STATUTORY INSTRUMENTS

1973 No. 1896

Land Acquisition and Compensation (Northern Ireland) Order 1973

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 [[F1] any improvement of the dwelling or of] redevelopment on the land;

[F1](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—

[F2](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].

[[F3](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 …[F4] 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 …[F4] 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.

[[F5](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.**]**

[F1](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[F6]. . . ; 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 [F7] or section 18 of the Rent and Mortgage Interest (Restrictions) Act (Northern Ireland) 1940 [F7] 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—

[[F2] "housing order" means a demolition, closing or clearance order under Chapter II of Part III of the Housing (Northern Ireland) Order 1981 **[**[F8] or a closing order under paragraph 6 of Schedule 7A to the Housing (Northern Ireland) Order 1981**]**;]

[[F1] "improvement" includes alteration and enlargement;]

[[F6]"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**[**[F5] 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.

F1 1981 NI 3
F2 1981 NI 3
F3 1992 NI 8
F4 1977 NI 8
F5 2003 NI 8
F6 1992 NI 15
F7 1978 NI 20
F8 1983 NI 15

[[F9]Spouses[[F10] and civil partners] having statutory rights of occupation

30A.—(1) This Article applies where, by reason of the entitlement of**[**[F10] one spouse or civil partner ("A")**]** to occupy a dwelling by virtue of an interest or right to which Article 30 applies,**[**[F10] the other spouse or civil partner ("B") acquires home rights**][**[F11] (within the meaning of the Family Homes and Domestic Violence (Northern Ireland) Order 1998**]**).

(2) So long as—

(a) those**[**[F10] 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.**]**

F9 1992 NI 8
F10 2004 c.33
F11 1998 NI 6

[[F12]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**[**[F13] £45,000**]** and a minimum of**[**[F13] £4,500**]**.

(2) In any other case, the amount of the home loss payment shall be**[**[F13] £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.**]**

F12 1992 NI 8
F13 SR 2004/312

Modifications etc. (not altering text)
C1 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.—[[F14](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**[**[F14] 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**[**[F14] 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**[**[F14] or discretionary payment**]** which they would be required**[**[F14] 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

F14 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**[**[F15] 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—

[[F15]"(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.".**]**

[[F15](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**[**[F15] paragraphs (3) to (4)**]** shall have effect—

[[F15](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.

F15 1992 NI 8

Farm loss payments

Right to farm loss payment where person displaced from agricultural unit

34.—(1) Where land constituting or included in an agricultural unit is land in respect of which the person in occupation of the unit has an owner's interest, then if—

(a) in consequence of the compulsory acquisition of his interest in the whole of that land ("the land acquired") he is displaced from the whole of that land; and

(b) not more than three years after the date of displacement he begins to farm another agricultural unit ("the new unit") elsewhere in the United Kingdom,

he shall, subject to the provisions of this Article and Article 36, be entitled to receive a payment (in this Order referred to as a "farm loss payment") from the acquiring authority.

(2) In paragraph (1) "owner's interest" means a freehold interest (whether legal or equitable) or a tenancy granted or extended for a term of years certain of which not less than three years remain unexpired on the date of displacement.

(3) For the purposes of this Article a person is displaced from land in consequence of the compulsory acquisition of his interest therein if, and only if, he gives up possession thereof—

(a) on completion of the acquisition;

(b) on being required to do so by the acquiring authority; or

(c) where the acquiring authority permit him to remain in possession of the land under a tenancy or licence, on the expiration or termination of that tenancy or licence;

and references in this Article and Article 35 to the date of displacement are references to the date on which the person gives up possession as aforesaid.

(4) No farm loss payment shall be made to any person unless on the date on which he begins to farm the new unit he is in occupation of the whole of that unit in right of a freehold interest therein or a tenancy thereof, not having been entitled to any such interest or tenancy before the date on which the notice of application for, or the notice of intention to make, the vesting order in respect of his interest in the land was first published.

(5) No farm loss payment shall be made to any person displaced from land in consequence of the compulsory acquisition of his interest therein if the acquisition of his interest in the whole or any part of that land is in pursuance of the service by him of a blight notice under**[**[F16] Article 5 of the Planning Blight (Compensation) (Northern Ireland) Order 1981**]**.

(6) This Article applies if the displacement is on or after 17th October 1972.

F16 1981 NI 16

Amount of farm loss payment

35.—(1) Subject to the provisions of this Article, the amount of any farm loss payment shall be equal to the average annual profit derived from the use for agricultural purposes of the agricultural land comprised in the land acquired; and that profit shall be computed by reference to the profits for the three years ending with the date of displacement or, if the person concerned has then been in occupation for a shorter period, that period.

(2) Where accounts have been made up in respect of the profits of the person concerned for a period or consecutive periods of twelve months and that period or the last of them ends not more than one year before the date of displacement, paragraph (1) shall have effect as if the date on which that period or the last of those periods ends were the date of the displacement.

(3) Where the date of displacement is determined in accordance with Article 34(3)(*c*) and the person concerned has on that date been in occupation for more than three years, he may elect that the average annual profit shall, instead of being computed by reference to the profits for the years mentioned in paragraph (1), be computed by reference to the profits for—

(a) any three consecutive periods of twelve months for which accounts in respect of his profits have been made up, being periods for which he has been in occupation and the last of which ends on or after the date of completion of the acquisition; or

(b) if there are no such periods as aforesaid, any three consecutive years for which he has been in occupation and the last of which ends on or after the date mentioned in sub-paragraph (*a*).

