Land Development Values (Compensation) Act (Northern Ireland) 1965

1965 CHAPTER 23

An Act to make fresh provision in relation to the payment of compensation in respect of planning decisions and orders revoking or modifying the grant of planning permission; to authorise the recovery of planning compensation on the initiation of certain subsequent development; to make further provision in relation to applications for planning permission; and for purposes connected with those matters. [4th November 1965]

Modifications etc. (not altering text)

C1 Act: 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))

PART I [F1]

DEVELOPMENT VALUE OF LAND

F1 rep. with saving by 2001 c. 2 (NI)

1 [F2]Development value of land.

For the purposes of this Part, land shall, subject to section 3(8), be taken to have a development value where the unrestricted value of that land exceeds the restricted value of that land; and subject to this Part, any reference in this Part to the development value of any land is a reference to the amount of that excess.

F2 rep. with saving by 2001 c. 2 (NI)

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2 [F3]Meaning of "unrestricted" and "restricted" value.

(1) Subject to section 3, in this Part—

(a) the unrestricted value of any land is the value that a fee simple absolute in possession in the land would have had on 25th February 1963;

(b) the restricted value of any land is the value that such a fee simple would have had on 25th February 1963 if computed on the assumption that planning permission would have been granted for any development of that land of a class specified in Schedule 1, but would not have been granted for any other development.

(2) Schedule 2 shall have effect for the purpose of specifying the general classes referred to in paragraph 6 of Schedule 1.

F3 rep. with saving by 2001 c. 2 (NI)

3 [F4]Basis of calculation of restricted and unrestricted values of land.

(1) In determining the value which a fee simple absolute in possession in any land would have had on 25th February 1963 it shall be assumed that such a fee simple was offered for sale—

(a) in the open market;

(b) with vacant possession;

(c) with the benefit of any restrictive covenant, easement, quasi-easement, or other right which enured for the benefit of the fee simple in the land immediately before the passing of this Act;

(d) subject to—

(i) any restrictive covenant, easement, quasi-easement, or other right enuring for the benefit of other land;

(ii) any public right of way or other right enuring for the benefit of the public or any section thereof; and

(iii) any restriction imposed by or under any statutory provision;

to which the fee simple in the land was subject immediately before the passing of this Act; but

(e) free from any other incumbrance, and without regard to any liability of the land to become subject after the passing of this Act to any restriction under any statutory provision;

and the land shall be treated as having been in the same state on 25th February 1963 as it was immediately before the passing of this Act.

(2) For the purposes of this Part, the value of a fee simple absolute in possession in any land shall be calculated by reference to prices current immediately before 26th February 1963.

(3) In computing the restricted and unrestricted values of a fee simple absolute in possession subject to a mortgage it shall be assumed that the mortgage has been discharged.

(4) Where at the date of the passing of this Act—

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(a) planning permission to develop any land has been granted (whether with or without conditions) in pursuance of an application for planning permission made before 26th February 1963; but

(b) the development for which the permission was granted has not been initiated or has not been completed;

the restricted and unrestricted values of that land shall be computed on the basis that the development for which the permission was granted might lawfully be carried out.

(5) Where, at the date of the passing of this Act—

(a) a planning decision given in pursuance of an application for planning permission made before 26th February 1963 refuses planning permission to carry out any new development in or on any land, or grants such permission subject to conditions; or

(b) planning permission to carry out any such development (granted in pursuance of an application for such permission made before 26th February 1963) has been revoked or modified by an order made under section 3 of the Act of 1944;

and a claim for compensation under the Act of 1944 in respect of the planning decision or order has been made before, or by virtue of section 6(5) of that Act may be made after, the passing of this Act, the restricted and unrestricted values of that land shall be computed on the assumption that the planning decision or, as the case may be, the planning decision as so revoked or modified binds the land for ever.

(6) Where by virtue of Part II any compensation becomes payable under that Part by reference to a date occurring before the passing of this Act, the foregoing provisions of this section shall have effect as if for any reference to the passing of this Act there were substituted a reference to that date.

(7) In computing the restricted and unrestricted values of any land for the purposes of this Part, rules (2) to (4) of the rules set out in**[**[F5] Article 6(1) of the Land Compensation (Northern Ireland) Order 1982**]** shall, so far as applicable, have effect as they have effect for the purpose of assessing compensation for the compulsory purchase of land, so, however, that rule (3) of the said rules shall not have effect in relation to any land which is held by any person in order that he may develop that land for the purposes of any trade or business carried on by him on any adjoining land.

(8) Land shall be taken not to have a development value if the amount of the excess of the unrestricted value of the land over the restricted value of the land is less than ten per cent. of the restricted value of the land.

F4 rep. with saving by 2001 c. 2 (NI)
F5 1982 NI 9

4 [F6]Land held by public bodies.

