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STATUTORY INSTRUMENTS

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**1973 No. 1896**

**Land Acquisition and Compensation  
(Northern Ireland) Order 1973**

**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<sup>[F1]</sup> 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<sup>[F1]</sup> Article 2(2) of that Order] taking references to the date of service of a blight notice under<sup>[F1]</sup> 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.

<b>F1</b> 1981 NI 16
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### **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<sup>[F2]</sup> 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<sup>[F2]</sup> 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.

**F2** 1984 NI 3

### Assessment of compensation: general provisions

7.—(1) The compensation payable on any claim shall be assessed by reference to prices current on the first day of the claim period.

(2) In assessing depreciation due to the physical factors caused by the use of any public works, account shall be taken of the use of those works as it exists on the first day of the claim period and of any intensification that may then be reasonably expected of the use of those works in the state in which they are on that date.

(3) In assessing the extent of the depreciation there shall be taken into account the benefit of any relevant works—

- (a) which have been carried out, or in respect of which a grant has been paid, under Article 22 or<sup>[F3]</sup> Article 22 of the Airports (Northern Ireland) Order 1994<sup>[F4]</sup> or under any provision of a scheme operated by a person managing an aerodrome which provides for the payment of sound-proofing grants in respect of buildings near the aerodrome];
- (b) which have been carried out under Article 25 or 28;

and it shall be assumed that any relevant works which could be or could have been carried out, or in respect of which a grant could be or could have been paid, under any of the provisions mentioned in sub-paragraph (a) have been carried out but, in a case where the authority having functions under that provision have a discretion whether or not to carry out the works or pay the grant, only if they have undertaken to do so.

<sup>[F5]</sup> In paragraph (a) above “sound-proofing grants”, in relation to any buildings, means grants towards the cost of insulating those buildings or parts of those buildings against noise.]

(4) The value of the interest in respect of which the claim is made shall be assessed—

- (a) subject to paragraph (5), by reference to the nature of the interest and the condition of the land as it subsisted on the date of service of notice of the claim;
- (b) subject to Article 8, in accordance with rules (2) to (4) in<sup>[F6]</sup> Article 6(1) of the Land Compensation (Northern Ireland) Order 1982];
- (c) if the interest is subject to a mortgage or a contract of sale or to a contract made after the relevant date for the grant of a tenancy, as if it were not subject to the mortgage or contract.

(5) In assessing the value of the interest in respect of which the claim is made there shall be left out of account any part of that value which is attributable to—

- (a) any building, or improvement or extension of a building, on the land if the building or, as the case may be, the building as improved or extended, was first occupied after the relevant date; and
- (b) any change in the use of the land made after that date.

**F3** 1994 NI 1

**F4** 1980 c.60

**F5** 1980 c.60

F6 1982 NI 9

### **Assessment of compensation: assumptions as to planning permission**

8.—(1) The following assumptions shall be made in assessing the value of the interest in respect of which the claim is made.

(2) Subject to paragraph (3), it shall be assumed that planning permission would be granted in respect of the land in which the interest subsists (“the relevant land”) or any part thereof for development of any class specified in Schedule 1 to the Land Development Values (Compensation) Act (Northern Ireland) 1965 .

(3) Notwithstanding paragraph (2)—

- (a) it shall not by virtue of that paragraph be assumed that planning permission would be granted, in respect of the relevant land or any part thereof, for development of any class specified in the said Schedule 1 if it is development for which planning permission has been refused and compensation under section 29 of the said Act of 1965 has become payable in respect of that refusal;
- (b) where planning permission has been granted, in respect of the relevant land or any part thereof, for development of any class specified in the said Schedule 1 but was so granted subject to conditions, and compensation under the said section 29 has become payable in respect of the imposition of the conditions, it shall not by virtue of paragraph (2) be assumed that planning permission for that development, in respect of the relevant land or that part thereof, as the case may be, would be granted otherwise than subject to those conditions;
- (c) where planning permission had been granted, in respect of the relevant land or any part thereof, for development of any class specified in the said Schedule 1 but that permission was revoked or modified by an order under Article 29 of the Planning (Northern Ireland) Order 1972 or section 3 of the Planning (Interim Development) Act (Northern Ireland) 1944 and compensation under section 26 of the said Act of 1965 has become payable in respect of that revocation or modification, it shall not by virtue of paragraph (2) be assumed that planning permission would be granted for so much of that development on the relevant land as is not permitted by virtue of that order.

