Streets Act (Northern Ireland) 1964 [F17];

"public works" and "responsible authority" have the meanings assigned to them by Article 4;

"the relevant date" has the meanings assigned to it by Articles 4(9) and 12(2).

(2) For the purposes of Articles 5(1), 14(1) and 16(2) an interest acquired or disposed of, or a tenancy granted, pursuant to a contract shall be treated as acquired, disposed of or granted when the contract was made.

(3) In the application of this Part to a road which has not always since 17th October 1969 been a public road—

(a) references to its being open to public traffic shall be construed as references to its being so open whether or not as a public road;

(b) for references to the road authority who constructed it there shall be substituted references to the road authority for the road;

and no claim shall be made if the relevant date falls at a time when the road was not a public road and the road does not become a public road within three years of that date but, if it does, the claim period shall be treated as continuing until the end of one year from the date on which it becomes a public road if, apart from this provision, that period would end earlier.

F16 i.e. 13.12.1973
F17 1980 NI 12

PART III

MITIGATION OF INJURIOUS EFFECT OF PUBLIC WORKS

Insulation against noise

Sound-proofing of buildings affected by public works

22.—(1) The Ministry of Development[F18], or any other Ministry after consultation with the Ministry of Development[F18], may make regulations imposing a duty or conferring a power on responsible authorities to insulate buildings against noise caused or expected to be caused by the construction or use of public works or to make grants in respect of the cost of such insulation.

(2) Regulations under this Article may—

(a) make provision as to the level of noise giving rise to a duty or power under the regulations and the area in which a building must be situated if a duty or power is to arise in respect of it;

(b) specify the classes of public works and of buildings in respect of which a duty or power is to arise, and the classes of persons entitled to make claims, under the regulations;

(c) specify the nature and extent of the work which is to be undertaken under the regulations and the expenditure in respect of which and the rate at which grants are to be made under the regulations;

(d) make the carrying out of work or the making of grants under the regulations dependent upon compliance with conditions;

(e) authorise or require the Housing Executive, any district council or public body to act as agents for responsible authorities in dealing with claims and in discharging or exercising the duties or powers of responsible authorities under the regulations;

(f) make provision for the making by responsible authorities of payments to the Housing Executive, any district council or public body in respect of anything done by them as agents as mentioned in sub-paragraph (*e*);

(g) make provision as to the funds out of which expenses incurred by responsible authorities under the regulations are to be defrayed;

(h) make provision for the settlement of disputes arising under the regulations.

(3) Without prejudice to the generality of sub-paragraph (*a*) of paragraph (2), regulations made by virtue of that sub-paragraph may provide for the relevant level of noise or the relevant area in a particular case to be determined by reference to a document published by or on behalf of the Ministry of Development[F18] or by any other authority or body or in such other manner as may be provided in the regulations.

(4) If regulations under this Article impose a duty or confer a power to carry out, or make a grant in respect of the cost of, work in respect of a building which is subject to a tenancy on a claim in that behalf made by the landlord or the tenant, provision may also be made by the regulations for enabling the work to be carried out notwithstanding the withholding of consent by the other party to the tenancy.

(5) Regulations under this Article may contain supplementary and ancillary provisions and may make different provision with respect to different areas.

(6) A draft of any regulations under this Article shall be laid before Parliament and the first regulations shall not be made unless the draft has been approved by a resolution of each House of Parliament.

(7) In this Article "public works" and "responsible authority" have the same meaning as in Article 4 except that "public works" does not include an aerodrome and except that "responsible authority", in relation to a road, includes any person having power to make an order or regulations in respect of that road under**[**[F19] Part III of the Road Traffic Regulation (Northern Ireland) Order 1997**]** (traffic regulation).

F18 Now D/Env., SRO (NI) 1973/504; 1976 NI 6
F19 1997 NI 2

Art. 23 rep. by 1994 NI 1

Arts. 24#26 rep. by 1993 NI 15

Powers of authorities responsible for other public works

Acquisition of land in connection with public works

27.—(1) Subject to the provisions of this Article, a responsible authority may acquire land by agreement for the purpose of mitigating the adverse effect which the existence or use of any public works will have on the surroundings of the works.

(2) Subject to the provisions of this Article, a responsible authority may acquire by agreement—

(a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or alteration of any public works;

(b) land the enjoyment of which is seriously affected by the use of any public works,

if the interest of the vendor is**[**[F20] one which falls within Article 4 of the Planning Blight (Compensation) (Northern Ireland) Order 1981 (interests qualifying for protection under blight provisions) taking references to the date of service of a blight notice under Article 5 of that Order as references to the date on which the purchase agreement is made**]**.

(3) The powers conferred by paragraph 2(*b*) shall not be exercisable unless the date on which the public works or, as the case may be, the altered public works, are first used falls on or after 17th October 1971 and the powers conferred by paragraphs (1) and (2)(*a*) shall not be exercisable unless that date falls on or after 17th October 1972, and—

(a) if that date falls not later than one year after the coming into operation of this Part—

(i) the powers conferred by paragraphs (1) and (2)(*b*) shall not be exercisable unless the acquisition is begun before the end of one year after the coming into operation of this Part or one year after that date, whichever ends later;

(ii) the powers conferred by paragraph (2)(*a*) shall not be exercisable unless the acquisition is begun before the end of one year after the coming into operation of this Part;

(b) if that date falls more than one year after the coming into operation of this Part—

(i) the powers mentioned in sub-paragraph (*a*)(i) shall not be exercisable unless the acquisition is begun before the end of one year after that date;

(ii) the powers mentioned in sub-paragraph (*a*)(ii) shall not be exercisable unless the acquisition is begun before that date.

(4) For the purposes of paragraph (3) the acquisition of any land shall be treated as begun when the agreement for its acquisition is made.

(5) This Article applies only where the responsible authority have statutory powers to acquire land (whether compulsorily or by agreement) for the purposes of their functions but would not, apart from this Article, have power to acquire land as mentioned in paragraphs (1) and (2).

(6) In this Article "public works" and "responsible authority" have the same meaning as in Article 4 except that "public works" does not include a road or any works forming part of the works of a statutory undertaker as defined in Article 2(2) of the Planning (Northern Ireland) Order 1972 , not being the Post Office or a person authorised to carry on a transport undertaking.

F20 1993 NI 15

Execution of works etc., in connection with public works

28.—(1) A responsible authority may carry out—

(a) if they have power to acquire land under Article 27, on any land acquired by them under that Article;

(b) on any other land belonging to them,

works for mitigating the adverse effect which the construction, alteration, existence or use of any public works has or will have on the surroundings of the works.

(2) Without prejudice to the generality of paragraph (1), the works that may be carried out under that paragraph include the planting of trees, shrubs or plants of any other description and the laying out of any area as grassland.

(3) A responsible authority may—

(a) develop or redevelop any land acquired by them under Article 27, or any other land belonging to them, for the purpose of improving the surroundings of public works in any manner which they think desirable by reason of the construction, alteration, existence or use of the works;

(b) dispose of any land acquired by them under Article 27.

(4) This Article applies only where the responsible authority are a body incorporated by or under any statutory provision and has effect only for extending the corporate powers of any such authority.

(5) In this Article "public works" and "responsible authority" have the same meaning as in Article 4 except that "public works" does not include a road.

Expenses of persons moving temporarily during construction works etc.

Power to pay expenses of persons moving temporarily during construction works etc.

29.—(1) This Article has effect where works are carried out—
Sub#para. (a) rep. by 1993 NI 15

(b) by a responsible authority for the construction or alteration of any public works other than a road,

and the carrying out of those works affects the enjoyment of a dwelling adjacent to the site on which they are being carried out to such an extent that continued occupation of the dwelling is not reasonably practicable.

(2) Subject to paragraph (3), the[F21]. . . responsible authority,[F21]. . . , may pay any reasonable expenses incurred by the occupier of the dwelling in providing suitable alternative residential accommodation for himself and members of his household for the whole or any part of the period during which the works are being carried out.

(3) No payment shall be made to any person under this Article in respect of any expenses except in pursuance of an agreement made between that person and the authority concerned before the expenses are incurred; and no payment shall be so made except in respect of the amount by which the expenses exceed those which that person would have incurred if the dwelling had continued to be occupied.

(4) In this Article "public works" and "responsible authority" have the same meaning as in Article 4.

