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STATUTORY INSTRUMENTS

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**1973 No. 1896**

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

**PART IV**

**PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND**

*Home loss payments*

**Right to home loss payment where person displaced from dwelling**

- 30.**—(1) Where a person is displaced from a dwelling on any land in consequence of—
- (a) the compulsory acquisition of an interest in the dwelling;
  - (b) the making or acceptance of a housing order or undertaking in respect of the dwelling;
  - (c) where the land has been previously acquired or appropriated by an authority possessing compulsory acquisition powers and is for the time being held for the purposes for which it was acquired or appropriated, the carrying out of [<sup>F1</sup> any improvement of the dwelling or of] redevelopment on the land;
  - <sup>F1</sup>(d) the carrying out of any improvement to the dwelling or of redevelopment on the land by a housing association which has previously acquired the land and which at the date of the displacement is registered,]

he shall, subject to the provisions of this Article and Article 32, be entitled to receive a payment (in this Order referred to as a “home loss payment”) from—

- <sup>F2</sup>(i) where sub-paragraph ( a ) applies, the acquiring authority;
- (ii) where sub-paragraph ( b ) applies, the authority who made the order or accepted the undertaking;
- (iii) where sub-paragraph ( c ) applies, the authority carrying out the improvement or redevelopment; and
- (iv) where sub-paragraph ( d ) applies, the housing association carrying out the improvement or redevelopment].

[<sup>F3</sup>(2) A person shall not be entitled to a home loss payment unless the following conditions have been satisfied throughout the period of one year ending with the date of displacement—

- (a) he has been in lawful occupation of the dwelling, or a substantial part of it, as his only or main residence; and
- (b) he has been in such occupation by virtue of an interest or right to which this Article applies, but, if those conditions are satisfied on the date of displacement, a payment (referred to in this Article and Articles 32 and 33 as a “discretionary payment”) may be made to him of an amount not exceeding the amount to which he would have been entitled if he had satisfied those conditions throughout that period.]

(3) For the purposes of this Article a person shall be deemed to have been displaced from a dwelling in consequence of the compulsory acquisition of an interest therein ...<sup>F4</sup> if, after the notice of application for, or the notice of intention to make, a vesting order in respect of that interest has been published ...<sup>F4</sup> but before such an order becomes operative, he gives up occupation of the dwelling by arrangement with the Housing Executive or with the authority proposing to acquire the dwelling compulsorily.

[<sup>F5</sup>(3AA) For the purposes of this Article a person shall be deemed to have been displaced from a dwelling in consequence of the compulsory acquisition of an interest therein if the acquisition is in pursuance of the service by him of a blight notice, within the meaning of Article 2(2) of the Planning Blight (Compensation) (Northern Ireland) Order 1981, served on or after the date of the coming into operation of Article 36 of the Planning (Amendment) (Northern Ireland) Order 2003.]

<sup>F1</sup>(3A) For the purposes of this Article a person shall not be treated as displaced from a dwelling in consequence of the acceptance of an undertaking or of the carrying out of any improvement to the dwelling unless he is permanently displaced from it in consequence of the carrying out of the works specified in the undertaking or, as the case may be, of the improvement in question.

(3B) For the purposes of this Article a person shall be deemed to have been displaced from a dwelling in consequence of the making of a housing order in relation thereto if—

- (a) the Housing Executive is satisfied that the dwelling is unfit for human habitation<sup>F6</sup>. . . ; and
- (b) the person vacating the dwelling gives up occupation by arrangement with the Housing Executive.]

(4) This Article applies to the following interests and rights—

- (a) any interest in the dwelling including a right to occupy the dwelling as a statutory tenant to whom section 15 of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920<sup>F7</sup> or section 18 of the Rent and Mortgage Interest (Restrictions) Act (Northern Ireland) 1940<sup>F7</sup> applies;
- (b) a right to occupy the dwelling under a contract at a rent which includes payment for the use of furniture or for services;
- (c) a right to occupy the dwelling under a contract of employment.

*Para. (5) rep. by 1992 NI 8*

(6) Where an authority possessing compulsory acquisition powers acquire the interest of any person in a dwelling by agreement, then, in relation to any other person who is displaced from the dwelling in consequence of the acquisition, paragraphs (1) to (4) shall have effect as if the acquisition were compulsory and a vesting order in respect of the dwelling had become operative when the agreement was made.

*Para. (7) rep. by 1977 NI 8*

(8) Where an interest in a dwelling 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 dwelling, he shall be treated for the purposes of this Article as occupying it by virtue of an interest in the dwelling.

(9) In this Article—

[<sup>F2</sup> “housing order” means a demolition, closing or clearance order under Chapter II of Part III of the Housing (Northern Ireland) Order 1981 [<sup>F8</sup> or a closing order under paragraph 6 of Schedule 7A to the Housing (Northern Ireland) Order 1981];]

[<sup>F1</sup> “improvement” includes alteration and enlargement;]

[<sup>F6</sup>“undertaking” means an undertaking accepted under paragraph 5 of Schedule 4 to the Housing (Northern Ireland) Order 1992;]

“redevelopment” includes change of use.