(4) It shall be assumed that planning permission would not be granted in respect of the relevant land or any part thereof for any development other than such development as is mentioned in paragraph (2); and, if planning permission has been granted in respect of the relevant land or any part thereof for such other development, it shall be assumed that the planning permission has not been granted in so far as it relates to development that has not been carried out.

(5) In this Article any expression which is also used in the said Act of 1965 has the same meaning as in that Act.

### **Reduction of compensation where other land is benefited**

9.—(1) The compensation payable on a claim shall be reduced by an amount equal to any increase in the value of—

- (a) the claimant's interest in the land in respect of which the claim is made; and
- (b) any interest in other land contiguous or adjacent to the land mentioned in sub-paragraph (a) to which the claimant was entitled in the same capacity on the relevant date,

which is attributable to the existence of or the use or prospective use of the public to works to which the claim relates.

(2) Articles 7 and 8 shall not apply to the assessment, for the purposes of paragraph (1), of the value of the interest mentioned in sub-paragraph (a) of that paragraph.

(3) Where, for the purpose of assessing compensation on a claim in respect of any interest in land, an increase in the value of an interest in other land has been taken into account under paragraph (1), then, in connection with any subsequent acquisition to which this paragraph applies, that increase shall not be left out of account by virtue of<sup>F7</sup> Article 6(2)(b) and (3) of the Land Compensation (Northern Ireland) Order 1982] or taken into account by virtue of paragraph 13(3) of Schedule 6 to the Local Government Act (Northern Ireland) 1972 , paragraph 12(4)<sup>F8</sup> of Schedule 5 to the Roads Act (Northern Ireland) 1948 or any provision corresponding to that paragraph which is contained in any other statutory provision, in so far as it was taken into account in connection with that claim.

(4) Paragraph (3) applies to any subsequent acquisition, not being an acquisition of the land in respect of which the claim is made where either—

- (a) the interest acquired by the subsequent acquisition is the same as the interest previously taken into account (whether the acquisition extends to the whole of the land in which that interest previously subsisted or only to part of that land); or
- (b) the person entitled to the interest acquired is, or directly or indirectly derives title to that interest from, the person who at the time of the claim mentioned in that paragraph was entitled to the interest previously taken into account;

and in this paragraph “the interest previously taken into account” means the interest the increased value of which was taken into account as mentioned in paragraph (2).

(5) For the purposes of this Article a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—

- (a) to both of them beneficially; or
- (b) to both of them as trustee of one particular trust; or
- (c) to both of them as personal representative of one particular person;

and in this Article references to a person deriving title from another person include references to any successor in title of that other person.

<b>F7</b>	1982 NI 9
<b>F8</b>	1980 NI 11

### **Exclusion of minimal compensation**

**10.** Compensation shall not be payable on any claim unless the amount of the compensation exceeds 50.

### **Other restrictions on compensation**

**11.—**(1) Where a claim has been made in respect of depreciation of the value of an interest in land caused by the use of any public works and compensation has been paid or is payable on that claim, compensation shall not be payable on any subsequent claim in relation to the same works and the same land or any part thereof (whether in respect of the same or a different interest) except that, in the case of land which is a dwelling, this paragraph shall not preclude the payment of compensation both on a claim in respect of the fee simple and on a claim in respect of a tenancy.

(2) Where a person is entitled to compensation in respect of the acquisition of an interest in land by an authority possessing compulsory acquisition powers, or would be so entitled if the acquisition were compulsory, and—

- (a) the land is acquired for the purposes of any public works; and

- (b) that person retains land which, in relation to the land acquired, constitutes other land or lands within the meaning of section 63 of the Lands Clauses Consolidation Act 1845 or<sup>F9</sup> Article 8 of the Lands Compensation (Northern Ireland) Order 1982] (compensation for acquisition to include compensation for injurious affection of other land retained),

then, whether or not any sum is paid or payable in respect of injurious affection of the land retained, compensation shall not be payable under this Part in relation to those works on any claim made after the date on which a vesting order in respect of the land acquired becomes operative (or, if the acquisition is by agreement, the date of the agreement) in respect of any interest in the land retained.