F21 1993 NI 15

PART IV

PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

Home loss payments

Right to home loss payment where person displaced from dwelling

30.—(1) Where a person is displaced from a dwelling on any land in consequence of—

(a) the compulsory acquisition of an interest in the dwelling;

(b) the making or acceptance of a housing order or undertaking in respect of the dwelling;

(c) where the land has been previously acquired or appropriated by an authority possessing compulsory acquisition powers and is for the time being held for the purposes for which it was acquired or appropriated, the carrying out of [[F22] any improvement of the dwelling or of] redevelopment on the land;

[F22](d) the carrying out of any improvement to the dwelling or of redevelopment on the land by a housing association which has previously acquired the land and which at the date of the displacement is registered,]

he shall, subject to the provisions of this Article and Article 32, be entitled to receive a payment (in this Order referred to as a "home loss payment") from—

[F23](i) where sub-paragraph (*a*) applies, the acquiring authority;

(ii) where sub-paragraph (b) applies, the authority who made the order or accepted the undertaking;

(iii) where sub-paragraph (*c*) applies, the authority carrying out the improvement or redevelopment; and

(iv) where sub-paragraph (*d*) applies, the housing association carrying out the improvement or redevelopment].

[[F24](2) A person shall not be entitled to a home loss payment unless the following conditions have been satisfied throughout the period of one year ending with the date of displacement—

(a) he has been in lawful occupation of the dwelling, or a substantial part of it, as his only or main residence; and

(b) he has been in such occupation by virtue of an interest or right to which this Article applies,

but, if those conditions are satisfied on the date of displacement, a payment (referred to in this Article and Articles 32 and 33 as a "discretionary payment") may be made to him of an amount not exceeding the amount to which he would have been entitled if he had satisfied those conditions throughout that period.**]**

(3) For the purposes of this Article a person shall be deemed to have been displaced from a dwelling in consequence of the compulsory acquisition of an interest therein …[F25] if, after the notice of application for, or the notice of intention to make, a vesting order in respect of that interest has been published …[F25] but before such an order becomes operative, he gives up occupation of the dwelling by arrangement with the Housing Executive or with the authority proposing to acquire the dwelling compulsorily.

[[F26](3AA) For the purposes of this Article a person shall be deemed to have been displaced from a dwelling in consequence of the compulsory acquisition of an interest therein if the acquisition is in pursuance of the service by him of a blight notice, within the meaning of Article 2(2) of the Planning Blight (Compensation) (Northen Ireland) Order 1981, served on or after the date of the coming into operation of Article 36 of the Planning (Amendment) (Northern Ireland) Order 2003.**]**

[F22](3A) For the purposes of this Article a person shall not be treated as displaced from a dwelling in consequence of the acceptance of an undertaking or of the carrying out of any improvement to the dwelling unless he is permanently displaced from it in consequence of the carrying out of the works specified in the undertaking or, as the case may be, of the improvement in question.

(3B) For the purposes of this Article a person shall be deemed to have been displaced from a dwelling in consequence of the making of a housing order in relation thereto if—

(a) the Housing Executive is satisfied that the dwelling is unfit for human habitation[F27]. . . ; and

(b) the person vacating the dwelling gives up occupation by arrangement with the Housing Executive.]

(4) This Article applies to the following interests and rights—

(a) any interest in the dwelling including a right to occupy the dwelling as a statutory tenant to whom section 15 of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 [F28] or section 18 of the Rent and Mortgage Interest (Restrictions) Act (Northern Ireland) 1940 [F28] applies;

(b) a right to occupy the dwelling under a contract at a rent which includes payment for the use of furniture or for services;

(c) a right to occupy the dwelling under a contract of employment.

Para. (5) rep. by 1992 NI 8

(6) Where an authority possessing compulsory acquisition powers acquire the interest of any person in a dwelling by agreement, then, in relation to any other person who is displaced from the dwelling in consequence of the acquisition, paragraphs (1) to (4) shall have effect as if the acquisition were compulsory and a vesting order in respect of the dwelling had become operative when the agreement was made.

Para. (7) rep. by 1977 NI 8

(8) Where an interest in a dwelling is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Acts 1882 to 1890) and a person beneficially entitled (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the dwelling, he shall be treated for the purposes of this Article as occupying it by virtue of an interest in the dwelling.

(9) In this Article—

[[F23] "housing order" means a demolition, closing or clearance order under Chapter II of Part III of the Housing (Northern Ireland) Order 1981 **[**[F29] or a closing order under paragraph 6 of Schedule 7A to the Housing (Northern Ireland) Order 1981**]**;]

[[F22] "improvement" includes alteration and enlargement;]

[[F27]"undertaking" means an undertaking accepted under paragraph 5 of Schedule 4 to the Housing (Northern Ireland) Order 1992;**]**

"redevelopment" includes change of use.

(10) This Article**[**[F26] except paragraph (3AA)**]** applies if the date of displacement, or in the case within paragraph (3) the giving up of occupation, is on or after 17th October 1972.

F22 1981 NI 3
F23 1981 NI 3
F24 1992 NI 8
F25 1977 NI 8
F26 2003 NI 8
F27 1992 NI 15
F28 1978 NI 20
F29 1983 NI 15

[[F30]Spouses[[F31] and civil partners] having statutory rights of occupation

30A.—(1) This Article applies where, by reason of the entitlement of**[**[F31] one spouse or civil partner ("A")**]** to occupy a dwelling by virtue of an interest or right to which Article 30 applies,**[**[F31] the other spouse or civil partner ("B") acquires home rights**][**[F32] (within the meaning of the Family Homes and Domestic Violence (Northern Ireland) Order 1998**]**).

(2) So long as—

(a) those**[**[F31] home rights**]** continue;

(b) B is in occupation of the dwelling and A is not; and

(c) B is not, apart from this Article, treated as occupying the dwelling by virtue of an interest or right to which that Article applies,

B shall be treated for the purposes of that Article as occupying the dwelling by virtue of such an interest (but not an owner's interest within the meaning of Article 31).

(3) References in this Article to a dwelling include a reference to a substantial part of it.**]**

F30 1992 NI 8
F31 2004 c.33
F32 1998 NI 6

[[F33]Amount of home loss payment

31.—(1) In the case of a person who on the date of displacement is occupying, or is treated for the purposes of Article 30 as occupying, the dwelling by virtue of an interest in it which is an owner's interest, the amount of the home loss payment shall be 10 per cent. of the market value of his interest in the dwelling or, as the case may be, the interest in the dwelling vested in trustees, subject to a maximum of**[**[F34] £45,000**]** and a minimum of**[**[F34] £4,500**]**.

(2) In any other case, the amount of the home loss payment shall be**[**[F34] £4,500**]**.

(3) For the purposes of this Article and Article 32 the market value of an interest in a dwelling—

(a) in a case where the interest is compulsorily acquired, is the amount assessed for the purposes of the acquisition as the value of the interest; and

(b) in any other case, is the amount which, if the interest were being compulsorily acquired under a vesting order becoming operative on the date of displacement, would be assessed for the purposes of the acquisition as the value of the interest,

and any dispute as to the amount referred to in sub#paragraph (*b*) shall be determined by the Lands Tribunal.

(4) In determining for the purposes of this Article and Article 32 the market value of an interest in a dwelling, the dwelling shall be taken to include any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that dwelling.

(5) The Department of the Environment may from time to time by regulations prescribe a different maximum or minimum for the purposes of paragraph (1) and a different amount for the purposes of paragraph (2).

(6) Regulations under paragraph (5) shall be subject to negative resolution.

(7) In this Article "owner's interest", in relation to any land, means a freehold interest (whether legal or equitable) or a tenancy granted or extended for a term of years of which not less than three years remain unexpired.**]**

F33 1992 NI 8
F34 SR 2004/312

Modifications etc. (not altering text)
C3 Art. 31(5): functions transferred (28.5.2006) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2006 (S.R. 2006/192), arts. 1(2), **4**

Supplementary provisions about home loss payments

32.—[[F35](1) No home loss payment or discretionary payment shall be made except on a claim in writing—

(a) made by the claimant before the expiration of the period of 6 months beginning with the date of displacement; and

(b) giving such particulars as the authority responsible for making the payment may reasonably require for the purpose of determining whether the payment should be made and, if so, its amount.

(2) Where a person is entitled to a home loss payment, the payment shall be made on or before the latest of the following dates—

(a) the date of displacement;

(b) the last day of the period of three months beginning with the making of the claim; and

(c) where the amount of the payment is to be determined in accordance with Article 31(1), the day on which the market value of the interest in question is agreed or finally determined.

(2A) Where the amount of the payment is to be determined in accordance with Article 31(1)—

(a) the acquiring authority may at any time make a payment in advance; and

(b) if, on the later of the dates referred to in paragraph (2)(*a*) and (*b*), the market value of the interest in question has not been agreed or finally determined, the acquiring authority shall make a payment in advance (where they have not already done so).

