STATUTORY INSTRUMENTS

1981 No. 608 (N.I. 16)

The Planning Blight (Compensation) (Northern Ireland) Order 1981

- - - - - - *13th April 1981*

Modifications etc. (not altering text)

C1 Order: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Introductory

Title and commencement

1. This Order may be cited as the Planning Blight (Compensation) (Northern Ireland) Order 1981 and 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—

"Act" includes an Act of the Parliament of the United Kingdom and a Measure of the Northern Ireland Assembly;

[F2]"the Act of 1971" means the Planning and Land Compensation Act (Northern Ireland) 1971;

"the affected area", in relation to an agricultural unit, means so much of that unit as, on the date of service of a blight notice, consists of land falling within any of the specific descriptions;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

"agricultural unit" means land which is occupied as a unit for agricultural purposes, including any dwelling-house or other building occupied by the same person for the purpose of farming the land;

[F3]
. . . . . .

"appropriate authority", in relation to any land, means the government department, district council or other body**[**F4 or person**]** by which, by virtue of the circumstances described in Article 3, the land is liable to be acquired as mentioned in that Article or is indicated as being proposed to be so acquired;

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

"blight notice" means a notice served under Article**[**F5 12 or 14 which has not been withdrawn**]**;

[F6 " capital value " means capital value for the purposes of the Rates (Northern Ireland) Order 1977 and shall be construed in accordance with Article 39 of that Order; **]**

"the claimant" in relation to a blight notice means the person who served that notice and any reference to the interest of the claimant in relation to such a notice is a reference to the interest which the notice requires the appropriate authority to purchase as mentioned in Article 5 or 14;

"the Department" means the Department of the Environment;

"hereditament" (subject to paragraphs (3) and (4)) means the aggregate of the land which forms the subject of a single entry in **[**F7a valuation list**]** for the time being in force;

"mortgagee" includes a person entitled to a charge or lien for securing money or money's worth;

[F8 " net annual value " means net annual value for the purposes of the Rates (Northern Ireland) Order 1977 and shall be construed in accordance with Articles 39 and 39A of that Order; **]**

[F9"the Planning Order" means the Planning (Northern Ireland) Order 1991;**]**

[F10 " the Planning Act " means the Planning Act (Northern Ireland) 2011; **]**

"prescribed" means prescribed by regulations made by the Department;

"relevant statutory provision" in relation to land falling within any of the specified descriptions, means the statutory provision which provides for the compulsory acquisition of land as being land falling within that description;

"specified descriptions" means the descriptions specified in Article 3(1)(a) to (l);

"tenancy" includes a tenancy created or renewed in pursuance of any enactment, but does not include—

(a) a mortgage term;

(b) any estate arising in favour of a mortgagor solely by reason of his attorning tenant to his mortgagee;

"unaffected area" has the meaning assigned by Article 9(1).

[F11 " value ", in relation to a hereditament, means the value which on the date of service of a blight notice, is shown in a valuation list as the net annual value (if any) or, as the case maybe the capital value (if any) of the hereditament or in relation to land certified by the Commissioner of Valuation under this paragraph means the net annual value or, as the case maybe, the capital value as it appears in such a certificate;

" valuation list " has the meaning assigned to it by Article 2(2) of the Rates (Northern Ireland) Order 1977; **]**

(3) Where land is on the boundary between two or more district councils, and accordingly—

(a) different parts of that land form the subject of single entries in the valuation lists for those districts, but

(b) if the whole of the land had been in one of those districts, it would have formed the subject of a single entry in **[**F12a valuation list**]** for that district,

the whole of the land shall be treated, for the purposes of the definition of "hereditament" in paragraph (2), as if it formed the subject of a single entry in **[**F12a valuation list**]**, and**[**F13 the definition of value**]** in that paragraph shall apply as if any reference to a value shown in **[**F12a valuation list**]** were a reference to the aggregate of the values shown as net annual values **[**F14or, as the case maybe, capital values**]** in the valuation lists in relation to the different parts of that land.

(4) Land which forms the subject of an entry in **[**F15a valuation list**]** by reason only that it is land over which any shooting, fishing and other sporting rights are exercisable, or that it is land over which a right of exhibiting advertisements is let out or reserved, shall not be taken to be a hereditament within the meaning of this Order.

(5) If any question arises as to which authority is the appropriate authority for the purpose of this Order, the question shall be determined by the Department, whose decision shall be final.

(6) If any such question as is referred to in paragraph (5) arises—

(a) Article 4(2)(b) and (4)(b) shall apply with the substitution for the reference to a period of one year of a reference to that period extended by so long as it takes to have the question determined;

(b) Article 12(3)(b) shall apply with the substitution for the reference to a period of six months of a reference to that period extended by so long as it takes to have the question determined;

(c) Article 6(1) shall apply with the substitution for the reference to the date of service of a blight notice of a reference to the date on which that question is determined, if that is after the date of service.