(3) Paragraph (2) applies whether the acquisition is before, on or after the date on which this Part comes into force (in this Part referred to as “the commencement date<sup>F10</sup>”) and, where it is on or after that date, the public works for the purposes of which the land is acquired shall be taken to be those specified in the relevant particulars registered under paragraph (4).

(4) Where on or after the commencement date an authority possessing compulsory acquisition powers acquires land for the purposes of any public works and the person from whom the land is acquired retains land which, in relation to the land acquired, constitutes other land or lands within the meaning of the sections mentioned in paragraph (2), particulars of the land retained and the nature and extent of those works shall be included amongst the matters which are required to be registered in the Statutory Charges Register and accordingly ... *residue adds para.31 to sch.11 of 1970 c.18 (NI)*

(5) In a case in which compensation for injurious affection fell or falls to be assessed otherwise than in accordance with Article 45, paragraph (2) shall not preclude the payment of compensation under this Part in respect of depreciation by public works so far as situated elsewhere than on the land acquired.

(6) Where after a claim has been made in respect of any interest in land the whole or part of the land in which that interest subsists is compulsorily acquired, then, if—

- (a) the value of that land has been diminished by the public works to which the claim relates; but
- (b) the compensation in respect of the compulsory acquisition falls to be assessed without regard to the diminution,

the compensation in respect of the acquisition shall be reduced by an amount equal to the compensation paid or payable on the claim or, if the acquisition extends only to part of the land, to so much of the last-mentioned compensation as is attributable to that part.

(7) Without prejudice to the foregoing provisions of this Article, compensation shall not be payable in respect of the same depreciation both under this Part and any other statutory provision.

**F9** 1982 NI 9

**F10** i.e. 13.12.1973

### Alterations to public works and changes of use

**12.**—(1) This Article has effect where, whether before, on or after the commencement date—

- (a) the carriageway of a road has been altered after the road has been open to public traffic;
- (b) any public works other than a road have been reconstructed, extended or otherwise altered after they have been first used; or
- (c) there has been a change of use in respect of any public works other than a road or aerodrome.

(2) If and so far as a claim in respect of the road or other public works relates to depreciation that would not have been caused but for the alterations or change of use, this Part shall, subject to

paragraph (3), have effect in relation to the claim as if the relevant date (instead of being the date specified in Article 4(9)) were—

- (a) the date on which the road was first open to public traffic after completion of the alterations to the carriageway;
- (b) the date on which the other public works were first used after completion of the alterations; or
- (c) the date of the change of use,

as the case may be.

(3) Paragraph (2) shall not by virtue of any alterations to an aerodrome apply to a claim in respect of physical factors caused by aircraft unless the alterations are runway or apron alterations.

(4) Where a claim relates to such depreciation as is mentioned in paragraph (2) the notice of claim shall specify, in addition to the matters mentioned in Article 6, the alterations or change of use alleged to give rise to the depreciation; and if and so far as the claim relates to such depreciation—

- (a) Article 9 shall have effect as if the increase in value to be taken into account were any increase that would not have been caused but for the alterations or change of use in question;
- (b) paragraph (1) of Article 11 shall not preclude the payment of compensation unless the previous claim was in respect of depreciation that would not have been caused but for the same alterations or change of use, and paragraph (2) of that Article shall not preclude the payment of compensation unless the works for which the land was acquired were works resulting from the alteration, or works used for the purpose, to which the claim relates.

(5) For the purposes of this Article the carriageway of a road is altered if, and only if—

- (a) the location, width or level of the carriageway is altered (otherwise than by re-surfacing); or
- (b) an additional carriageway is provided for the road beside, above or below an existing one;

and the reference in paragraph (2) to depreciation that would not have been caused but for alterations to the carriageway of a road is a reference to such depreciation by physical factors which are caused by the use of, and the source of which is situated on, the length of carriageway which has been altered as mentioned in sub-paragraph (a) or, as the case may be, the additional carriageway and the corresponding length of the existing one mentioned in paragraph (b).

(6) In this Article “runway or apron alterations” means—

- (a) the construction of a new runway, the major re-alignment of an existing runway or the extension or strengthening of an existing runway; or
- (b) a substantial addition to, or alteration of, a taxiway or apron, being an addition or alteration whose purpose or main purpose is the provision of facilities for a greater number of aircraft.