(2B) The amount of the payment in advance shall be the lesser of—

(a) the maximum amount for the purposes of Article 31(1);

(b) 10 per cent. of the amount agreed to be the market value of the interest in question or, if there is no such agreement, 10 per cent. of the acquiring authority's estimate of that amount.

(2C) Where the amount of a payment in advance differs from the amount of the home loss payment, the shortfall or excess shall be paid by or, as the case may be, repaid to the acquiring authority when the market value of the interest in question is agreed or finally determined.

(3) Where the claimant has satisfied, throughout any period, the conditions mentioned in Article 30(2), that period shall be treated for the purposes of that paragraph as including any immediately preceding period throughout which—

(a) he has resided in the dwelling as his only or main residence but without satisfying those conditions; and

(b) another person or other persons have satisfied those conditions,

and references in this paragraph and paragraph (3A) to a dwelling include a reference to a substantial part of it.

(3A) Where the claimant has satisfied, throughout any period, the conditions mentioned in Article 30(2), that period (or that period as extended under paragraph (3)) shall be treated for the purposes of Article 30(2) as including any immediately preceding period, or successive periods, throughout which he satisfied the conditions mentioned in Article 30(2) in relation to another dwelling or, as the case may be, other dwellings (applying paragraph (3) to determine the length of any period or periods).**]**

(4) Where a person ("the deceased") dies before the expiration of the period for making a claim to a home loss payment and would have been entitled to such a payment if he had made a claim within that period, a claim to that payment may be made, before the expiration of that period, by any person, not being a minor, who—

(a) throughout a period of not less than**[**[F35] one year**]** ending with the date of displacement of the deceased, has resided in the dwelling, or a substantial part of it, as his only or main residence; and

(b) is entitled to benefit by virtue of testamentary dispositions taking effect on, or the law of intestate succession or the right of survivorship between joint tenants as applied to, the death of the deceased.

(5) Where the claimant has successively been in occupation of or resided in different dwellings in the same building, being dwellings consisting of a room or rooms not constructed or structurally adapted for use as a separate dwelling, Article 30(2) and**[**[F35] paragraphs (3) to (4)**]** shall have effect as if those dwellings were the same dwelling.

(6) Where there are two or more persons entitled to make a claim to a home loss payment in respect of the same dwelling (whether by virtue of joint occupation or paragraph (4)) the payment to be made on each claim shall be equal to the whole amount of the home loss payment divided by the number of such persons.

(7) Where an interest in a dwelling is acquired by agreement by an authority possessing compulsory acquisition powers, the authority may, in connection with the acquisition, make to the person from whom the interest is acquired a payment corresponding to any home loss payment**[**[F35] or discretionary payment**]** which they would be required**[**[F35] or authorised**]** to make to him if the acquisition were compulsory and a vesting order in respect of that interest had been made before he gave up occupation of the dwelling.

Para. (8) rep. by 1992 NI 8

Para. (9) rep. by 1977 NI 8

F35 1992 NI 8

Home loss payments for certain caravan dwellers

33.—(1) Articles 30 to 32 shall, so far as applicable, have effect in relation to a person residing in a caravan on a caravan site who is displaced from that site as they have effect in relation to a person displaced from a dwelling on any land but shall so have effect subject to the following modifications.

(2) No home loss payment**[**[F36] or discretionary payment**]** shall be made to any person by virtue of this Article except where no suitable alternative site for stationing a caravan is available to him on reasonable terms.

(3) Paragraph (1) of Article 30 shall have effect as if for the words preceding sub-paragraph (*a*) there were substituted the words "Where a person residing in a caravan on a caravan site is displaced from that site in consequence of" and paragraph (2) of that Article shall have effect as if for sub-paragraphs (*a*) and (*b*) there were substituted—

[[F36]"(a) he has been in occupation of the caravan site by using a caravan stationed on it as his only or main residence; and

(b) he has been in such occupation of the site by virtue of an interest or right to which this Article applies.".**]**

[[F36](4) Article 31 shall have effect as if the references to a person occupying a dwelling by virtue of an interest in it and to his interest in the dwelling were to a person occupying a caravan site by virtue of an interest in it and to that interest.**]**

(5) Article 32 shall have effect as if for paragraph (5) there were substituted—

"(5) Where any land comprises two or more caravan sites and the claimant has successively been in occupation of or resided in a caravan on different caravan sites on that land, Article 30(2) and**[**[F36] paragraphs (3) to (4)**]** shall have effect—

[[F36](a) as if in paragraphs (3) and (3A) the references to a dwelling were to a caravan site;**]**

(b) as if in paragraph (4) for the words "resided in the dwelling, or a substantial part of it" there were substituted the words "resided in a caravan on the caravan site"; and

(c) as if those sites were the same site." .

(6) Articles 30 to 32 shall have effect as if in any provision not modified as aforesaid for any reference to a dwelling or land there were substituted a reference to a caravan site.

(7) In this Article "caravan site" means land on which a caravan is stationed for the purpose of human habitation and land which is used in conjunction with land on which a caravan is so stationed.

F36 1992 NI 8

[[F37]*Other loss payments*

F37 Art. 33A and preceding cross-heading inserted (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 1**, 7(2) (with s. 7(3))

Basic loss payment

33A.—(1) This Article applies to a person—

(a) if he has a qualifying interest in land,

(b) if the interest is acquired compulsorily, and

(c) to the extent that he is not entitled to a home loss payment in respect of any part of the interest.

(2) A person to whom this Article applies is entitled to payment of whichever is the lower of the following amounts—

(a) 7.5% of the value of his interest;

(b) £75,000.

(3) A payment under this Article must be made by the acquiring authority.

(4) An interest in land is a qualifying interest if it is a freehold interest (legal or equitable) or an interest under a tenancy and (in either case) itsubsists for a period of not less than one year ending with whichever is the earlier of—

(a) the date on which the vesting order is operative;

(b) the date on which compensation is agreed between the person and the acquiring authority.

(5) Subject to paragraphs (6) and (7), the value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition.

(6) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.

(7) If rule (5) in Article 6(1) of the Land Compensation (Northern Ireland) Order 1982 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.**]**

[[F38]Occupier's loss payment: agricultural land

33B.—(1) This Article applies to a person if—

(a) he has a qualifying interest in land for the purposes of Article 33A,

(b) the land is agricultural land,

(c) the interest is acquired compulsorily, and

(d) he occupied the land for the period specified in Article 33A(4).

(2) A person to whom this Article applies is entitled to a payment of whichever is the greatest of the following amounts—

(a) 2.5% of the value of his interest;

(b) the land amount;

(c) the buildings amount.

(3) But the maximum amount which may be paid to a person under this Article in respect of an interest in land is £25,000.

(4) A payment under this Article must be made by the acquiring authority.

(5) Subject to paragraphs (6) and (7), the value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition.

(6) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.

(7) If rule (5) in Article 6(1) of the Land Compensation (Northern Ireland) Order 1982 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.

(8) The land amount is the greater of £300 and the amount found in accordance with the following Table—

Area of the land	Amount per hectare
Not exceeding 100 hectares	£100 per hectare or part of a hectare
Exceeding 100 hectares	(a) (a) £100 per hectare for the first 100 hectares; (b) £50 per hectare for the next 300 hectares or part of a hectare.

(9) The buildings amount is £25 per square metre (or part of a square metre) of the gross floor space of any buildings on the land.

(10) The gross floor space must be measured externally.

F38 Arts. 33B-33C inserted (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 2**, 7(2) (with s. 7(3))

Occupier's loss payment: other land

33C.—(1) This Article applies to a person if—

(a) he has a qualifying interest in land for the purposes of Article 33A,

(b) the land is not agricultural land,

(c) the interest is acquired compulsorily, and

(d) he occupied the land for the period specified in Article 33A(4).

(2) A person to whom this Article applies is entitled to a payment of whichever is the greatest of the following amounts—

(a) 2.5% of the value of his interest;

(b) the land amount;

(c) the buildings amount.

(3) But the maximum amount which may be paid to a person under this Article in respect of an interest in land is £25,000.

(4) A payment under this Article must be made by the acquiring authority.

(5) Subject to paragraphs (6) and (7), the value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition.

(6) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.

(7) If rule (5) in Article 6(1) of the Land Compensation (Northern Ireland) Order 1982 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.

(8) The land amount is the greater of—

(a) £2,500;

(b) £2.50 per square metre (or part of a square metre) of the area of the land.

(9) But if only part of land in which a person has an interest is acquired, for the figure specified in paragraph (8)(a) there is substituted £300.

(10) The buildings amount is £25 per square metre (or part of a square metre) of the gross floor space of any buildings on the land.