(1) Where at the date of the passing of this Act—

(a) a public body are in the actual possession of any land; and

(b) the body are entitled to a fee simple absolute in possession in that land or a tenancy therein under which not less than forty years of the term thereof remain unexpired;

that land shall be taken not to have a development value.

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(2) The Ministry may, with the consent of the Ministry of Finance, make regulations excluding any land specified in the regulations, or land of a class or description so specified, from the operation of subsection (1).

(3) In making any regulations under subsection (2), the Ministry shall have regard to any representations made to it by any public body as to the land or class or description of land to be specified in the regulations.

F6 rep. with saving by 2001 c. 2 (NI)

5 F8 F7Applications for ascertainment of development value.

(1) Subject to the provisions of this Part, any of the following persons, namely:—

(a) any person in whom an estate in any land is vested in possession at the specified date, by virtue of which he—

(i) is in the actual possession of the land at that date; and

(ii) is entitled to remain in the actual possession of the land for a period of not less than five years beginning with that date;

(b) any person in whom an estate in any land is vested in interest or possession at the specified date by virtue of which he will be entitled to enter into the actual possession of the land within the period of forty years beginning with the specified date;

(c) the personal representatives of any deceased person if, at the specified date, an estate in land to which the deceased person was entitled is vested in them and, but for his death, the deceased person would have been entitled to remain in, or to enter into, the actual possession of the land as mentioned in paragraph (*a*)(ii) or (*b*), as the case may be;

(d) any trustees (other than the personal representatives, as such, of a deceased person) in whom an estate in any land is vested in interest or possession at the specified date, if any beneficiary under the trust is entitled to remain in, or will be entitled to enter into, the actual possession of the land as mentioned in paragraph (*a*)(ii) or (*b*), as the case may be;

(e) the trustees of a settlement, if at the specified date an estate in any land is under the settlement vested in the beneficiaries in interest or possession and one or more of the beneficiaries are entitled to remain in, or will be entitled to enter into, the actual possession of the land as mentioned in paragraph (*a*) (ii) or (*b*), as the case may be;

(f) any person who is entitled to any compensation under Part II in relation to a planning decision given before the specified date;

may make an application to the Ministry requiring it to ascertain the development value of that land or any specified part thereof (in this Act referred to as a "Part I application").

(2) Where—

(a) it is necessary to determine whether any person is, by virtue of any estate in land, entitled to remain in the actual possession of the land for a period of not less than five years beginning with the specified date or whether he will, by virtue of any estate in land, be entitled to enter into the actual possession of the land within the period of forty years beginning with that date; and

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(b) an event may occur within the said period of five years or forty years by reason of which he would cease to be entitled to the actual possession of the land or would become entitled to the actual possession of the land;

then, for the purposes of subsection (1), he shall be taken to be entitled to remain in the actual possession of the land for the said period of five years, or as the case may be, to enter into the actual possession of the land within the said period of forty years.

(3) Where it is necessary to determine any such question as is referred to in paragraph (*a*) of subsection (2) in relation to any land in which a tenancy subsists, that question shall, notwithstanding the provisions of that subsection, be determined on the basis that the tenant will at all times pay the rent and perform his other obligations under the tenancy.

(4) Where—

(a) an estate in land is the subject of a trust or settlement; and

(b) the trustees of the trust or settlement make a Part I application in relation to that land;

then, if but for this subsection, the beneficiaries under the trust or settlement would have been entitled to make a Part I application in relation to that land, they shall not make such an application and, if they have made such an application in relation to that land before the date on which the trustees make an application, they shall be treated as if they had not made the application.

(5) Where a person—

(a) makes a Part I application in relation to any land (in this section and in section 6 referred to as "the designated land"); and

(b) gives notice of the application in the prescribed form to any person who is entitled to make a Part I application in relation to the designated land or any part thereof;

the person referred to in paragraph (*b*) shall not make a Part I application in relation to the designated land or the part thereof after the expiration of the period of three months beginning with the date on which the notice is served on him.

(6) Where two or more Part I applications are made in respect of contiguous or adjacent areas of land which are held under the same instrument, the Ministry may direct that those applications shall be dealt with together and treated as if they were one application in relation to all the land included in the applications.

(7) Where a person entitled to make a Part I application in relation to any land makes such an application in respect of part only of that land, then, notwithstanding anything in this Part or in any regulations made under section 7, he shall not make a Part I application in respect of any other land contiguous or adjacent to that part after the date on which any development value is determined in relation to that part.

(8) For the purposes of this section an administrator of the estate of a person who died before the specified date shall be deemed to be entitled to any estate in land to which the deceased person was entitled as if there had been no interval of time between the date of the death of the deceased person and the grant of letters of administration.

(9) Where any person makes a Part I application, then any person to whom he conveys an estate in the land may, with the consent in writing of the first-mentioned person, act in relation to that application in his place.