(7) For the avoidance of doubt it is hereby declared that references in this Article to a change of use do not include references to the intensification of an existing use.

### **Mortgages, trusts for sale and settlements**

13.—(1) Where an interest is subject to a mortgage—

- (a) a claim may be made by any mortgagee of the interest as if he were the person entitled to that interest but without prejudice to the making of a claim by that person;
- (b) no compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage);



- (c) any compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall in either case be applied by him as if it were proceeds of sale.
- (2) Where the interest is held on trust for sale the compensation shall be dealt with as if it were proceeds of sale arising under the trust.
- (3) Where the interest is settled land for the purposes of the Settled Land Acts 1882 to 1890 the compensation shall be treated as capital money arising under those Acts.
- (4) Where an interest in land is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Acts 1882 to 1890) and a person beneficially entitled (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the land, Article 5 shall have effect as if occupation by that person were occupation by the trustees in right of the interest vested in them.

**Modifications etc. (not altering text)**

**C1** [Art. 13\(1\)-\(3\)](#) applied by 2003 c. 21, Sch. 3A para. 84(6) (as inserted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 1](#) (with [Sch. 2](#)); S.I. 2017/1286, [reg. 2\(b\)](#))

**Interests acquired by inheritance**

**14.**—(1) So much of Article 5(1) as requires an interest qualifying for compensation under this Part to have been acquired by the claimant before the relevant date shall not apply to any interest acquired by him by inheritance from a person who acquired that interest, or a greater interest out of which it is derived, before the relevant date.

(2) For the purposes of this Article an interest is acquired by a person by inheritance if it devolves on him by virtue only of testamentary dispositions taking effect on, or the law of intestate succession or the right of survivorship between joint tenants as applied to, the death of another person or the successive deaths of two or more other persons.

(3) For the purposes of paragraph (2) a person who acquires an interest by appropriation of it in or towards satisfaction of any legacy, share in residue or other share in the estate of a deceased person shall be treated as a person on whom the interest devolves by direct bequest.

(4) Where an interest is settled land for the purposes of the Settled Land Acts 1882 to 1890 and on the death of a tenant for life within the meaning of those Acts a person becomes entitled to the interest in accordance with the settlement, or by any appropriation by the personal representatives in respect of the settled land, paragraph (2) shall apply as if the interest had belonged to the tenant for life absolutely and the trusts of the settlement taking effect after his death had been trusts of his will.

(5) Paragraph (4) shall apply, with any necessary modifications, where a person becomes entitled to an interest on the termination of a settlement as it would apply if he had become entitled in accordance with the terms of the settlement.

**Tenants entitled to enlargement or extension under the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971**

**15.**—(1) This Article has effect where a person is entitled under the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 as respects any land to enlarge an estate into a fee simple or to obtain an extension of a leasehold estate as incident to his existing estate in the land (in this Article referred to as “the qualifying estate”) and—

- (a) has on or before the relevant date served notice under section 2 of that Act; and

(b) has not enlarged his estate into a fee simple or obtained an extension of his leasehold estate before that date.

(2) The qualifying estate shall be treated as an owner's interest as defined in Article 5(4) whether or not the unexpired term on the date of service of the notice of claim is of the length there specified.

(3) If no claim is made in respect of the qualifying estate before the claimant has ceased to be entitled to it by reason of his enlargement of the estate into a fee simple or his extension of the leasehold estate he may make a claim in respect of the qualifying estate as if he were still entitled to it.

(4) No claim shall be made by virtue of paragraph (3) after the claimant has ceased to be entitled to the fee simple or extended leasehold estate but such a claim may be made before the beginning of the claim period if it is made before the claimant has disposed of the fee simple or extended leasehold estate and after he has made a contract for disposing of it.

(5) Compensation shall not be payable before the beginning of the claim period on any claim made by virtue of paragraph (4).

(6) Any notice of a claim made by virtue of this Article shall contain, in addition to the matters mentioned in Article 6, a statement that it is made in respect of a qualifying estate and, if made by virtue of paragraph (3) or (4), sufficient particulars to show that it falls within that paragraph.

