

SCHEDULES

SCHEDULE 2

Articles 12 and 20

ACQUISITION OF LAND

PART I

ACQUISITION BY THE OFFICE

Compulsory acquisition: vesting orders

1.—(1) Where the Office proposes to acquire land compulsorily it may make an order (a “vesting order”) vesting the land in the Office.

(2) The power to make a vesting order in respect of any land by virtue of this paragraph includes power to create and vest in the Office new rights over the land as well as to vest existing rights.

(3) The Planning Blight (Compensation) (Northern Ireland) Order 1981 (NI 16) shall apply to land which the Office has resolved to acquire under this paragraph as it applies to land specified in Article 3(1) of that Order.

Compulsory acquisition: procedure, etc.

2.—(1) Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c.9) shall apply for the purposes of the acquisition of land by means of a vesting order made under paragraph 1 in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act, subject to the following modifications –

- (a) for any reference to the Department or the council there shall be substituted a reference to the Office;
- (b) for any reference to that Act there shall be substituted a reference to this Order;
- (c) paragraph 1 shall be omitted;
- (d) in paragraph 2 –
 - (i) for the words “Notice of the application” there shall be substituted “ Notice of the Office's intention to acquire the land compulsorily ”;
 - (ii) the words “in such form and manner as the Ministry directs” shall be omitted;
 - (iii) in sub-paragraph (c) for the words “as may be prescribed” there shall be substituted “ as the Department considers fit ”;
- (e) in paragraph 3(1)(b) after the word “held” there shall be inserted the words “ by the planning appeals commission or by any other person ”;
- (f) in paragraph 4 the words from “and may provide” onwards shall be omitted;
- (g) in paragraph 5 –

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- (i) in sub-paragraph (1)(a) the words “in the prescribed form and manner” shall be omitted;
- (ii) in sub-paragraph (1)(d) the words “in the prescribed form” shall be omitted;
- (iii) in sub-paragraph (2) for the words “as may be prescribed” there shall be substituted “as the Office thinks fit”;
- (h) in paragraph 6(2) for the words from “fund out of which the expenses of the council in acquiring the land are to be defrayed” there shall be substituted “Consolidated Fund” and for the words “out of the compensation fund” there shall be substituted “made by the Office”;
- (i) in paragraph 11(3) the words “in the prescribed form” shall be omitted;
- (j) in paragraph 12 –
 - (i) in sub-paragraph (1) the words “such” and “as may be prescribed” shall be omitted;
 - (ii) in sub-paragraph (2) for the words from “clerk” to “directs” substitute “Department as correct, and publish”;
- (k) in paragraph 14(1) the words “in the prescribed form” shall be omitted;
- (l) in paragraph 15(1) for the words “in the prescribed form” there shall be substituted “in such form as may be approved by the Department”;
- (m) paragraphs 19 and 20(2) shall be omitted.

PART II

ACQUISITION BY A DEVELOPMENT CORPORATION

Compulsory acquisition: vesting orders

3.—(1) Where a development corporation proposes to acquire land compulsorily it may apply to the Office for an order (a “vesting order”) vesting the land in the corporation and the Office shall have power to make a vesting order.

(2) The power to make a vesting order in respect of any land by virtue of this paragraph includes power to create and vest in the corporation new rights over the land as well as to vest existing rights.

(3) The Planning Blight (Compensation) (Northern Ireland) Order 1981 (NI 16) shall apply to land which a corporation has resolved to acquire under this paragraph as it applies to land specified in Article 3(1) of that Order.

Compulsory acquisition: procedure, etc.

4.—(1) Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c.9) shall apply for the purposes of the acquisition of land by means of a vesting order made under paragraph 3 in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act, subject to the following modifications –

- (a) for any reference to the council there shall be substituted a reference to the development corporation;
- (b) for any reference to the Department concerned there shall be substituted a reference to the Office;
- (c) for any reference to that Act there shall be substituted a reference to this Order;

- (d) in paragraph 6(2) for the words from “the fund” onwards there shall be substituted “ funds of the development corporation (in this Schedule referred to as “the compensation fund”), and shall be discharged by payments made by that corporation ”; and
- (e) in paragraph 12(2) for “the clerk of the council” there shall be substituted “ such person as may be designated for the purposes of this Schedule by the development corporation ”; and
- (f) paragraphs 19 and 20(2) shall be omitted.