(11) The gross floor space must be measured externally.**]**

F38 Arts. 33B-33C inserted (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 2**, 7(2) (with s. 7(3))

[[F39]Claims

33D.—(1) This Article applies for the purposes of Articles 33A to 33C.

(2) A claim for payment must be made in writing to the acquiring authority.

(3) The claim must give such particulars as the authority may reasonably require for the purpose of deciding—

(a) whether a payment is to be made;

(b) the amount of any such payment.

(4) For the purposes of the Limitation (Northern Ireland) Order 1989 a person's right of action to recover a payment must be taken to have accrued—

(a) in the case of a claim under Article 33A on the last day of the period specified in paragraph (4) of that Article;

(b) in the case of a claim under Article 33B or 33C on the date the vesting order is operative.

F39 Arts. 33D-33I inserted (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 3**, 7(2) (with s. 7(3))

Insolvency of claimant

33E.—(1) This Article applies if a person is entitled to a payment under Article 33A, 33B or 33C but before a claim is made under Article 33D insolvency proceedings are started in relation to the person.

(2) Any of the following may make a claim instead of the person mentioned in paragraph (1)—

(a) a receiver, trustee in bankruptcy or the official receiver in the case of an individual;

(b) an administrator, administrative receiver, liquidator or provisional liquidator or the official receiver in the case of a company or a partnership.

(3) Insolvency proceedings are—

(a) proceedings in bankruptcy;

(b) proceedings under the Insolvency (Northern Ireland) Order 1989 for the winding up of a company or an unregistered company (including voluntary winding up of a company under Part 5 of that Order;

(c) proceedings for the winding up of a partnership.

F39 Arts. 33D-33I inserted (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 3**, 7(2) (with s. 7(3))

Death of claimant

33F.—(1) This Article applies if a person is entitled to a payment under Article 33A, 33B or 33C but before a claim is made under Article 33D the person dies ("the deceased").

(2) A claim may be made by a person who—

(a) occupied the land for a period of not less than one year ending with the date on which the vesting order is operative, and

(b) is entitled to benefit on the death of the deceased by virtue of—

(i) a testamentary disposition;

(ii) the law of intestate succession; or

(iii) the right of survivorship between joint tenants.

F39 Arts. 33D-33I inserted (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 3**, 7(2) (with s. 7(3))

Payment

33G.—(1) Any dispute as to the amount of a payment to be made under Article 33A, 33B or 33C must be determined by the Lands Tribunal.

(2) The acquiring authority must make any payment required by Article 33A not later than whichever is the latest of the following dates—

(a) the last day of the period specified in Article 33A(4);

(b) the last day of the period of 3 months beginning with the day the claim is made;

(c) the day on which the amount of the payment is determined.

(3) The authority must make any payment required by Article 33B or 33C not later than whichever is the latest of the following dates—

(a) the date on which the vesting order is operative;

(b) the last day of the period of 3 months beginning with the day the claim is made;

(c) the day on which the amount of the payment is determined.

(4) If sub-paragraph (c) of paragraph (2) or (3) applies the authority may at any time make a payment in advance to the person entitled to a payment ("the claimant").

(5) If when the value of the interest is agreed or determined the amount of a payment made under paragraph (4) differs from the payment required by Article 33A, 33B or 33C—

(a) the amount by which the advance payment exceeds the payment required must be repaid by the claimant to the authority;

(b) the amount by which the payment required exceeds the advance payment must be paid by the authority to the claimant.

(6) The acquiring authority must pay interest on the amount required to be paid at the rate for the time being determined by order under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972.

(7) Interest accrues from the date specified in sub-paragraph (a) of paragraph (2) or (3) (as the case may be).

(8) The authority may, at the request of the person entitled to the payment, make a payment on account of the interest mentioned in paragraph (6).

F39 Arts. 33D-33I inserted (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 3**, 7(2) (with s. 7(3))

Acquisition by agreement or following service of purchase notice or blight notice

33H.—(1) This Article applies if—

(a) an interest in land which is a qualifying interest for the purpose of Article 33A is acquired by agreement by an authority which has power to acquire the interest compulsorily, and

(b) the interest is acquired from a person who would be entitled to a payment under Article 33A, 33B or 33C if the interest is acquired compulsorily.

(2) This Article also applies if—

(a) an interest in land which is a qualifying interest for the purpose of Article 33A is acquired by an authority which has power to acquire the interest compulsorily,

(b) the interest is acquired from a person who would be entitled to a payment under Article 33A, 33B or 33C if the interest is acquired compulsorily; and

(c) the interest is acquired in consequence of the service of—

(i) a purchase notice under section 191 of the Planning Act (Northern Ireland) 2011 (right to require purchase of certain interests); or

(ii) a notice under Article 5 of the Planning Blight (Compensation)(Northern Ireland) Order 1981 (purchase of blighted land).

(3) The authority may make a payment to the person of an amount equal to the amount it would be required to pay if the interest is acquired compulsorily.

F39 Arts. 33D-33I inserted (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 3**, 7(2) (with s. 7(3))

Regulations

33I.—(1) The Department for Regional Development may by regulations—

(a) provide that no payment is to be made under Article 33A, 33B or 33C to a person of such description, or in such circumstances, as may be prescribed in the regulations;

(b) substitute for any amount or percentage figure specified in Articles 33A to 33C such other amount or percentage figure (as the case may be) as it thinks fit.

(2) Regulations under this Article shall not be made unless a draft of the regulations has been laid before and approved by resolution of the Assembly.**]**

F39 Arts. 33D-33I inserted (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 3**, 7(2) (with s. 7(3))

Farm loss payments

Right to farm loss payment where person displaced from agricultural unit

[F40]34. . . . . . .

F40 Arts. 34-36 repealed (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 6(b)**, 7(2) (with s. 7(3))

Amount of farm loss payment

[F40]**35.** . . . . . .

F40 Arts. 34-36 repealed (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 6(b)**, 7(2) (with s. 7(3))

Supplementary provisions about farm loss payments

[F40]**36.** . . . . . .

F40 Arts. 34-36 repealed (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 6(b)**, 7(2) (with s. 7(3))

Disturbance payments

Disturbance payments for persons without compensatable interests

37.—(1) Where a person is displaced from any land in consequence of—

(a) the acquisition of the land by an authority possessing compulsory acquisition powers;

(b) the making or acceptance of a housing order or undertaking in respect of a house on the land;

(c) where the land has been previously acquired or appropriated by an authority possessing compulsory acquisition powers and is for the time being held by the authority for the purposes for which it was acquired or appropriated, the carrying out of [[F41] any improvement to a house or building on the land or of] redevelopment on the land;

[F41](d) the carrying out of any improvement to a house or building on the land or of redevelopment on the land by a housing association which has previously acquired the land and at the date of the displacement is registered,]

he shall, subject to the provisions of this Article, be entitled to receive a payment (in this Order referred to as a "disturbance payment") from—

[F42](i) where sub-paragraph (*a*) applies, the acquiring authority;

(ii) where sub-paragraph (b) applies, the authority who made the order or accepted the undertaking;

(iii) where sub-paragraph (*c*) applies, the authority carrying out the improvement or redevelopment; and

(iv) where sub-paragraph (*d*) applies, the housing association carrying out the improvement or redevelopment.]

(2) A person shall not be entitled to a disturbance payment—

(a) in any case, unless he is in lawful possession of the land from which he is displaced;

(b) in a case within paragraph (1)(*a*), unless[F43]. . .

(i) he has no interest in the land for the acquisition or extinguishment of which he is (or if the acquisition or extinguishment were compulsory would be) entitled to compensation under any other statutory provision;[F43]. . .

Head (ii) rep. by 1992 NI 15

Sub-para. (c) rep. by 1992 NI 15

[F42](d) in a case within paragraph (1)(*d*), unless the displacement occurred on or after 10th November 1976;

[F43]. . .

(3) For the purposes of paragraph (1) a person shall not be treated as displaced in consequence of any such acquisition [[F42] redevelopment or improvement as is mentioned in sub-paragraph (*a*), (*c*) or (*d*)] of that paragraph unless he was in lawful possession of the land—

(a) in the case of land acquired compulsorily, at the time when the notice of application for, or the notice of intention to make, the vesting order was first published;

(b) in the case of land acquired under an Act or Measure specifying the land as subject to compulsory acquisition, at the time when the provisions of the Bill for that Act or of the proposed Measure specifying the land were first published;

(c) in the case of land acquired by agreement, at the time when the agreement was made;

. . . [F44].

[F42](3A) For the purposes of paragraph (1) a person shall not be treated as displaced in consequence of the acceptance of an undertaking or of the carrying out of any improvement to a house or building unless he is permanently displaced in consequence of the carrying out of the works specified in the undertaking or, as the case may be, of the improvement in question.]

