STATUTORY INSTRUMENTS

1982 No. 712 (N.I. 9)

The Land Compensation (Northern Ireland) Order 1982

- - - - - - *18th May 1982*

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Land Compensation (Northern Ireland) Order 1982.

(2) This Order shall come into operation on the expiration of one month 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—

"acquiring authority", in relation to an interest in land, means the person by whom the interest is, or is proposed to be acquired;

"authority possessing compulsory acquisition powers" means a person with power to acquire an interest in land otherwise than by agreement;

"Housing Executive" means the Northern Ireland Housing Executive;

[F2]"person in need" has the same meaning as in the Health and Personal Social Services (Northern Ireland) Order 1972;

"planning appeals commission" means the planning appeals commission established under **[**[F3]section 203 of the Planning Act (Northern Ireland) 2011**]**;

"statutory provision" has the meaning assigned to it by section 1 *(f)* of the Interpretation Act (Northern Ireland) 1954;

"transferred provision" has the meaning assigned to it by section 1 *(g)* of the Interpretation Act (Northern Ireland) 1954.

(3) For the purposes of section 42 of the Northern Ireland Constitution Act 1973[F4] (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

F1 1954 c. 33 (NI)
F2 1972NI 14
F3 Words in art. 2(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 39** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))
F4 1973 c. 36.

PART II

DETERMINATION OF QUESTIONS OF DISPUTED COMPENSATION

Tribunal for assessing compensation in respect of land compulsorily acquired

3. Where by or under any statute (whether passed or made before or after the making of this Order) land is authorised to be acquired compulsorily,—

(a) any question of disputed compensation; and

(b) where any part of the land to be acquired is subject to a lease which comprises land not acquired, any question as to the apportionment of the rent payable under the lease;

shall be referred to and determined by the Lands Tribunal.

Procedure on references under Article 3

4.—(1) The following provisions shall have effect with respect to any proceedings on a question referred to the Lands Tribunal under Article 3.

(2) The Lands Tribunal shall sit in public.

(3) Not more than one expert witness on either side shall be heard unless the Lands Tribunal otherwise directs; except that, where the claim includes a claim for compensation in respect of minerals, or disturbance of business, as well as in respect of land, one additional expert witness on either side on the value of the minerals or, as the case may be, on the damage suffered by reason of the disturbance may be allowed.

(4) A member of the Lands Tribunal shall be entitled to enter on and inspect any land which is the subject of the proceedings.

(5) The Lands Tribunal shall, on the application of either party, specify the amount awarded in respect of any particular matter the subject of the award.

(6) It shall not be necessary for a member of the Lands Tribunal to make any declaration before entering into the consideration of any matter which is the subject of the proceedings.

Modifications etc. (not altering text)
C1 Art. 4 applied (with modifications) (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **242(3)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)
C2 Art. 4 applied (9.10.2006) by Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2006 (S.R. 2006/356), regs. 1(1), 35, **Sch. 8 para. 5(3)** (with reg. 3)
C3 Art. 4 applied (with modifications) (1.2.2007) by Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 (S.R. 2006/482), regs. 1, 22(4), **Sch. 2 para. 6(3)**
C4 Art. 4 applied (with modifications) (19.5.2008) by Waste Management Licences (Consultation and Compensation) Regulations (Northern Ireland) 2008 (S.R. 2008/160), **reg. 8(4)**

C5 Art. 4 applied (with modifications) (24.7.2009) by Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009 (S.R. 2009/252), reg. 25(2), **Sch. 5 para. 7(2)**

C6 Art. 4 applied (with modifications) (6.1.2013) by The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012 (S.R. 2012/453), reg. 1, Sch. 6 para. 7(4) (with reg. 5, Sch. 3)

C7 Art. 4 applied (with modifications) (20.6.2013) by The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (S.R. 2013/160), reg. 1, **Sch. 6 para. 7(4)** (with reg. 5, Sch. 3)

Costs

[F5]**5.**—(1) Where either—

(a) the acquiring authority has made an unconditional offer in writing of any sum as compensation to any claimant and the sum awarded by the Lands Tribunal to that claimant does not exceed the sum offered; or

(b) the Lands Tribunal is satisfied that a claimant has failed to deliver to the acquiring authority, in time to enable it to make a proper offer, a notice in writing of the amount claimed by him containing the particulars mentioned in paragraph (2);

the Lands Tribunal shall, unless for special reasons it thinks proper not to do so, order the claimant to bear his own costs and to pay the costs of the acquiring authority so far as such costs were incurred after the offer was made or, as the case may be, after the time when in the opinion of the Lands Tribunal the notice should have been delivered.

(2) The notice mentioned in paragraph (1) shall—

(a) state the exact nature of the interest in respect of which compensation is claimed; and

(b) give details of the compensation claimed by—

(i) distinguishing the amounts under separate heads, and

(ii) showing how the amount claimed under each head is calculated.

(3) Where a claimant has delivered a notice as required by paragraph (1) *(b)* the acquiring authority may, at any time within six weeks after the delivery of it, withdraw any notice to treat which has been served on the claimant or on any other person interested in the land authorised to be acquired, but shall be liable to pay compensation to any such claimant or other person for any loss or expenses occasioned by the notice to treat having been given to him and withdrawn, and the amount of such compensation shall, in default of agreement, be determined by the Lands Tribunal.