(10) This Article[<sup>F5</sup> except paragraph (3AA)] applies if the date of displacement, or in the case within paragraph (3) the giving up of occupation, is on or after 17th October 1972.

<b>F1</b>	1981 NI 3
<b>F2</b>	1981 NI 3
<b>F3</b>	1992 NI 8
<b>F4</b>	1977 NI 8
<b>F5</b>	2003 NI 8
<b>F6</b>	1992 NI 15
<b>F7</b>	1978 NI 20
<b>F8</b>	1983 NI 15

### [<sup>F9</sup>Spouses]<sup>F10</sup> and civil partners] having statutory rights of occupation

**30A.**—(1) This Article applies where, by reason of the entitlement of [<sup>F10</sup> one spouse or civil partner (“A”)] to occupy a dwelling by virtue of an interest or right to which Article 30 applies,[<sup>F10</sup> the other spouse or civil partner (“B”) acquires home rights][<sup>F11</sup> (within the meaning of the Family Homes and Domestic Violence (Northern Ireland) Order 1998)].

(2) So long as—

- (a) those[<sup>F10</sup> home rights] continue;
- (b) B is in occupation of the dwelling and A is not; and
- (c) B is not, apart from this Article, treated as occupying the dwelling by virtue of an interest or right to which that Article applies,

B shall be treated for the purposes of that Article as occupying the dwelling by virtue of such an interest (but not an owner's interest within the meaning of Article 31).

(3) References in this Article to a dwelling include a reference to a substantial part of it.]

<b>F9</b>	1992 NI 8
<b>F10</b>	2004 c.33
<b>F11</b>	1998 NI 6

### [<sup>F12</sup>Amount of home loss payment

**31.**—(1) In the case of a person who on the date of displacement is occupying, or is treated for the purposes of Article 30 as occupying, the dwelling by virtue of an interest in it which is an owner's interest, the amount of the home loss payment shall be 10 per cent. of the market value of his interest in the dwelling or, as the case may be, the interest in the dwelling vested in trustees, subject to a maximum of [<sup>F13</sup> £45,000] and a minimum of [<sup>F13</sup> £4,500].

(2) In any other case, the amount of the home loss payment shall be [<sup>F13</sup> £4,500].

(3) For the purposes of this Article and Article 32 the market value of an interest in a dwelling—

- (a) in a case where the interest is compulsorily acquired, is the amount assessed for the purposes of the acquisition as the value of the interest; and

(b) in any other case, is the amount which, if the interest were being compulsorily acquired under a vesting order becoming operative on the date of displacement, would be assessed for the purposes of the acquisition as the value of the interest, and any dispute as to the amount referred to in sub#paragraph ( b) shall be determined by the Lands Tribunal.

(4) In determining for the purposes of this Article and Article 32 the market value of an interest in a dwelling, the dwelling shall be taken to include any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that dwelling.

(5) The Department of the Environment may from time to time by regulations prescribe a different maximum or minimum for the purposes of paragraph (1) and a different amount for the purposes of paragraph (2).

(6) Regulations under paragraph (5) shall be subject to negative resolution.

(7) 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 not less than three years remain unexpired.]

**F12** 1992 NI 8

**F13** SR 2004/312

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

**C1** Art. 31(5): functions transferred (28.5.2006) by virtue of [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2006 \(S.R. 2006/192\)](#), arts. 1(2), 4

**Supplementary provisions about home loss payments**

**32.**—<sup>F14</sup>(1) No home loss payment or discretionary payment shall be made except on a claim in writing—

- (a) made by the claimant before the expiration of the period of 6 months beginning with the date of displacement; and
- (b) giving such particulars as the authority responsible for making the payment may reasonably require for the purpose of determining whether the payment should be made and, if so, its amount.

(2) Where a person is entitled to a home loss payment, the payment shall be made on or before the latest of the following dates—

- (a) the date of displacement;
- (b) the last day of the period of three months beginning with the making of the claim; and
- (c) where the amount of the payment is to be determined in accordance with Article 31(1), the day on which the market value of the interest in question is agreed or finally determined.

(2A) Where the amount of the payment is to be determined in accordance with Article 31(1)—

- (a) the acquiring authority may at any time make a payment in advance; and
- (b) if, on the later of the dates referred to in paragraph (2)( a) and ( b), the market value of the interest in question has not been agreed or finally determined, the acquiring authority shall make a payment in advance (where they have not already done so).

(2B) The amount of the payment in advance shall be the lesser of—

- (a) the maximum amount for the purposes of Article 31(1);

(b) 10 per cent. of the amount agreed to be the market value of the interest in question or, if there is no such agreement, 10 per cent. of the acquiring authority's estimate of that amount.

