STATUTORY INSTRUMENTS

1973 No. 1896 (N.I. 21)

Land Acquisition and Compensation (Northern Ireland) Order 1973

[13th November 1973]

- - - - - -

Modifications etc. (not altering text)

C1 Order (except arts. 39, 42(2), 43(2)): transfer of functions (8.5.2016) from Department of the Environment to Department for Infrastructure 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))

C2 Order construed as one with 2016 c. 28 (N.I.) (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (Northern Ireland) 2016 (c. 28 (N.I.)), **s. 5** (with s. 7(3))

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Land Acquisition and Compensation (Northern Ireland) Order 1973.

Para.(2)—Commencement

Para. (3) rep. by 1982 NI 9

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Parliament of Northern Ireland.

(2) In this Order—

"agriculture", "agricultural" and "agricultural land", except in Part VI and Schedule 2, have the same meanings as in section 43 of the Agriculture Act (Northern Ireland) 1949 and references to the farming of land include references to the carrying on in relation to the land of any agricultural activities;

"agricultural unit" has the same meaning as in section 10(1) of the Planning and Land Compensation Act (Northern Ireland) 1971 as amended by Schedule 2;

"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;

"aerodrome"**[**F1 means an airport, as defined in Article 2(2) of the Airports (Northern Ireland) Order 1994**]**

"carriageway" means a way constituting or comprised in a road, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;

"cycle track" means a way constituting or comprised in a road, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot;

"disturbance payment" has the meaning assigned to it by Article 37(1);

"dwelling" means a building or part of a building occupied or (if not occupied) last occupied or intended to be occupied as a private dwelling and (except in Article 30) includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part;

F2 …

"home loss payment" has the meaning assigned to it by Article 30(1);

[F3 "housing association" has the meaning assigned to it by Article 114 of the Housing (Northern Ireland) Order 1981 ;]

"Housing Executive" means the Northern Ireland Housing Executive;

"mortgage" includes a charge or lien for securing money or money's worth;

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

[F3 "registered", in relation to a housing association, means registered in the register of housing associations established under Article 124 of the Housing (Northern Ireland) Order 1981;]

[F4"road" has the same meaning as in the Roads (Northern Ireland) Order 1993;

"road authority" means the Department of the Environment;**]**

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

"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;

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

Para. (3) rep. by 1993 NI 15

F1 1994 NI 1
F2 Words in art. 2(2) repealed (13.5.2016) by Land Acquisition and Compensation (Amendment) Act (NorthernIreland) 2016 (c. 28), **ss. 6(a)**, 7(2) (with s. 7(3))
F3 1981 NI 3
F4 1993 NI 15

Art. 3 rep. by SLR 1976

PART II

COMPENSATION FOR DEPRECIATION CAUSED BY USE OF PUBLIC WORKS

Right to compensation

4.—(1) Where the value of an interest in land is depreciated by physical factors caused by the use of public works, then, if—

(a) the interest qualifies for compensation under this Part; and

(b) the person entitled to the interest makes a claim within the time limited by and otherwise in accordance with this Part,

compensation for that depreciation shall, subject to the provisions of this Part, be payable by the responsible authority to the person making the claim (in this Part referred to as "the claimant").

(2) The physical factors mentioned in paragraph (1) are noise, vibration, smell, fumes, smoke and artificial lighting and the discharge on to the land in respect of which the claim is made of any solid or liquid substance.

(3) The public works mentioned in paragraph (1) are—

(a) any road;

(b) any aerodrome; and

(c) any works or land (not being a road or aerodrome) provided or used in the exercise of statutory powers.

(4) The responsible authority mentioned in paragraph (1) is, in relation to a road, the appropriate road authority and, in relation to other public works, the person managing those works.

(5) Physical factors caused by an aircraft arriving at or departing from an aerodrome shall be treated as caused by the use of the aerodrome whether or not the aircraft is within the boundaries of the aerodrome; but, save as aforesaid, the source of the physical factors must be situated on or in the public works the use of which is alleged to be their cause.

(6) Compensation shall not be payable under this Part in respect of the physical factors caused by the use of any public works other than a road unless immunity from actions for nuisance in respect of that use is conferred (whether expressly or by implication) by a statutory provision relating to those works or, in the case of an aerodrome and physical factors caused by aircraft, the aerodrome is one to which section 41(2) of the Civil Aviation Act 1949 (immunity from actions for nuisance) for the time being applies.

(7) Compensation shall not be payable under this Part in respect of physical factors caused by accidents involving vehicles on a road or accidents involving aircraft.

(8) Compensation shall not be payable under this Part on any claim unless the relevant date in relation to the claim falls on or after 17th October 1969.

(9) Subject to Article 12, "the relevant date" in this Part means—

(a) in relation to a claim in respect of a road, the date on which it was first open to public traffic;

(b) in relation to a claim in respect of other public works, the date on which they were first used after completion.

