
STATUTORY INSTRUMENTS

1978 No. 459

Property (Northern Ireland) Order 1978

PART II

**IDENTIFICATION, AND MODIFICATION OR EXTINGUISHMENT,
OF CERTAIN IMPEDIMENTS TO THE ENJOYMENT OF LAND**

Powers of court

6.—(1) Where proceedings for the establishment or enforcement of an impediment are taken in the court—

- (a) the court may refer to the Lands Tribunal any question which, in the opinion of the court, could have been disposed of on an application under Article 4 or 5 (and the Lands Tribunal, on the reference, may exercise any power which it could have exercised on such an application); or
- (b) the person against whom the proceedings are taken may in the proceedings apply to the court for an order giving leave to apply to the Lands Tribunal under Article 5 and staying the proceedings in the meantime.

(2) In any proceedings for the establishment or enforcement of an impediment, the court may—

- (a) make an order modifying or extinguishing the impediment on any ground, and on any terms, on which the Lands Tribunal could have done so on an application under Article 5; or
- (b) refuse to make an order where the plaintiff's interest is not materially affected by the breach (if any), or where, for some other reason, it would be unjust to make one; or
- (c) where the impediment consists of a positive obligation, make an order for specific performance of the obligation.

(3) In this Article “the court” means the High Court or, in matters within the limit of jurisdiction for the time being exercisable by county courts in actions in which the title to any land comes in question, the county court.

Changes to legislation:

There are currently no known outstanding effects for the Property (Northern Ireland) Order 1978, Section 6.