(2C) Where the amount of a payment in advance differs from the amount of the home loss payment, the shortfall or excess shall be paid by or, as the case may be, repaid to the acquiring authority when the market value of the interest in question is agreed or finally determined.

(3) Where the claimant has satisfied, throughout any period, the conditions mentioned in Article 30(2), that period shall be treated for the purposes of that paragraph as including any immediately preceding period throughout which—

(a) he has resided in the dwelling as his only or main residence but without satisfying those conditions; and

(b) another person or other persons have satisfied those conditions,

and references in this paragraph and paragraph (3A) to a dwelling include a reference to a substantial part of it.

(3A) Where the claimant has satisfied, throughout any period, the conditions mentioned in Article 30(2), that period (or that period as extended under paragraph (3)) shall be treated for the purposes of Article 30(2) as including any immediately preceding period, or successive periods, throughout which he satisfied the conditions mentioned in Article 30(2) in relation to another dwelling or, as the case may be, other dwellings (applying paragraph (3) to determine the length of any period or periods.)]

(4) Where a person (“the deceased”) dies before the expiration of the period for making a claim to a home loss payment and would have been entitled to such a payment if he had made a claim within that period, a claim to that payment may be made, before the expiration of that period, by any person, not being a minor, who—

(a) throughout a period of not less than<sup>F14</sup> one year] ending with the date of displacement of the deceased, has resided in the dwelling, or a substantial part of it, as his only or main residence; and

(b) is entitled to benefit by virtue 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 the deceased.

(5) Where the claimant has successively been in occupation of or resided in different dwellings in the same building, being dwellings consisting of a room or rooms not constructed or structurally adapted for use as a separate dwelling, Article 30(2) and<sup>F14</sup> paragraphs (3) to (4)] shall have effect as if those dwellings were the same dwelling.

(6) Where there are two or more persons entitled to make a claim to a home loss payment in respect of the same dwelling (whether by virtue of joint occupation or paragraph (4)) the payment to be made on each claim shall be equal to the whole amount of the home loss payment divided by the number of such persons.

(7) Where an interest in a dwelling is acquired by agreement by an authority possessing compulsory acquisition powers, the authority may, in connection with the acquisition, make to the person from whom the interest is acquired a payment corresponding to any home loss payment<sup>F14</sup> or discretionary payment] which they would be required<sup>F14</sup> or authorised] to make to him if the acquisition were compulsory and a vesting order in respect of that interest had been made before he gave up occupation of the dwelling.

*Para. (8) rep. by 1992 NI 8*

*Para. (9) rep. by 1977 NI 8*

**F14** 1992 NI 8

### Home loss payments for certain caravan dwellers

33.—(1) Articles 30 to 32 shall, so far as applicable, have effect in relation to a person residing in a caravan on a caravan site who is displaced from that site as they have effect in relation to a person displaced from a dwelling on any land but shall so have effect subject to the following modifications.

(2) No home loss payment<sup>[F15]</sup> or discretionary payment] shall be made to any person by virtue of this Article except where no suitable alternative site for stationing a caravan is available to him on reasonable terms.

(3) Paragraph (1) of Article 30 shall have effect as if for the words preceding sub-paragraph ( a) there were substituted the words “Where a person residing in a caravan on a caravan site is displaced from that site in consequence of” and paragraph (2) of that Article shall have effect as if for sub-paragraphs ( a) and ( b) there were substituted—

- [F15(c)(a) he has been in occupation of the caravan site by using a caravan stationed on it as his only or main residence; and
- (b) he has been in such occupation of the site by virtue of an interest or right to which this Article applies.”.]

[F15(4) Article 31 shall have effect as if the references to a person occupying a dwelling by virtue of an interest in it and to his interest in the dwelling were to a person occupying a caravan site by virtue of an interest in it and to that interest.]

(5) Article 32 shall have effect as if for paragraph (5) there were substituted—

“(5) Where any land comprises two or more caravan sites and the claimant has successively been in occupation of or resided in a caravan on different caravan sites on that land, Article 30(2) and<sup>[F15]</sup> paragraphs (3) to (4)] shall have effect—

- [F15(a) as if in paragraphs (3) and (3A) the references to a dwelling were to a caravan site;]
- (b) as if in paragraph (4) for the words “resided in the dwelling, or a substantial part of it” there were substituted the words “resided in a caravan on the caravan site”; and
- (c) as if those sites were the same site.” .

(6) Articles 30 to 32 shall have effect as if in any provision not modified as aforesaid for any reference to a dwelling or land there were substituted a reference to a caravan site.

(7) In this Article “caravan site” means land on which a caravan is stationed for the purpose of human habitation and land which is used in conjunction with land on which a caravan is so stationed.

**Changes to legislation:**

There are currently no known outstanding effects for the Land Acquisition and Compensation (Northern Ireland) Order 1973, Cross Heading: Home loss payments.