(4) Where a person is displaced from land in circumstances such that, apart from this paragraph, he would be entitled to a disturbance payment from any authority and also to compensation from that authority under**[**[F45] Article 23 of the Business Tenancies (Northern Ireland) Order 1996**]** (compensation from landlord where order for new tenancy of business premises precluded on certain grounds) he shall be entitled, at his option, to one or the other but not to both.

(5) Where a person is displaced from land in circumstances such that, apart from this paragraph, he received or would be entitled to receive a disturbance payment from any authority and also a payment from that authority under [[F42] Chapter II of Part V of the Housing (Northern Ireland) Order 1981], section 37 or 38 of the New Towns Act (Northern Ireland) 1965 or Article 60 or 61 of the Planning (Northern Ireland) Order 1972

(a) in a case where he receives on or before the date of the coming into operation of this Part payment under any of those sections or Articles, he shall not be entitled to a disturbance payment;

(b) in a case where he has not received on or before that date payment under any of those sections or Articles, he shall be entitled to a disturbance payment but not to any payment under those sections or Articles.

(6) Where—

(a) a person is displaced from any land as mentioned in paragraph (1); or

(b) being a person to whom paragraph (3) applies, gives up occupation of a dwelling by arrangement with the Housing Executive or, as the case may be, the acquiring authority;

but in either case is not entitled, as against the authority there mentioned, to a disturbance payment or to compensation for disturbance under any other statutory provision, the authority may, if they think fit, make a payment to him determined in accordance with Article 38(1) to (3).

[F41](6A) For the purposes of this Article a person shall be deemed to have been displaced from a dwelling in consequence of the making of a housing order in relation thereto if—

(a) the Housing Executive is satisfied that the dwelling is unfit for human habitation[F43]. . . ; and

(b) the person vacating the dwelling gives up occupation by arrangement with the Housing Executive.]

(7) A disturbance payment shall carry interest, at such rate as may for the time being be determined by the Ministry of Finance by order under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972 from the date of displacement or, as the case may be, the giving up of occupation until payment.
Para. (8) rep. by 1977 NI 8

(9) In this Article "housing order", "undertaking", [[F41] "improvement"] and "redevelopment" have the meanings assigned to them by Article 30(9).

(10) This Article applies if the displacement or giving up of occupation is on or after 17th Ocober 1972.

F41 1981 NI 3
F42 1981 NI 3
F43 1992 NI 15
F44 1977 NI 8
F45 1996 NI 5

Amount of disturbance payment

38.—(1) The amount of a disturbance payment shall be an amount equal to—

(a) the reasonable expenses of the person entitled to the payment in removing from the land from which he is displaced; and

(b) if he was carrying on a trade or business on that land, the loss he will sustain by reason of the disturbance of that trade or business consequent upon his having to quit the land;

subject, where that person is not entitled to or does not receive a home loss payment or any payment corresponding to a home loss payment, to a minimum of 85.

(2) Subject to Article 47(7), in estimating the loss of any person for the purposes of paragraph (1) (*b*), regard shall be had to the period for which land occupied by him may reasonably have been expected to be available for the purposes of his trade or business and to the availability of other land suitable for that purpose.

(3) Where the displacement is from a dwelling in respect of which structural modifications have been made for meeting the special needs of a person in need (whether or not the person entitled to the disturbance payment) then, if—

(a) the Ministry of Health and Social Services has under Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 provided assistance, or

(b) that Ministry would, if an application had been made, have provided assistance,

for making those modifications, the amount of the disturbance payment shall include an amount equal to any reasonable expenses incurred by the person entitled to the payment in making, in respect of a dwelling to which the person in need removes, comparable modifications which are reasonably required for meeting the special needs of the person in need.

(4) Any dispute as to the amount of a disturbance payment shall be referred to and determined by the Lands Tribunal.

Other payments

Payments for certain Housing Executive tenants

[F46]**39.**—(1) Where the tenant of a dwelling provided by the Housing Executive moves to**[**[F47] another dwelling, whether or not that dwelling also belongs to the Housing Executive**]**, the Housing Executive—

(a) may pay—

(i) the reasonable expenses of the tenant in removing, or

(ii) where the Executive considers it appropriate, such sum as the Executive may, with the approval of the Department of the Environment, determine;

(b) where the tenant is purchasing the dwelling to which he is removing, may**[**[F47] subject to such conditions as the Department of the Environment may specify**]** pay any other reasonable expenses incurred by the tenant in connection with the purchase, other than the purchase price.

(2) Where the tenant of a dwelling provided by the Executive is seriously affected by the carrying out of works to the dwelling by the Executive, the Executive may make a payment to the tenant in accordance with paragraph (3).

(3) Payments made under paragraph (2) shall be of such amount and subject to such conditions as the Deprtment of the Environment may specify.

(4) For the purposes of paragraph (2), a tenant shall not be regarded as seriously affected by the carrying out of works to a dwelling unless—

(a) the works are of such extent and duration that the Executive considers that it would be reasonable to offer the tenant suitable temporary residential accommodation, but such accommodation is not available on reasonable terms; and

(b) the tenant continues to occupy the dwelling as his residence during the carrying out of the works.]

F46 1981 NI 3
F47 1983 NI 15

Modifications etc. (not altering text)
C4 Art. 39: transfer of functions (8.5.2016) from Department of the Environment to Department for Communities by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

Rehousing

Duty to rehouse residential occupiers

40.—(1) Where a person is displaced from residential accommodation on any land in consequence of—

(a) the acquisition of the land by an authority possessing compulsory acquisition powers;

(b) the making or acceptance of a housing order or undertaking in respect of a house on the land;

(c) where the land has been previously acquired or appropriated by an authority possessing compulsory acquisition powers and is for the time being held by the authority for

the purposes for which it was acquired or appropriated, the carrying out of [F48 any improvement to a house or building on the land or of] redevelopment on the land,

and suitable alternative residential accommodation on reasonable terms is not otherwise available to that person, then, subject to the provisions of this Article, it shall be the duty of the Housing Executive to secure that he will be provided with such other accommodation.

(2) Paragraph (1) shall not by virtue of sub-paragraph (*a*) thereof apply to a person if the acquisition is in pursuance of the service by him of a blight notice under**[**F49 Article 5 of the Planning Blight (Compensation) (Northern Ireland) Order 1981**]**

(3) Paragraph (1) shall not apply to any person to whom money has been advanced—

(a) under Article 42;

(b) under the Small Dwellings Acquisition Acts (Northern Ireland) 1899 to 1948, section 14 of the Housing (Miscellaneous Provisions) and Rent Restriction Law (Amendment) Act (Northern Ireland) 1956 , or section 14 of the Housing Executive Act (Northern Ireland) 1971 ;

F48(c) under Article 9 of the Housing (Northern Ireland) Order 1981 ;]

for the purpose of enabling him to obtain accommodation in substitution for that from which he may be displaced as mentioned in that paragraph.

(4) For the purposes of paragraph (1) a person shall not be treated as displaced in consequence of any such acquisition [F48, improvement] or redevelopment as is mentioned in sub-paragraph (*a*) or (*c*) of that paragraph unless he was lawfully residing in the accommodation in question—

(a) in the case of land acquired compulsorily, at the time when the notice of application for, or the notice of intention to make, the vesting order was first published;

(b) in the case of land acquired under an Act or Measure specifying the land as subject to compulsory acquisition, at the time when the provisions of the Bill for that Act or of the proposed Measure specifying the land were first published;

(c) in the case of land acquired by agreement, at the time when the agreement was made;

and a person shall not be treated as displaced in consequence of any housing order or undertaking as mentioned in sub-paragraph (*b*) of that paragraph unless he was lawfully residing in the accommodation in question at the time when the order was made or the undertaking was accepted.

F50(4A) For the purposes of paragraph (1) a person shall not be treated as displaced in consequence of the acceptance of an undertaking or of the carrying out of any improvement to a house or building unless he is permanently displaced from the residential accommodation in question in consequence of the carrying out of the works specified in the undertaking or, as the case may be, the carrying out of the improvement.]

(5) In this Article "housing order", "undertaking", [F51 "improvement" and "redevelopment"] have the meanings assigned to them by Article 30(9).

F48 1981 NI 3
F49 1981 NI 16
F50 1981 NI 3
F51 1981 NI 3

Duty to rehouse certain caravan dwellers

41.—(1) Article 40 shall, so far as applicable, have effect in relation to a person residing in a caravan on a caravan site who is displaced from that site as it has effect in relation to a person

displaced from residential accommodation on any land but shall so have effect subject to the following modifications.