Interests qualifying for compensation

5.—(1) An interest qualifies for compensation under this Part if it was acquired by the claimant before the relevant date in relation to the claim and the requirements of paragraph (2) or, as the case

may be, paragraph (3) are satisfied on the date on which notice of the claim for compensation in respect of that interest is served.

(2) If and so far as the interest is in land which is a dwelling, the said requirements are—

(a) that the interest is an owner's interest; and

(b) where the interest carries the right to occupy the land, that the land is occupied by the claimant in right of that interest as his residence.

(3) If and so far as the interest is not in such land as aforesaid, the said requirements are—

(a) that the interest is that of an owner-occupier; and

(b) that the land is or forms part of either—

(i) a hereditament the annual value of which does not exceed the prescribed amount; or

(ii) an agricultural unit.

(4) 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, on the date of service of the notice of claim in respect thereof, not less than three years remain unexpired.

(5) In this Article "owner-occupier", in relation to land in a hereditament, means a person who occupies, in right of an owner's interest, the whole or a substantial part of the land and, in relation to land in an agricultural unit, means a person who occupies the whole of that unit and is entitled while so occupying it to an owner's interest in the whole or in any part of that land.

(6) In this Article "the prescribed amount" means the amount for the time being set out in**[**F5 Article 4(1)(b) of the Planning Blight (Compensation) (Northern Ireland) Order 1981**]** (interests qualifying for protection under planning blight provisions) and "annual value" and "hereditament" have the same meanings as in**[**F5 Article 2(2) of that Order**]** taking references to the date of service of a blight notice under**[**F5 Article 5 of that Order**]** as references to the date on which notice of the claim is served.

(7) This Article has effect subject to Articles 13(4), 14 and 15.

F5 1981 NI 16

Claims

6.—(1) A claim under this Part shall be made by serving on the responsible authority a notice containing particulars of—

(a) the land in respect of which the claim is made;

(b) the claimant's interest and the date on which, and the manner in which, it was acquired;

(c) the claimant's occupation of the land (except where the interest qualifies for compensation without occupation);

(d) any other interests in the land so far as known to the claimant;

(e) the public works to which the claim relates;

(f) the amount of compensation claimed;

(g) any land contiguous or adjacent to the land in respect of which the claim is made, being land to which the claimant was entitled in the same capacity (within the meaning of Article 9) on the relevant date.

(2) Subject to the provisions of this Article and of Articles 15 and 16, no claim shall be made otherwise than in the claim period, that is to say, the period of two years beginning on the expiration of twelve months from the relevant date.

(3) Paragraph (2) shall not preclude the making of a claim in respect of an interest in land before the beginning of the claim period if—

(a) the claimant has during the said twelve months made a contract for disposing of that interest or (in so far as the interest is in land which is not a dwelling) for the grant of a tenancy of that land; and

(b) the claim is made before the interest is disposed of or the tenancy is granted;

but compensation shall not be payable before the beginning of the claim period on any claim made by virtue of this paragraph.

(4) Where notice of a claim has been served on a responsible authority, any person authorised in writing by that authority (in this Article referred to as an "authorised person") may, on production if required of his credentials, at any reasonable time enter any land for the purpose of survey, valuation or examination in connection with the claim.

(5) A power of entry under paragraph (4) shall not be exercisable in relation to any land except—

(a) with consent given by the occupier of the land; or

(b) after at least twenty-four hours' notice of intended entry has been served on the occupier or owner of the land.

(6) If any person, other than the owner or occupier of the land, knowingly prevents or obstructs an authorised person in the exercise of the powers conferred by paragraph (4) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**F6 level 3 on the standard scale**]**.

(7) If any person, being the owner or occupier of land, knowingly prevents or obstructs an authorised person in the exercise of the powers conferred by paragraph (4), a court of summary jurisdiction on proof thereof may order him to permit to be done on the land all things requisite for carrying into effect the survey, valuation or examination; and, if he fails to comply with the order, he shall be guilty of an offence and shall, for every day during which the failure continues, be liable on summary conviction to a fine not exceeding**[**F6 level 2 on the standard scale**]**.

(8) Where under paragraph (4) an authorised person enters any land, he shall ensure that the land is not left less secure by reason of the entry, and the responsible authority shall make good or pay compensation for any damage to property caused by, or in consequence of, the authorised person exercising any right under paragraph (4) or failing to perform any duty under this paragraph.

(9) Any reference in this Article to an occupier or to an owner shall be construed as including a reference to a person appointed in writing by the occupier or owner as his representative for purposes including all or any of the purposes of this Article.

(10) Any power conferred by paragraph (4) shall be construed as including power to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil therein and to take and carry away for examination specimens of the subsoil found therein.

(11) Where compensation is payable by a responsible authority on a claim there shall be payable by the authority, in addition to the compensation, any reasonable valuation or legal expenses incurred by the claimant for the purposes of the preparation and prosecution of the claim; but this paragraph is without prejudice to the powers of the Lands Tribunal in respect of the costs of proceedings before the Tribunal by virtue of Article 18.

F6 1984 NI 3