(4) In calculating the profits mentioned in paragraph (1) there shall be deducted a sum equal to the rent that might reasonably be expected to be payable in respect of the agricultural land comprised in the land acquired if it were let for agricultural purposes to a tenant responsible for rates, repairs

and other outgoings; and that deduction shall be made whether or not the land is in fact let and, if it is, shall be made to the exclusion of any deduction for the rent actually payable.

(5) In calculating the profits mentioned in paragraph (1) there shall be left out of account profits from any activity if a sum in respect of loss of profits from that activity would fall to be included in the compensation, so far as attributable to disturbance, for the acquisition of the interest in the land acquired.

(6) Where the value of the agricultural land comprised in the land acquired exceeds the value of the agricultural land comprised in the new unit the amount of the farm loss payment shall be proportionately reduced.

(7) For the purposes of paragraph (6) the value of any land shall be assessed—

(a) on the basis of its value as land used solely for agriculture and as for a freehold interest therein with vacant possession;

(b) by reference to the condition of the land and its surroundings and to prices current—

(i) in the case of the land comprised in the land acquired, on the date of displacement;

(ii) in the case of land comprised in the new unit, on the date on which the person concerned begins to farm the new unit;

(c) in accordance with rules (2) to (4) in**[**[F17] Article 6(1) of the Land Compensation (Northern Ireland) Order 1982**]**;

(d) without regard to the principal dwelling (if any) comprised in the same agricultural unit as that land.

(8) The amount of a farm loss payment shall not be greater than the amount (if any) by which—

(a) that payment, calculated apart from this paragraph, together with compensation for the acquisition of the interest in the land acquired assessed on the assumptions mentioned in Article 8(2), (3) and (4) (including any sum included as compensation for disturbance), exceeds

(b) the compensation actually payable for the acquisition of that interest.

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

F17 1982 NI 9

Supplementary provisions about farm loss payments

36.—(1) Subject to paragraph (7), no farm loss payment shall be made except on a claim in that behalf made by the person entitled thereto before the expiration of the period of one year beginning with the date on which the requirement in Article 34(1)(*b*) is complied with, and any such claim shall be in writing and shall be accompanied or supplemented by such particulars as the acquiring authority may reasonably require to enable them to determine whether that person is entitled to a payment and, if so, its amount.

(2) Where the agricultural unit containing the land acquired is occupied for the purposes of a partnership firm Articles 34 and 35 shall have effect in relation to the firm and not the partners individually (any interest of a partner in the land acquired being treated as an interest of the firm) except that the requirements in Article 34 as to the new unit shall be treated as complied with in relation to the firm as soon as they are complied with by any one of the persons who were members of the firm.

(3) Where a person dies before the expiration of the period for making a claim to a farm 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 his personal representative.

(4) Where an interest in land 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 farm loss payment which they would be required to make to him if the acquisition were compulsory and the authority (if not authorised to acquire the interest compulsorily) had been so authorised on the date of the agreement.

(5) Where a farm loss payment is made to any person the authority making the payment shall also pay any reasonable valuation or legal expenses incurred by that person for the purposes of the preparation and prosecution of his claim to the payment; 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 35(8).

(6) A farm loss 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 mentioned in paragraph (1) until payment.

(7) Where the date mentioned in paragraph (1) is before the coming into operation of this Part the period within which a claim to a farm loss payment can be made shall be the period of one year beginning with the date of the coming into operation of this Part.

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 [[F18] any improvement to a house or building on the land or of] redevelopment on the land;

[F18](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—

[F19](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[F20]. . .

(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;[F20]. . .

Head (ii) rep. by 1992 NI 15

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

[F19](d) in a case within paragraph (1)(*d*), unless the displacement occurred on or after 10th November 1976;

[F20]. . .

(3) For the purposes of paragraph (1) a person shall not be treated as displaced in consequence of any such acquisition [[F19] 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;

. . .[F21].

[F19](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**[**[F22] 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 [[F19] 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).

[F18](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[F20]. . . ; 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", [[F18] "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.

F18 1981 NI 3
F19 1981 NI 3
F20 1992 NI 15
F21 1977 NI 8
F22 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

[F23]**39.**—(1) Where the tenant of a dwelling provided by the Housing Executive moves to**[**[F24] 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**[**[F24] 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.]

F23 1981 NI 3
F24 1983 NI 15

Modifications etc. (not altering text)
C2 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 [F25 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**[**F26 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 ;

F25(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 [F25, 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.

F27(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", [F28 "improvement" and "redevelopment"] have the meanings assigned to them by Article 30(9).

F25 1981 NI 3
F26 1981 NI 16
F27 1981 NI 3
F28 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[F29] 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.

F29 Now D/Env., SRO (NI) 1973/504; 1976 NI 6

Modifications etc. (not altering text)

C3 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[F30] 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.

F30 Now D/Env., SRO (NI) 1973/504; 1976 NI 6

Modifications etc. (not altering text)

C4 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 [[F31] 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,

[[F31] 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) [[F31] Paragraphs (4) and (4A)] of Article 40 shall have effect in relation to paragraph (1) of this Article and to [[F31] any provision of paragraph (1)] of Article 40 as applied thereby.

F31 1981 NI 3

Status:
Point in time view as at 08/05/2016.

Changes to legislation:
There are currently no known outstanding effects for the Land Acquisition and Compensation (Northern Ireland) Order 1973, PART IV.