(2) Article 40(1) shall have effect—

(a) as if for the words preceding sub-paragraph (*a*) there were substituted the words "Where a person residing in a caravan on a caravan site is displaced from that site in consequence of"; and

(b) as if for the words following sub-paragraph (*c*) there were substituted the words "and neither suitable residential accommodation nor a suitable alternative site for stationing a caravan is available to that person on reasonable terms, then, subject to the provisions of this Article, it shall be the duty of the Housing Executive to secure that he will be provided with suitable residential accommodation".

(3) Article 40(4) shall have effect as if in the words preceding sub-paragraph (*a*) for the words "unless he was residing in the accommodation in question" there were substituted the words "unless he was residing in a caravan on the caravan site in question".

(4) Article 40 shall have effect as if in any provision not modified as aforesaid for any reference to land there were substituted a reference to a caravan site.

(5) In this Article "caravan site" has the meaning assigned to it by Article 33(7).

Power of Housing Executive to make advances repayable on maturity to displaced residential owner-occupiers

42.—(1) Where a person displaced from a dwelling in consequence of any of the matters mentioned in paragraph (1)(*a*), (*b*) or (*c*) of Article 40—

(a) is an owner-occupier of the dwelling; and

(b) wishes to acquire or construct another dwelling in substitution for that from which he is displaced,

the Housing Executive for the purposes of that Article may advance money to him for the purpose of enabling him to acquire or construct the other dwelling.

(2) The power conferred by this Article shall be exercisable subject to such conditions as may be approved by the Ministry of Development[F52] and the following provisions shall apply with respect to any advance made in the exercise of that power.

(3) The advance shall be made—

(a) on terms providing for the repayment of the principal—

(i) at the end of a fixed period, with or without a provision allowing the Housing Executive to extend that period; or

(ii) upon notice given by the Housing Executive;

subject, in either case, to a provision for earlier repayment on the happening of a specified event;

(b) on such other terms as the Housing Executive may think fit having regard to all the circumstances.

(4) An advance for the construction of a dwelling may be made by instalments from time to time as the works of construction progress.

(5) The principal of the advance, together with interest thereon, shall be secured by a mortgage of the borrower's interest in the dwelling, and the amount of the principal shall not exceed the value which, in accordance with a valuation duly made on behalf of the Housing Executive, it is estimated that the borrower's interest will bear or, as the case may be, will bear when the dwelling has been constructed.

(6) Before advancing money under this Article the Housing Executive shall satisfy itself that the dwellling to be acquired is or will be made, or that the dwelling to be constructed will on completion be, in all respects fit for human habitation.

(7) The power conferred by this Article on the Housing Executive is without prejudice to any power to advance money exercisable by the Housing Executive under any other enactment.

(8) In this Article "owner-occupier", in relation to any accommodation, means a person who occupies it on the date of displacement and either—

(a) occupies it on that date in right of a freehold interest (whether legal or equitable) or a tenancy granted or extended for a term of years of which not less than three years remain unexpired; or

(b) if the displacement is in consequence of the matters mentioned in sub-paragraph (*c*) of Article 40(1), occupied it in right of such an interest or tenancy on the date on which the land was acquired or appropriated as mentoned in that sub-paragraph.

(9) In this Article references to the construction of a dwelling include references to the acquisition of a building and its conversion into a dwelling and to the conversion into a dwelling of a building previously acquired.

F52 Now D/Env., SRO (NI) 1973/504; 1976 NI 6

Modifications etc. (not altering text)

C5 Art. 42(2): transfer of functions (8.5.2016) from Department of the Environment to Department for Communities by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

Duty of displacing authority to indemnify Housing Executive for net losses

43.—(1) Where the Housing Executive provides or secures the provision of accommodation for any person in pursuance of paragraph (1)(*a*) or (*c*) of Article 40, then, the displacing authority shall make to the Housing Executive periodical payments or, if the Housing Executive so requires, a lump sum payment, by way of indemnity against any net loss incurred by the Housing Executive in respect of the provision of that accommodation.

(2) The Ministry of Development[F53] may—

(a) for the purposes of paragraph (1) determine a method to be used generally in calculating net losses incurred by the Housing Executive;

(b) for the purposes of that paragraph, determine the net loss incurred by the Housing Executive in any particular case;

(c) give directions as to the manner in which any payment under this Article is to be made.

F53 Now D/Env., SRO (NI) 1973/504; 1976 NI 6

Modifications etc. (not altering text)

C6 Art. 43(2): transfer of functions (8.5.2016) from Department of the Environment to Department for Communities by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

Power of relevant authority to defray expenses in connection with acquisition of new dwellings

44.—(1) Where a person displaced from a dwelling in consequence of [[F54] any of the events specified in sub-paragraphs (*a*) to (*c*) of Article 40(1)]—

(a) has no interest in the dwelling or no greater interest therein than as a tenant for a year or from year to year; and

(b) wishes to acquire another dwelling in substitution for that from which he is displaced,

[[F54] then, according to the nature of the event in consequence of which he was displaced, the acquiring authority, the authority who made the order, or accepted the undertaking or the authority carrying out the improvement or redevelopment] may, if he is not entitled to compensation for disturbance under any statutory provision or rule of law, pay any reasonable expenses incurred by him in connection with the acquisition, other than the purchase price.

(2) No payment shall be made under this Article in respect of expenses incurred by any person in connection with the acquisition of a dwelling unless the dwelling is acquired not later than one year after the displacement and is reasonably comparable with that from which he is displaced.

(3) For the purposes of paragraph (2) a dwelling acquired pursuant to a contract shall be treated as acquired when the contract is made.

(4) [[F54] Paragraphs (4) and (4A)] of Article 40 shall have effect in relation to paragraph (1) of this Article and to [[F54] any provision of paragraph (1)] of Article 40 as applied thereby.

F54 1981 NI 3

PART V

COMPULSORY ACQUISITION

Assessment of compensation

Arts. 45,46 rep. by 1982 NI 9

Compensation for disturbance where business carried on by person over sixty

47 [F55]**.**—(1) Where a person is carrying on a trade or business on any land and, in consequence of its compulsory acquisition of the whole of that land is required to give up possession thereof to the acquiring authority, then if—

(a) on the date on which he gives up possession as aforesaid he has attained the age of sixty; and

(b) on that date the land is or forms part of a hereditament the annual value of which does not exceed the prescribed amount; and

(c) that person has not disposed of the goodwill of the whole of the trade or business and gives to the acquiring authority the undertakings mentioned in paragraph (3),

the compensation payable to that person in respect of the compulsory acquisition of his interest in the land or, as the case may be, under section 121 of the Lands Clauses Consolidation Act 1845 shall, so far as attributable to disturbance, be assessed on the assumption that it is not reasonably practicable for that person to carry on the trade or business, or, as the case may be, the part thereof the goodwill of which he has retained, elsewhere than on that land.

(2) In paragraph (1) "the prescribed amount" means the amount which on the date mentioned in that paragraph is the amount set out in**[**[F56] Article 4(1)(b) of the Planning Blight (Compensation) (Northern Ireland) Order 1981**]** (interests qualifying for protection under planning blight provisions) and "annual value" and "hereditament" have the same meanings as in**[**[F56] Article 2(2) of that Order**]** taking references to the date of service of a blight notice under**[**[F56] Article 5 of that Order**]** as references to the date mentioned in paragraph (1).

(3) The undertakings to be given by the person claiming compensation are—

(a) an undertaking that he will not dispose of the goodwill of the trade or business, or, as the case may be, of the part thereof the goodwill of which he has retained; and

(b) an undertaking that he will not, within such area and for such time as the acquiring authority may require, directly or indirectly engage in or have any interest in any other trade or business of the same or substantially the same kind as that carried on by him on the land acquired.

(4) If an undertaking given by a person for the purposes of this Article is broken an amount equal to the difference between the compensation paid and the compensation that would have been payable if it had been assessed without regard to the provisions of this Article shall be a debt recoverable summarily by the acquiring authority from that person.

(5) This Article shall apply to a trade or business carried on by two or more persons in partnership as if references to the person by whom it is carried on were references to all the partners and as if the undertakings mentioned in paragraph (3) were required to be given by all the partners.

(6) This Article shall apply to a trade or business carried on by a company—

(a) as if paragraph (1)(*a*) required—

(i) each shareholder, other than a minority shareholder, to be an individual who has attained the age of sixty on the date there mentioned; and

(ii) each minority shareholder to be an individual who either has attained that age on that date or is the spouse of a shareholder who has attained that age on that date; and

(b) as if the undertaking mentioned in paragraph (3)(*b*) were required to be given both by the company and by each shareholder.

