
STATUTORY INSTRUMENTS

1991 No. 1220

The Planning(Northern Ireland) Order 1991

PART X

FURTHER PROVISIONS AS TO HISTORIC BUILDINGS

Historic Buildings Council

105.—(1) There shall continue to be a Council called “the Historic Buildings Council” (in this Order referred to as “the Council”).

(2) The functions of the Council shall be—

- (a) to keep under review, and from time to time report to the Department on, the general state of preservation of listed buildings;
- (b) to advise the Department on such matters relating to the preservation of buildings of special architectural or historic interest as the Department may refer to it;
- (c) such other functions as are conferred on it by any statutory provision.

(3) Schedule 3 shall have effect with respect to the Council.

Grants and loans for preservation or acquisition of listed buildings

106.—(1) The Department may make grants or loans towards the whole or part of any expenditure incurred or to be incurred in the repair or maintenance of a listed building or in the upkeep of any land comprising, or contiguous or adjacent to, any such building, or in the repair or maintenance of any objects ordinarily kept in the building.

(2) The Department may, on such terms and conditions as the Department, with the approval of the Department of Finance and Personnel, thinks fit, make grants or loans to the National Trust for Places of Historic Interest or Natural Beauty towards the cost of acquiring—

- (a) any listed building;
- (b) any land comprising, or contiguous or adjacent to, any such building;
- (c) any objects ordinarily kept in any such building.

(3) Grants under paragraph (1) to the National Trust for Places of Historic Interest or Natural Beauty may, if the Department thinks fit, be made by way of endowment.

(4) The Department may attach to any grant or loan under paragraph (1) such conditions as it thinks fit for securing public access to the whole or part of the property to which the grant or loan relates.

(5) Any loan under paragraph (1) shall be made on such terms as to repayment, payment of interest and otherwise as the Department may, with the approval of the Department of Finance and Personnel, determine.

Acquisition of listed buildings by agreement

107.—(1) The Department may acquire by agreement, whether by purchase, lease or otherwise, or may accept the gift of—

- (a) any listed building;
- (b) any land comprising, or contiguous or adjacent to, any such building.

(2) The Department may purchase by agreement, or accept a gift of, any objects which are or have been ordinarily kept in a listed building which, or any estate in which, is vested in the Department, or in a listed building which is under its control or management.

(3) The Department may make such arrangements as it thinks fit for the management, custody and use of any property acquired or accepted by it under this Article.

(4) Where the Department is of the opinion that any property acquired by it under this Article would be more expediently or efficiently managed or preserved by—

- (a) the National Trust for Places of Historic Interest or Natural Beauty; or
- (b) any government department; or
- (c) a district council; or
- (d) such other body as the Department thinks suitable;

the Department may, with the approval of the Department of Finance and Personnel, convey either for value or otherwise and upon such terms and conditions as the Department may think fit, that property to that Trust, government department, district council or other body, and may—

- (i) impose such restrictions as the Department may think necessary on the user of the land so conveyed; and
- (ii) grant or reserve such rights over such land as the Department thinks fit.

Acceptance by Department of endowments in respect of listed buildings

108.—(1) Where any instrument coming into operation after 1st November 1972 contains a provision purporting to be a gift of property to the Department upon trust to use the income thereof (either for a limited time or in perpetuity) for or towards the upkeep of a listed building or other property acquired or accepted by the Department under Article 107 or a building which the Department proposes so to acquire or accept, the Department may accept the gift, and if it does so, and the provision does not constitute a charitable trust, paragraphs (2) to (7) shall have effect.

(2) The validity of the gift and of the trust to use the income as aforesaid (in this Article referred to as “the endowment trust”) shall be deemed not to be, or ever to have been, affected by any rule of law or equity which would not have affected their validity if the trust had been charitable.

(3) In relation to the property (of whatsoever nature) comprised in the gift and any property for the time being representing that property (in this Article collectively referred to as “the trust fund”) the Department shall during the continuance of the endowment trust have the like powers of management, disposition and investment as in the case of settled land are conferred by law on the tenant for life and the trustees of the settlement in relation to the land and the proceeds of its sale, respectively.

(4) Paragraph (3) does not prejudice any additional or larger powers conferred on the Department by the trust instrument.

(5) If while the endowment trust continues an event happens such that immediately thereafter the Department is neither entitled to any estate in the building to which the trust relates nor has the building under its control or management, and apart from this paragraph the endowment trust would not then be determined or be deemed to have failed, then on the happening of that event the

endowment trust shall cease by virtue of this paragraph and the trust fund shall devolve accordingly as on a failure of the trust.

(6) If the trust instrument contains a provision whereby, on the failure or determination of the endowment trust, the trust fund purports to be given, or to be directed to be held, on charitable trusts, the validity of that gift or direction shall be deemed not to be, or ever to have been, affected by any rule of law or equity relating to perpetuities.

(7) In this Article “gift” includes devise, bequest, appointment, conveyance, assignment, transfer and any other assurance of property, and “property” means real or personal property of any description.

Compulsory acquisition of listed buildings

109.—(1) If it appears to the Department that, in the case of a listed building to which this paragraph applies, reasonable steps are not being taken for properly preserving it, the Department may, if it considers it expedient in order to preserve the building, compulsorily acquire the building and any land comprising or contiguous or adjacent to it which appears to the Department to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

(2) Paragraph (1) applies to any listed building, except—

- (a) a building which is the subject of a guardianship or protection order under the Historic Monuments Act (Northern Ireland) 1971; or
- (b) a building for the time being included in a schedule of historic monuments published by the Department under that Act.

(3) Where the Department desires to acquire, otherwise than by agreement, any land under paragraph (1), the Department may make an order vesting that land in the Department; and Articles 87 to 93 shall, with any necessary modifications, apply in relation to such acquisitions accordingly.

(4) The Department shall not commence proceedings for the compulsory acquisition of a building under this Article unless at least two months previously it has served on the owner of the building, and not withdrawn, a notice (in this Article referred to as a “repairs notice”)—

- (a) specifying the works which the Department considers reasonably necessary for the proper preservation of the building; and
- (b) explaining the effect of this Article.

(5) Where the Department has served a repairs notice, the demolition of the building thereafter shall not prevent the Department from being authorised under this Article to acquire compulsorily the site of the building, if the Department is satisfied that it would have made a vesting order in respect of the building had it not been demolished.

(6) The Department may at any time withdraw a repairs notice served by it; and if it does so, it shall forthwith give notice of the withdrawal to the person who was served with the repairs notice.