(7) In relation to a claim made by virtue of paragraph (3) Article 7(4)(a) shall have effect as if the reference to the date of service of notice of the claim were a reference to the relevant date.

*Art. 16 spent*

#### **Information for ascertaining relevant date**

**17.—**(1) The responsible authority in relation to a road or other public works shall keep a record and, on demand, furnish a statement in writing of—

- (a) the date on which the road was first open to public traffic, or was first open to public traffic after completion of any particular alterations to the carriageway of the road;
- (b) the date on which the public works were first used after completion, or were first used after completion of any particular alterations to those works;
- (c) in the case of public works other than a road or aerodrome, the date on which there was a change of use in respect of the public works.

(2) A certificate issued by the Ministry of Development<sup>F11</sup> stating that runway or apron alterations have or have not been carried out at an aerodrome and the date on which an aerodrome at which any such alterations have been carried out was first used after completion of the alterations shall be conclusive evidence of the facts stated.

(3) In this Article references to alterations to the carriageway of a road, to runway or apron alterations and to a change of use shall be construed in the same way as in Article 12; and paragraph (1) shall not apply unless the date in question falls on or after the commencement date.

<p><b>F11</b> Now D/Env., SRO (NI) 1973/504</p>
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#### **Disputes**

**18.—**(1) Any question of disputed compensation under this Part shall be referred to and determined by the Lands Tribunal.

(2) No such question arising out of a claim made before the beginning of the claim period shall be referred to the Lands Tribunal before the beginning of that period.

### **Action for nuisance following unsuccessful claim where responsible authority have disclaimed statutory immunity**

19. Where, in resisting a claim under this Part, a responsible authority contend that no statutory provision relating to the works in question confers immunity from actions for nuisance in respect of the use to which the claim relates, then if—

- (a) compensation is not paid on the claim; and
- (b) an action for nuisance in respect of the matters which were the subject of the claim is subsequently brought by the claimant against the authority,

no statutory provision relating to those works, being a statutory provision in force when the contention was made, shall afford a defence to that action in so far as it relates to those matters.

### **Interest on compensation**

20. Compensation under this Part shall carry interest, at such rate as may for the time being be determined by the Ministry of Finance by order under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972, from—

- (a) the date of service of the notice of claim; or
- (b) if that date is before the beginning of the claim period, from the beginning of the claim period,

until payment.

### **Interpretation of Part II**

21.—(1) In this Part— the appropriate road authority means—

- (a) except where sub-paragraph ( b) applies, the road authority who constructed the road to which the claim relates;
- (b) if and so far as the claim relates to depreciation that would not have been caused but for alterations to the carriageway of a road, the road authority who carried out the alterations;

“claim” means a claim under this Part and “the claimant” means the person making such a claim;

“the claim period” has the meaning assigned to it by Article 6(2) but subject to Article 16(1) and paragraph (3);

“commencement date <sup>F12</sup>” means the date on which this Part comes into operation;

“public road” has the same meaning as in the Private Streets Act (Northern Ireland) 1964 <sup>F13</sup>;

“public works” and “responsible authority” have the meanings assigned to them by Article 4;

“the relevant date” has the meanings assigned to it by Articles 4(9) and 12(2).

(2) For the purposes of Articles 5(1), 14(1) and 16(2) an interest acquired or disposed of, or a tenancy granted, pursuant to a contract shall be treated as acquired, disposed of or granted when the contract was made.

(3) In the application of this Part to a road which has not always since 17th October 1969 been a public road—

- (a) references to its being open to public traffic shall be construed as references to its being so open whether or not as a public road;
- (b) for references to the road authority who constructed it there shall be substituted references to the road authority for the road;

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**Changes to legislation:** *There are currently no known outstanding effects for the Land Acquisition and Compensation (Northern Ireland) Order 1973, PART II. (See end of Document for details)*

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and no claim shall be made if the relevant date falls at a time when the road was not a public road and the road does not become a public road within three years of that date but, if it does, the claim period shall be treated as continuing until the end of one year from the date on which it becomes a public road if, apart from this provision, that period would end earlier.

**F12** i.e. 13.12.1973

**F13** [1980 NI 12](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Land Acquisition and Compensation (Northern Ireland) Order 1973, PART II.