(7) This Article shall apply in relation to any disturbance payment assessed in accordance with Article 38(1)(*b*) as it applies in relation to the compensation mentioned in paragraph (1), and shall so apply subject to the necessary modifications and as if references to the giving up of possession of land to the acquiring authority in consequence of its compulsory acquisition were references to displacement as mentioned in Article 37.

(8) In paragraph (6) "shareholder" means a person who is beneficially entitled to a share or shares in the company carrying voting rights and "minority shareholder" means a person who is so entitled to less than 50 per cent. of those shares.

F55 Rep. with saving 1982 NI 9
F56 1981 NI 16

Compensation where occupier is rehoused

48 [F57]**.**—(1) The amount of compensation payable in respect of the compulsory acquisition of an interest in land shall not be subject to any reduction on account of the fact that the Housing Executive has provided, or undertakes to provide or arrange for the provision of residential accommodation under any statutory provision for the person entitled to the compensation.
Para. (2) rep. by 1982 NI 9

(3) Paragraph (1) shall apply in relation to any payment to which a person is entitled under Part IV as it applies in relation to the compensation mentioned in that paragraph taking references to the Housing Executive as references to the authority responsible for making that payment.

F57 Rep. with saving 1982 NI 9

Art. 49 rep. by 1982 NI 9

Severance of land

Vesting order in respect of part of agricultural land

50.—(1) Where a vesting order becomes operative in respect of any agricultural land and any person (whether in occupation or not) having a greater interest in the land than as tenant for a year or from year to year has such an interest in other agricultural land comprised in the same agricultural unit as that to which the vesting order relates, that person (in this Part referred to as "the claimant") may, within the period of two months beginning with the date on which the vesting order becomes operative, serve on the acquiring authority a notice—

(a) claiming that the other land is not reasonably capable of being farmed either by itself or in conjunction with other relevant land, as a separate agricultural unit; and

(b) requiring the acquiring authority to purchase his interest in the whole of the other land.

(2) Where a notice is served under paragraph (1) the claimant shall also, within the period mentioned in that paragraph, serve a copy thereof on any other person who has an interest in the land to which the requirement in the notice relates, but failure to comply with this paragraph shall not invalidate the notice.

(3) Subject to paragraph (4), "other relevant land" in paragraph (1) means—

(a) land comprised in the same agricultural unit as the land to which the vesting order relates, being land in which the claimant does not have such an interest as is mentioned in that paragraph; and

(b) land comprised in any other agricultural unit occupied by him on the date of operation of the vesting order, being land in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.

(4) Where the notice of application for, or the notice of intention to make, a vesting order in respect of any of the other agricultural land mentioned in paragraph (1) or in respect of other relevant land as defined in paragraph (3) is first published, then, unless and until the application is withdrawn or refused or, as the case may be, the intention to make the vesting order is abandoned, this Article and Article 51 shall have effect as if that land did not form part of that other agricultural land or did not constitute other relevant land, as the case may be.

(5) This Article is without prejudice to the rights conferred by sections 93 and 94 of the Lands Clauses Consolidation Act 1845 (provisions as to divided land).

Effect of notice under Article 50

51.—(1) If the acquiring authority do not within the period of two months beginning with the date of service of a notice under Article 50 agree in writing to accept the notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal; and on any such reference the Tribunal shall determine whether the claim in the notice is justified and declare the notice valid or invalid.

(2) Where a notice is accepted as, or declared to be, valid under paragraph (1) the acquiring authority shall be deemed—

(a) to be authorised to acquire compulsorily, under the statutory provision by virtue of which they are empowered to acquire the land in respect of which the vesting order relates, the claimant's interest in the land to which the requirement in the notice relates; and

(b) at the end of six weeks beginning with the date as mentioned in paragraph (3), to have entered into a contract to purchase the claimant's interest in that land on the date on which the vesting order becomes operative.

(3) A claimant may withdraw a notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the notice has been agreed between the parties or determined by the Lands Tribunal or at any time before the end of six weeks beginning with the date on which the compensation is so agreed or determined; and where a notice is withdrawn by virtue of this paragraph any contract deemed to have been made in consequence thereof shall be deemed not to have been made.

(4) The compensation payable in respect of the acquisition of an interest in land in pursuance of a notice served under Article 50 shall be assessed on the assumptions mentioned in Article 8(2), (3) and (4) as if the claimant's interest in the land to which such notice relates was compulsorily acquired.

(5) Where by virtue of this Article the acquiring authority become, or will become, entitled to a lease of any land but not to the interest of the lessor—

(a) the authority shall offer to surrender the lease to the lessor on such terms as the authority consider reasonable;

(b) the question of what terms are reasonable may be referred to the Lands Tribunal by the authority or the lessor and, if at the expiration of three months after the date of the offer mentioned in paragraph (*a*), the authority and the lessor have not agreed on that question and that question has not been referred to the Tribunal by the lessor, it shall be so referred by the authority;

(c) if that question is referred to the Tribunal, the lessor shall be deemed to have accepted the surrender of the lease at the expiration of one month after the date of the determination of the Tribunal or on such other date as the Tribunal may direct and to have agreed with the authority on the terms of surrender which the Tribunal has held to be reasonable;

and for the purposes of this paragraph any terms as to surrender contained in the lease shall be disregarded.

(6) Where the lessor refuses to accept any sum payable to him by virtue of paragraph (5), or refuses or fails to make out his title to the satisfaction of the acquiring authority, the authority may pay into court any sum payable to the lessor by virtue of that paragraph; and paragraph 17 of Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall apply to that sum with the necessary modifications.

(7) Where an acquiring authority who become entitled to the lease of any land as mentioned in paragraph (5) are a body incorporated by or under any statutory provision the corporate powers of the authority shall, if they would not otherwise do so, include power to farm that land.

Acquisition of part of tenanted agricultural holding

52.—(1) Where—

(a) a person is in occupation of an agricultural holding being a person having no greater interest therein than as tenant for a year or from year to year; and

(b) a vesting order becomes operative in respect of part only of that holding; and

(c) the acquiring authority require that person to give up possession of that part before the date on which his term or interest therein would apart from the operation of the vesting order have expired;

that person (in this Article referred to as "the claimant") may, within the period of two months beginning with the date on which he was required to give up possession as aforesaid, serve on the acquiring authority a notice—

(i) claiming that the remainder of the holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and

(ii) electing to treat the requirement to give up possession as relating to the entire holding.

(2) Where a notice is served under paragraph (1) the claimant shall also, within the period mentioned in that paragraph, serve a copy thereof on the landlord of the holding, but failure to comply with this paragraph shall not invalidate the notice.

(3) Subject to paragraph (4), "other relevant land" in paragraph (1) means—

(a) land comprised in the same agricultural unit as the agricultural holding; and

(b) land comprised in any other agricultural unit occupied by the claimant on the date on which he was required to give up possession as mentioned in paragraph (1)(c) being land in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.

(4) Where an acquiring authority have published notice of application for, or intention to make, a vesting order in respect of land in the agricultural holding other than that to which the requirement to give up possession relates or in respect of other relevant land as defined in paragraph (3) then unless and until the application is withdrawn or refused, or, as the case may be, the intention to make the vesting order is abandoned, this Article and Article 53 shall have effect as if that land did not form part of the holding or did not constitute other relevant land as the case may be.

(5) In this Article and Article 53 "agricultural holding" means the aggregate of the agricultural land comprised in a contract of tenancy.

Effect of notice under Article 52

53.—(1) If the acquiring authority do not within the period of two months beginning with the date of service of a notice under Article 52 agree in writing to accept the notice as valid the claimant or the authority may within two months after the end of that period refer it to the Lands Tribunal; and on any such reference the Tribunal shall determine whether the claim in the notice is justified and declare the notice valid or invalid.

(2) Where a notice is accepted as, or declared to be, valid under paragraph (1) then if before the expiration of twelve months after it has been so accepted or declared the claimant has given up possession of every part of the agricultural holding to the acquiring authority—

(a) the requirement to give up possession shall be deemed to have extended to that part of the holding to which it did not relate; and

(b) the claimant shall be deemed to have given up possession of that part in pursuance of that requirement on the day before the expiration of the year of the tenancy which is current when the notice is so accepted or declared.