(4) Where a claimant has delivered a notice as required by paragraph (1) *(b)* and has made an unconditional offer in writing to accept any sum as compensation then, if the sum awarded to him by the Lands Tribunal is equal to or exceeds that sum, the Lands Tribunal shall, unless for special reasons it thinks proper not to do so, order the acquiring authority to bear its own costs and to pay the costs of the claimant so far as such costs were incurred after his offer was made.

(5) The Lands Tribunal may in any case disallow the cost of counsel.

(6) Where the Lands Tribunal orders the claimant to pay the costs, or any part of the costs, of the acquiring authority, the acquiring authority may deduct the amount so payable by the claimant from the amount of the compensation payable to him.

(7) Without prejudice to any other method of recovery, the amount of costs ordered to be paid by a claimant, or such part of it as is not covered by the deduction mentioned in paragraph (6), shall be a debt recoverable summarily by the acquiring authority from the claimant.

F5 mod. by 1983 NI 18

Modifications etc. (not altering text)

C8 Art. 5 applied (with modifications) (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **242(3)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

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C11 Art. 5 applied (with modifications) (19.5.2008) by Waste Management Licences (Consultation and Compensation) Regulations (Northern Ireland) 2008 (S.R. 2008/160), **reg. 8(4)**

C12 Art. 5 applied (with modifications) (24.7.2009) by Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009 (S.R. 2009/252), reg. 25(2), **Sch. 5 para. 7(2)**

C13 Art. 5 applied (with modifications) (6.1.2013) by The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012 (S.R. 2012/453), reg. 1, Sch. 6 para. 7(4) (with reg. 5, Sch. 3)

C14 Art. 5 applied (with modifications) (20.6.2013) by The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (S.R. 2013/160), reg. 1, **Sch. 6 para. 7(4)** (with reg. 5, Sch. 3)

PART III

PROVISIONS DETERMINING AMOUNT OF COMPENSATION

General provisions

Rules for assessing compensation

6.—(1) Compensation in respect of any compulsory acquisition of land shall, subject to the provisions of this Order and any other enactment, be assessed in accordance with the following rules:—

(1) No allowance shall be made on account of the acquisition being compulsory:

(2) The value of land shall, subject to rules 3 to 6, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise:

(3) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any authority possessing compulsory acquisition powers:

(4) Where the value of the land is increased by reason of the use of it or of any premises on it in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the occupants of the premises or to the public health, the amount of that increase shall not be taken into account:

(5) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, where reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement:

(6) The provisions of rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land.

(2) In assessing compensation to be paid in respect of the compulsory acquisition of any land no account shall be taken—

(a) of any depreciation in the value of the land which is attributable to the fact that (whether by way of designation, allocation or other particulars contained in any scheme or plan or by any other means) an indication has been given that the land is, or is likely to be, acquired by an authority possessing compulsory acquisition powers;

(b) of any increase or diminution in the value of the land which is attributable to the carrying out, or the prospect of the carrying out, of so much of any development on the land or on other land which has been, or is being or is proposed to be acquired (whether compulsorily or other wise) for the purposes of the same scheme or project of development for which the land is being or has been acquired, as would not have been likely to have been, or to be, carried out if the acquiring authority had not acquired or did not propose to acquire that land or that other land;

(c) in a case where the land forms part of an area designated as the site of a new town by an order under the New Towns Act (Northern Ireland) 1965[F6], of any increase or diminution in the value of the land which is attributable to the carrying out, of so much of any development on the land or on other land in that area in the course of the development of that area as a new town, as would not have been likely to have been, or to be, carried out if the area had not been so designated;

(d) **[**[F7]in a case where, on the date on which the vesting order is made, the land is subject to a tenancy, of any increase or diminution in the value of the land which is attributable to, or to the prospect of, the tenant giving up possession in consequence of being provided with other accommodation under Article 40(1)(a) of the 1973 Order (duty to rehouse residential occupiers where land acquired by authority possessing compulsory acquisition powers);**]**

(e) of the fact that the Housing Executive has provided, or undertakes to provide or arrange for the provision of residential accommodation under any statutory provision for the person entitled to the compensation.

[[F7](3) In this Article—

(a) "development" in paragraph (2)(b) and (c) includes any building operations or rebuilding operations and any use of the land or any building upon the land for a purpose which is different from the purpose for which the land or building was last being used;

(b) the reference in paragraph (2)(d) to land being subject to a tenancy on the date on which the vesting order is made includes a reference to land which would have been subject to a tenancy on that date if the tenant had not given up occupation of a dwelling as mentioned in Article 30(3) of the 1973 Order (deemed displacement in consequence of compulsory acquisition of interest in dwelling where, in certain circumstances, person displaced gives up occupation by arrangement); and

(c) " the 1973 Order" in paragraph (2)(d) and this paragraph means the Land Acquisition and Compensation (Northern Ireland) Order 1973.**]**

F6 1965 c. 13 (NI)
F7 1997 NI 8

Modifications etc. (not altering text)

C15 Art. 6 applied (with modifications) (1.2.2007) by Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 (S.R. 2006/482), regs. 1(1), 22(4), **Sch. 2 para. 5(1)**

C16 Art. 6 applied (with modifications) (19.5.2008) by Waste Management Licences (Consultation and Compensation) Regulations (Northern Ireland) 2008 (S.R. 2008/160), **reg. 7(2)**