(7) For the purposes of section 42(2) of the Northern Ireland Constitution Act 1973F16 (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 1971 c. 23 (NI)
F3 Art. 2(2): definition of "annual value" omitted (1.4.2007) by virtue of Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(i)**
F4 1984 c.12
F5 1982 NI 20
F6 Art. 2(2): definition of "capital value" inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(ii)**
F7 Art. 2(2): words in definition of "hereditament" substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(iii)**
F8 Art. 2(2): definition of "net annual value" inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(ii)**
F9 1991 NI 11
F10 Words in art. 2(2) inserted (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. 35** (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)
F11 Art. 2(2): definitions of "value" and "valuation list" inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(ii)**
F12 Words in art. 2(3) substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(iv)(aa)**
F13 Words in art. 2(3) substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(iv)(bb)**
F14 Words in art. 2(3) inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(iv)(cc)**
F15 Words in art. 2(4) substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(v)**

F16 1973 c. 36

Blight notices-general

Application of this Order

3.—(1) This Order has effect in relation to any land which—

(a) is land authorised by any Local or Private Act to be compulsorily acquired, or falling within the limits of deviation within which powers of compulsory acquisition are exercisable under such an Act; or

(b) is land shown on a map or plan approved by a resolution of the Northern Ireland Housing Executive, or land described in a resolution of the Housing Executive, as land which may be acquired for the purpose of re-development under the Housing (Northern Ireland) Order 1981[F17]; or

(c) is land in an area which, under a declaration of the Northern Ireland Housing Executive, is a proposed re-development area; or

(d) is land on which the Department proposes to**[**[F18] construct, improve or alter**]** a road and has given to the district council for the area written notice of its intention to**[**[F18] construct, improve or alter**]** the road, together with a map or plan sufficient to identify the proposed route of the road**[**[F18] or (as the case may be) the proposed extent of the improvement or alteration**]**; or

(e) is land—

(i) on which the Department proposes to**[**[F18] construct, improve or alter**]** a road; and

(ii) in respect of which the Department has exercised its power under the Planning**[**[F19] Order**]** to prevent or restrict development of that land; or

(f) is land on or adjacent to the line of a road or special road proposed to be constructed, improved or altered as indicated in a draft order referred to in a notice published in accordance with paragraph 1 of**[**[F20] Schedule 8 to the Roads (Northern Ireland) Order 1993, or an order under Article 14(1) or 15(1) of that Order, being land in relation to which a power of compulsory acquisition conferred by that Order**]** is or may become exercisable, as being land required for purposes of construction, improvement, or alteration as indicated in the draft order or order or for the purposes of**[**[F20] Article 112 of that Order**]**; or

(g) is land **[**[F21]indicated in a development plan document (within the meaning of section 6(2) of the Planning Act)**]** as land which may be required for the purposes of any function of a government department, district council or authority possessing compulsory purchase powers; or

[[F22](h) is land indicated in a plan (not being a local development plan) as land which may be required for the purposes of any function of a government department, district council or authority possessing compulsory purchase powers, being land in respect of which the council intends to exercise its powers of planning control under Part 3 of the Planning Act by reference to such a plan;**]**

[[F23](i) is land in respect of which a council—

(a) has resolved to take action to safeguard it for development for the purposes of any function mentioned in sub-paragraph (h); or

(b) has been directed by the Department to restrict the grant of planning permission in order to safeguard it for such development;**]**

(j) is land indicated in a development scheme adopted under**[**F19 Article 86 of the Planning Order**]** as land which may be required for the purposes of any function of a government department, district council or authority possessing compulsory purchase powers; or

(k) is land shown on a map or plan published by the Department as land proposed to be acquired by it or the purposes of**[**F20 Article 112 of the Roads (Northern Ireland) Order 1993**]**; or

(l) is land in a housing action area, being land in respect of which the Northern Ireland Housing Executive has published information indicating that the Executive intends to acquire it.

[F24(2) In paragraph (1)(g) the reference to a development plan document is a reference to—

(a) a development plan document adopted or approved for the purposes of Part 2 of the Planning Act;

(b) a revision of a development plan document in pursuance of section 14 of the Planning Act which is adopted or approved for the purposes of Part 2 of that Act;

(c) a development plan document which has been submitted to the Department for independent examination under section 10 of the Planning Act;

(d) a revision of a development plan document in pursuance of section 14 of the Planning Act if the document has been submitted to the Department for independent examination under section 10 of that Act.

(2A) But paragraph (2)(c) and (d) does not apply if the document is withdrawn under section 11 of the Planning Act at any time after it has been submitted for independent examination.

(2B) In paragraph (2)(c) and (d) the submission of a development plan document to the Department for independent examination is to be taken to include the holding of an independent examination by the planning appeals commission or a person appointed by the Department.**]**

(3) In paragraph (1)(j) the reference to a development scheme adopted under**[**F19 Article 86 of the Planning Order**]** includes a reference to—

(a) a development scheme copies of which have been made available for inspection under**[**F19 Article 86(1)**]** of that Order;

(b) proposals under**[**F19 Article 86(4)**]** of that Order for amending a development scheme.

(4) No blight notice shall be served by virtue of paragraph (2) or (3) after the relevant provisions have been **[**F25adopted or approved**]** (whether in their original form or with modifications).

(5) Where an appropriate authority has served a counter-notice objecting to a blight notice served by virtue of paragraph (2) or (3) then, if the relevant provisions are adopted **[**F26or approved**]** (whether in their original form or with modifications or alterations) the appropriate authority may serve on the claimant, in substitution for the counter-notice already served, a further counter-notice specifying different grounds of objection and Article 7 shall have effect in relation to the further counter-notice as it has effect in relation to the counter-notice already served, but a further counter-notice under this paragraph shall not be served—

(a) at any time after the end of the period of two months beginning with the date on which the relevant provisions are adopted **[**F26or approved**]**; or

(b) if the objection in the counter-notice already served has been withdrawn or the Lands Tribunal has already determined whether or not to uphold that objection.

(6) In paragraphs (4) and (5) "relevant provisions" means the relevant plan or development scheme or the proposals for such a plan or scheme.

F17 1981 NI 3