(3) Where the claimant gives up possession of an agricultural holding to the acquiring authority as aforesaid but the authority have not been empowered to acquire the landlord's interest in, or in any of, the part of the holding to which the requirement to give up possession did not relate ("the land not subject to compulsory acquisition")—

(a) neither the claimant nor the authority shall be under any liability to the landlord by reason of the claimant giving up possession of the land not subject to compulsory acquisition or the authority taking or being in possession of it;

(b) immediately after the date on which the authority take possession of the land not subject to compulsory acquisition they shall give up to the landlord, and he shall take, possession of that land;

(c) the tenancy shall be treated as terminated on the date on which the claimant gives up possession of the holding to the acquiring authority or (if he gives up possession of different parts at different times) gives up possession as aforesaid of the last part but without prejudice to any rights or liabilities of the landlord or the claimant which have accrued before that date;

(d) any rights of the claimant against, or liabilities of the claimant to, the landlord which arise on or out of the termination of the tenancy by virtue of sub-paragraph (*c*) (whether under the contract of tenancy or any statutory provision or otherwise) shall be rights and liabilities of the authority and any question as to the payment to be made in respect of any such right or liability shall be referred to and determined by the Lands Tribunal;

(e) any increase in the value of the land not subject to compulsory acquisition which is attributable to the landlord's taking possession of it under sub-paragraph (*b*) shall be deducted from the compensation payable in respect of the acquisition of his interest in the remainder of the holding.

Determination of material detriment where part of house etc., is compulsorily acquired

54. In determining under—

(a) section 13(3)[F58] of the Local Government and Roads Act (Northern Ireland) 1968 ; or

Para. (b) rep. by 1981 NI 16

(c) paragraph 10(3) of Schedule 6 to the Local Government Act (Northern Ireland) 1972 or any provision corresponding to that paragraph which is contained in any other statutory provision including (except where otherwise provided) a statutory provision passed after the making of this Order;

whether part of a house, building or factory can be taken without material detriment to the house, building or factory the Lands Tribunal shall take into account not only the effect of the severance but also the use to be made of the part proposed to be acquired and, in a case where the part is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.

F58 1980 NI 11

Art. 55 rep. by 1982 NI 9

Part VI (arts. 56-64) rep. by 1981 NI 16

PART VII

ACQUISITION OF LAND BY MINISTRY OF FINANCE

Compulsory acquisition of land required for the public service

65 [F59]**.**—(1) Without prejudice to the power of the Ministry of Finance (in this and the following Article referred to as "the Ministry") under section 5(1) of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 to purchase by agreement or take on lease any land required for the purpose of any functions of the Ministry or for the administration of any public service in Northern Ireland, the Ministry may acquire compulsorily, in accordance with the following

provisions of this Article, any land required for that purpose or for the administration of any such service.

(2) Where in exercise of the power conferred by paragraph (1) the Ministry desires to acquire any land compulsorily, the Ministry may make an order (in this Article referred to as a "vesting order") vesting the land in the Ministry.

(3) Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications thereof specified in Schedule 1 to this Order, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(4) The power to make a vesting order in respect of land—

(a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily; or

(b) which is declared by or under any transferred provision to be inalienable;

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of each House of Parliament.

(5) Nothing in this Article shall have effect to confer power on the Ministry to acquire compulsorily any land for the purposes of any instrument under which the Ministry acts as trustee.

F59 functions transf. by SR 1999/481

Power to enter on lands

66 [F60]**.**—(1) A person authorised in writing by the Ministry (in this Article referred to as an "authorised person") may, on production if required of his credentials, at any reasonable time enter any land for the purpose of survey, valuation or examination—

(a) where the Ministry proposes to acquire the land compulsorily under Article 65; or

(b) where it appears to the Ministry that survey, valuation or examination is necessary in order to determine whether the land should be so acquired.

(2) A power of entry under paragraph (1) shall not be exercisable in relation to any land except—

(a) with consent given by the occupier of the land; or

(b) after at least twenty-four hours' notice of the intended entry has been served on the occupier or owner of the land.

(3) If any person, other than the owner or occupier of the land, knowingly prevents an authorised person from carrying out anything which the authorised person is duly authorised to do or obstructs the authorised person in carrying out any such thing, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**[F61] level 3 on the standard scale**]**.

(4) If any person, being the owner or occupier of land, knowingly prevents an authorised person from duly carrying into effect any survey, valuation or examination of the land or obstructs the authorised person in doing any such survey, valuation or examination, a court of summary jurisdiction on proof thereof may order him to permit to be done on the land all things requisite for carrying into effect such survey, valuation or examination; and, if he fails to comply with the order, he shall be guilty of an offence and shall, for every day during which the failure continues, be liable on summary conviction to a fine not exceeding**[**[F61] level 2 on the standard scale**]**.

(5) Where under this Article an authorised person enters any land, he shall ensure that the land is not left less secure by reason of the entry, and the Ministry shall make good or pay compensation

for any damage to property caused by, or in consequence of, the authorised person exercising any right or failing to perform any duty under this Article.

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

(7) Any reference in this Article to an occupier or to an owner shall be construed as including a reference to a person appointed in writing by the occupier or owner as his representative for purposes including all or any of the purposes of this Article.

(8) Any power conferred by this Article shall be construed as including power to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil therein and to take and carry away for examination specimens of the subsoil found therein.

F60 functions transf. by SR 1999/481
F61 1984 NI 3

PART VIII

MISCELLANEOUS PROVISIONS

Art. 67(1) rep. by 1982 NI 20; paras.(2)#(4) rep. by 1991 NI 11

Art. 68 rep. by 1982 NI 9

Receipts for payments made under this Order

69. Where an authority make any payment under this Order to any person, that authority shall obtain from that person a receipt in such form as the Ministry of Finance may direct.

Application to Crown

70.—(1) References in Parts II and III of this Order to public works and responsible authorities include references to any works or authority which, apart from any Crown exemptions, would be public works or a responsible authority.

(2) Parts IV and V of this Order apply in relation to the acquisition of interests in land (whether compulsorily or by agreement) by government departments being authorities possessing compulsory acquisition powers, as they apply in relation to the acquisition of interests in land by such authorities who are not government departments

Art. 71 rep. by SLR 1976

Art. 72(1) rep. by 1981 NI 16; para.(2), with Schedule 3, effects repeals

SCHEDULE 1

Article 65(3).

MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 65

1. References to the Ministry or to the council shall be construed as references to the Ministry within the meaning of Article 65.

2. References to the said Schedule 6 shall be construed as references to that Schedule as modified by this Schedule.

3. Paragraph 1 shall be omitted.

4. In paragraph 2—

(a) for the words from the beginning to "directs," there shall be substituted the words " Where the Ministry proposes to acquire land otherwise than by agreement, it shall give notice of its intention to do so and such notice ";

(b) in sub-paragraph (*c*) for the words "as may be prescribed" there shall be substituted the words " as the Ministry considers fit ".

5. In paragraph 3(1)(ii) for the word "refuse" there shall be substituted the words " decide not ".

6. In paragraph 4 the words from "and may provide" to the end of the paragraph shall be omitted.

7. In paragraph 5—

(a) in sub-paragraph (1)(*a*) the words "in the prescribed form and manner" shall be omitted;

(b) in sub-paragraph (1)(*b*) the two references to the said Act of 1972 shall be construed as references to Article 65;

(c) in sub-paragraph (1)(*d*) the words "in the prescribed form" shall be omitted,

(d) in sub-paragraph (2) for the words "as may be prescribed" there shall be substituted the words " as the Ministry considers fit ".

8. In paragraph 6(2) for the words "fund out of which the expenses of the council in acquiring the land are to be defrayed" there shall be substituted the words " Consolidated Fund " and for the words "out of the compensation fund" there shall be substituted the words " made by the Ministry ".

9. In paragraph 8 the words ", other than the consent of the Ministry of Finance" shall be omitted.

10. In paragraph 11(3) for the words from "the council shall give" to "intention" there shall be substituted the words " and the Ministry intends " and the words "of Finance" in the second place where they occur shall be omitted.

11. In paragraph 12—

(a) in sub-paragraph (1) the word "such" and the words "as may be prescribed" shall be omitted;

(b) in sub-paragraph (2) for the words from "clerk" to "directs" there shall be substituted the words " Ministry as correct, and shall publish ".

12. In paragraph 14(1) the words "in the prescribed form" shall be omitted.

13. In paragraph 15(1) for the words "in the prescribed form" there shall be substituted the words " in such form as may be approved by the Ministry ".

14. In paragraph 18(2) the words "of Finance" shall be omitted.

15. Paragraph 19 shall be omitted.

16. In paragraph 20, sub-paragraph (2) shall be omitted.

Schedule 2 rep. by 1981 NI 16

Schedule 3—Repeals

Status:
Point in time view as at 13/05/2016.

Changes to legislation:
Land Acquisition and Compensation (Northern Ireland) Order 1973 is up to date with all changes known to be in force on or before 19 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.