STATUTORY INSTRUMENTS

1992 No. 1307 (N.I. 8)

The Home Loss Payments (Northern Ireland) Order 1992

- - - - - - *4th June 1992*

Title and commencement

1. This Order may be cited as the Home Loss Payments (Northern Ireland) Order 1992 and shall come into operation on the expiration of 2 months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F1] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order "the principal Order" means the Land Acquisition and Compensation (Northern Ireland) Order 1973[F2].

F1 1954 c. 33 (N.I.)
F2 1973 NI 21

Right to home loss payment

3.—(1) In Article 30 of the principal Order for paragraph (2) (period and nature of occupation necessary to qualify for home loss payment) there shall be substituted the following paragraph—

"(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.".

(2) Paragraph (5) of that Article (no payments where acquisition is in pursuance of blight notice) shall cease to have effect.

Spouses having statutory rights of occupation

4. After Article 30 of the principal order there shall be inserted the following Article—

"**Spouses having statutory rights of occupation**

30A.—(1) This Article applies where, by reason of the entitlement of one spouse ("A") to occupy a dwelling by virtue of an interest or right to which Article 30 applies, the other spouse ("B") acquires rights of occupation (within the meaning of Part II of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984[F3]).

(2) So long as—

(a) those rights of occupation 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.".

F3 1984 NI 14

Amount of home loss payment

5. For Article 31 of the principal Order there shall be substituted the following Article—

"**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 £15,000 and a minimum of £1,500.

(2) In any other case, the amount of the home loss payment shall be £1,500.

(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.".

Supplementary provisions about home loss payments

6.—(1) Article 32 of the principal Order (supplementary provisions about home loss payments) shall have effect subject to the following provisions of this Article.

(2) For paragraphs (1) to (3) there shall be substituted the following paragraphs—

"(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).".

(3) In paragraph (4)(*a*) for the words "five years" there shall be substituted the words "one year".

(4) In paragraph (5) for the words "paragraphs (3) and (4)" there shall be substituted the words "paragraphs (3) to (4)".