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STATUTORY INSTRUMENTS

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**1997 No. 1179**

**The Property (Northern Ireland) Order 1997**

**PART V**

**MISCELLANEOUS AND GENERAL**

*Co-ownership*

**Enforcement of charge on estate of co-owner**

**48.** The owner of a charge (including a charge under Article 46 of the Judgments Enforcement (Northern Ireland) Order 1981) on land in co-ownership (that is to say, held jointly or in undivided shares) may make a request under the Partition Act 1868 and the Partition Act 1876 (in this Article and Article 49 “the Partition Acts”) for an order for partition, or for sale and distribution in lieu of partition, and shall be treated as a party interested for the purposes of those Acts.

**Power of court under Partition Acts**

**49.** Without prejudice to Article 309 of the Insolvency (Northern Ireland) Order 1989, where on the request under the Partition Acts of a party interested (or a person treated as such under Article 48) a court makes an order for partition or sale, the court, on making the order or at any time before its enforcement, may also—

- (a) impose such stay or suspension; or
- (b) impose such conditions,

as, in the circumstances of the case, it thinks fit; and it may revoke or vary any such stay, suspension or conditions.

**Severance of joint tenancy by charge**

**50.** The creation of a charge on the estate or estates of one or more joint tenants (but not all of them) causes (and always has caused) a severance of the joint tenancy.

*Application of Act of 1971 to the National Trust*

**Amendment of Act of 1971 as to National Trust**

**51.—(1)** For section 27 of the Act of 1971 (saving for National Trust) there shall be substituted—

**“27 Saving for National Trust.**

**27.** This Act shall not apply to any land an estate in which is vested inalienably in the National Trust for Places of Historic Interest or Natural Beauty under section 21 of the National Trust Act 1907.”.

(2) The amendment of the Act of 1971 made by paragraph (1) does not affect the power under that Act to extend the term of a lease granted—

- (a) before the appointed day; or
- (b) on or after the appointed day in pursuance of an obligation assumed before that day.

#### *Compensation for compulsory acquisition*

#### **Compensation for compulsory acquisition: land subject to tenancy**

**52.**—(1) Article 6 of the Land Compensation (Northern Ireland) Order 1982 (rules for assessing compensation) shall be amended as follows.

(2) In paragraph (2) for sub-paragraph (d) (no account to be taken of certain matters in assessing compensation for compulsory acquisition where land subject to tenancy) substitute—

- “(d) in a case where on the date on which the vesting order is made the land is subject to a tenancy, of any increase or diminution in the value of the land which is attributable to, or to the prospect of, the tenant giving up possession in consequence of being provided with other accommodation under Article 40(1)(a) of the 1973 Order (duty to rehouse residential occupiers where land acquired by authority possessing compulsory acquisition powers);”.

(3) For paragraph (3) (interpretation) substitute—

“(3) In this Article—

- (a) “development” in paragraph (2)(b) and (c) includes any building operations or rebuilding operations and any use of the land or any building on the land for a purpose which is different from the purpose for which the land or building was last being used;
- (b) the reference in paragraph (2)(d) to land being subject to a tenancy on the date on which the vesting order is made includes a reference to land which would have been subject to a tenancy on that date if the tenant had not given up occupation of a dwelling as mentioned in Article 30(3) of the 1973 Order (deemed displacement in consequence of compulsory acquisition of interest in dwelling where, in certain circumstances, person displaced gives up occupation by arrangement); and
- (c) “the 1973 Order” in paragraph (2)(d) and this paragraph means the Land Acquisition and Compensation (Northern Ireland) Order 1973.”.

#### *General*

#### **Amendments and repeals**

**53.**—(1) The statutory provisions specified in Schedule 4 have effect subject to the amendments there specified.

(2) The statutory provisions specified in Schedule 5 are repealed to the extent specified in the third column of that Schedule, but subject to the Notes in that Schedule.