PART III

ACQUISITION OF LAND: GENERAL PROVISIONS

Compulsory acquisition: land belonging to statutory bodies and inalienable land

5. The power to make a vesting order under this Schedule in respect of land –
- (a) which is the property of any statutory body which has power under any statutory provision to acquire land compulsorily; or
 - (b) which is declared by or under any statutory provision to be inalienable,

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Assembly.

Compulsory acquisition: land of industrial undertakings

6.—(1) Nothing in this Schedule shall authorise the acquisition of any land of an industrial undertaking to which this paragraph applies which is in use for the purposes of that undertaking.

(2) This paragraph applies to an undertaking which provides employment which is substantial having regard to the extent of the land used for its purposes and the nature of the undertaking.

Compulsory acquisition: land containing historic monuments or archaeological object

7.—(1) Nothing in this Schedule shall authorise the acquisition, without the consent of the Department of the Environment, of any land on or in which there is, to the knowledge of the Office, any historic monument or archaeological object.

(2) In this paragraph “historic monument” and “archaeological object” have the same meanings as in the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (NI 9).

Acquisition of land: powers of entry

8.—(1) Subject to this paragraph, a person authorised in writing by the Office may, on production if required of his authority, at any reasonable time enter any land –

- (a) for the purpose of surveying or examining the land in order to ascertain whether it ought to be acquired by the Office under Article 12; or
- (b) in connection with any claim for compensation in respect of any such acquisition.

(2) Subject to this paragraph, a person authorised in writing by a development corporation may, on production if required of his authority, at any reasonable time enter any land –

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- (a) for the purpose of surveying or examining the land in order to ascertain whether it ought to be acquired by the corporation under Article 20; or
- (b) in connection with any claim for compensation in respect of any such acquisition.

(3) No person shall be entitled to exercise a power of entry conferred by this paragraph in relation to any land unless he has given at least 24 hours' notice of the intended entry to the occupier of the land or such lesser period of notice as may be agreed between him and the occupier.

- (4) If it is shown to the satisfaction of a justice of the peace on a sworn complaint in writing –
- (a) that admission to the land which any person is entitled to enter by virtue of this paragraph, has been refused to that person, or that refusal is apprehended, or that the land is unoccupied, or the occupier is temporarily absent, or that the case is one of urgency; and
 - (b) that there are reasonable grounds for entry to the land for any purpose for which entry is required,

the justice may by warrant under his hand authorise that person to enter on the land if need be by force.

(5) Every warrant granted under this paragraph shall continue in force until the purpose for which entry is necessary has been satisfied.

(6) Any person entering any land by virtue of the power of entry conferred by this paragraph or by virtue of a warrant issued under this paragraph –

- (a) may take with him such other persons and such equipment as may be necessary; and
- (b) on leaving any unoccupied land which he has entered by virtue of such a power of entry or such a warrant shall leave it as effectually secured against trespassers as he found it.

(7) A person who intentionally obstructs any person who enters, or is attempting to enter, land by virtue of the power of entry conferred by this paragraph or by virtue of a warrant issued under this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) Where in the exercise of the power conferred by this paragraph or in executing any warrant under this paragraph, any damage is caused to land or chattels, any person interested in the land or chattels may recover compensation in respect of that damage from the Office or (as the case may be) the development corporation.

(9) Any question of disputed compensation under this paragraph shall be referred to and determined by the Lands Tribunal.

(10) Any power conferred by this paragraph to survey land shall be construed as including power to ascertain or fix boundaries or to search and bore for the purposes of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil and to take and carry away, for the purpose of examination, specimens of the subsoil.

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