



## 2016 CHAPTER 28

### **Basic loss payment**

1 After Article 33 of the Land Acquisition and Compensation (Northern Ireland) Order 1973 (“the 1973 Order”) insert—

#### *“Other loss payments*

### **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) it subsists 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;

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(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.”.

### **Occupier's loss payment**

2 After Article 33A of the 1973 Order (inserted by section 1) insert—

#### **“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.

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(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) £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.

### **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

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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.”.

### **Loss payments: supplementary provisions**

**3** After Article 33C of the 1973 Order (inserted by section 2) insert—

#### **“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.

#### **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.

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(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.

#### **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.

#### **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—

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- (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).

### **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—

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- (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.

### **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.”.

### **Corresponding amendment of other legislation**

**4.—**(1) This section applies to any Northern Ireland legislation passed or made before the coming into operation of this Act (other than the 1973 Order) which makes provision in connection with the compulsory acquisition of an interest in land or for the payment of any sum in connection with such acquisition.

(2) The Department for Regional Development may by order amend any Northern Ireland legislation to which this section applies for the purpose of making provision which—

- (a) corresponds to provision made by this Act, or
- (b) applies any such provision or corresponding provision.

### **Interpretation**

**5** In this Act “the 1973 Order” has the meaning given by section 1; and this Act is to be construed as one with that Order.

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### **Repeal of provisions for farm loss payments**

6 In the 1973 Order the following provisions are repealed—

- (a) in Article 2(2) the definition of “farm loss payment”;
- (b) Articles 34 to 36 (which provide for farm loss payments).

### **Short title, commencement and application**

7.—(1) This Act may be cited as the Land Acquisition and Compensation (Amendment) Act (Northern Ireland) 2016.

(2) This Act comes into operation on the day after this Act receives Royal Assent.

(3) Nothing in this Act applies in relation to the acquisition of an interest in land by means of a vesting order which is operative before the coming into operation of this Act.



**Changes to legislation:**

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