

*Status: Point in time view as at 13/02/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Part 7. (See end of Document for details)*



## 2011 CHAPTER 25

### Part 7

#### Purchase of estates in certain land affected by planning decisions

##### Service of purchase notice

**191.**—(1) Where—

- (a) on an application for planning permission to develop any land, permission is refused or is granted subject to conditions; or
- (b) by an order under section 68 or 72 planning permission in respect of any land is revoked, or is modified by the imposition of conditions,

then if any owner of the land claims—

- (i) that the land has become incapable of reasonably beneficial use in its existing state; and
- (ii) in a case where planning permission was granted subject to conditions, or was modified by the imposition of conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions; and
- (iii) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted,

the owner may serve on the council within whose district the land is situated a notice requiring the council to purchase the owner's estate in the land in accordance with this Part.

(2) Where—

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- (a) on an application for listed building consent in respect of a building, consent is refused or is granted subject to conditions; or
- (b) by an order under section 98 or 101, listed building consent in respect of a building is revoked or is modified by the imposition of conditions,

then if the owner of the land claims—

- (i) that the land has become incapable of reasonably beneficial use in its existing state; and
- (ii) in a case where consent was granted subject to conditions with respect to the execution of the works or, as the case may be, was modified by the imposition of such conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the works in accordance with those conditions; and
- (iii) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other works for which listed building consent has been granted,

the owner may serve on the council within whose district the land is situated a notice requiring the council to purchase the owner's estate in the land in accordance with this Part.

(3) If any person entitled to an estate in land in respect of which an order is made under section 73 claims—

- (a) that by reason of the order the land is incapable of reasonably beneficial use in its existing state; and
- (b) that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for which planning permission has been granted, whether by that order or otherwise,

that person may serve on the council within whose district the land is situated a notice requiring the council to purchase the estate in the land in accordance with this Part.

(4) A notice under this section—

- (a) shall be served within the time and in the manner specified by a development order; and
- (b) is referred to in this Act as a “purchase notice”.

(5) Where, for the purpose of determining whether the conditions in subsection (1)(i) to (iii), subsection (2)(i) to (iii) or subsection (3)(a) and (b) are fulfilled in relation to any land, any question arises as to what is a reasonably beneficial use of that land, then in determining that question for that purpose no account shall be taken of any prospective use of that land which would involve the carrying out of new development as defined in section 43(1) of the Act of 1965, or of any works requiring listed building consent which might be executed to the building.

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(6) For the purposes of this section, the conditions referred to in sections 61, 62 and 94 shall be disregarded.

(7) A person on whom there has been served a repairs notice under section 202(4) shall not in any case be entitled to serve a purchase notice in respect of the building in question until the expiration of three months beginning with the date of the service of the repairs notice; and if during that period the Department commences proceedings for the compulsory acquisition of the building in the exercise of its powers under section 202, that person shall not be so entitled unless and until those proceedings are discontinued.

(8) In subsection (2) and in the other provisions of this Part as they apply for the purposes of a purchase notice served under subsection (2) “the land” means the building in respect of which listed building consent has been refused, or granted subject to conditions, or revoked or modified by the imposition of conditions, and in respect of which its owner serves a notice under subsection (2), together with any land comprising the building, or contiguous or adjacent to it, and owned with it, being land as to which the owner claims that its use is substantially inseparable from that of the building and that it ought to be treated, together with the building, as a single holding.

#### Commencement Information

**II** S. 191 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, Sch. 1

#### Purchase notices: Crown land

**192.**—(1) A purchase notice may be served in respect of Crown land only as mentioned in this section.

(2) The owner of a private estate in Crown land shall not serve a purchase notice unless—

- (a) the owner first offers to dispose of his or her estate to the appropriate authority on equivalent terms; and
- (b) the offer is refused by the appropriate authority.

(3) An offer is made on equivalent terms if the price payable for the estate is equal to (and, in default of agreement, determined in the same manner as) the compensation which would be payable if it were acquired in pursuance of a purchase notice.

(4) Expressions used in this section and in Part 11 shall be construed in accordance with that Part.

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#### Commencement Information

**I2** S. 192 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49, art. 2, Sch. 1](#)

#### Action by council following service of purchase notice

**193.**—(1) Where a purchase notice is served on a council, it shall serve on the person by whom the notice was served—

- (a) a notice that the council is willing to comply with the purchase notice; or
- (b) a counter-notice, objecting to the purchase notice, stating that for the reasons specified the council is not willing to comply with the purchase notice; or
- (c) a counter-notice, objecting to the purchase notice and stating that the council considers that—
  - (i) in the case of a purchase notice served under section 191(1) or (3), planning permission for any other development might reasonably be expected to be granted, being development which in the opinion of the council would if carried out render the land capable of reasonably beneficial use;
  - (ii) in the case of a purchase notice served under section 191(2), listed building consent for any other works might reasonably be expected to be granted, being works which in the opinion of the council would if carried out render the land capable of reasonably beneficial use.

(2) The council must comply with subsection (1)—

- (a) in any case where an appeal under section 58, 96, 143 or 159 relating to the land—
  - (i) is pending on the date on which the purchase notice was served; or
  - (ii) is made within two months of that date,

within two months of the date on which the appeal is disposed of;

- (b) in any other case, within two months of the date on which the purchase notice was served.

#### Commencement Information

**I3** S. 193 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49, art. 2, Sch. 1](#)

#### Further ground of objection to purchase notice

**194.**—(1) This section has effect where, on an application for planning permission to develop any land which consists of or includes the whole or part of

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any land which has a restricted use by virtue of a previous planning permission, permission is refused or granted subject to conditions and the owner of the land serves a purchase notice.

(2) For the purposes of this section, land has a restricted use by virtue of a previous planning permission if it is part of a larger area in respect of which planning permission was previously granted (and has not been revoked) and either—

- (a) it remains a condition of the planning permission (however expressed) that that part shall remain undeveloped or be preserved or laid out in a particular way as amenity land in relation to the remainder; or
- (b) the planning permission was granted on an application which contemplated (expressly or by necessary implication) that the part should not be comprised in the development for which planning permission was sought, or should be preserved or laid out as aforesaid.

(3) If a purchase notice is served on a council, the council although satisfied that the land to which the purchase notice relates (or part of that land) has become incapable of reasonably beneficial use, may nevertheless serve a counter-notice if it appears to the council that the land to which the purchase notice relates (or part of that land) ought, in accordance with the previous planning permission, to remain undeveloped or, as the case may be, to remain or be preserved or laid out as amenity land in relation to the remainder of the larger area for which that planning permission was granted.

#### Commencement Information

**I4** [S. 194](#) in operation at 13.2.2015 for specified purposes by [S.R. 2015/49, art. 2, Sch. 1](#)

#### Reference of counter-notices to Lands Tribunal

**195.**—(1) Where a council serves a counter-notice under section 193(1)(b) or (c), the owner who served the purchase notice may, within two months of the date of receipt of the counter-notice, refer the matter to the Lands Tribunal.

(2) On any such reference, if the counter-notice is not withdrawn, the Lands Tribunal must consider the matters set out in the purchase notice and the reasons specified in the counter-notice and must determine whether the purchase notice or the counter-notice should be upheld.

(3) If the Tribunal determines to uphold the purchase notice it must declare it valid.

#### Commencement Information

**I5** [S. 195](#) in operation at 13.2.2015 for specified purposes by [S.R. 2015/49, art. 2, Sch. 1](#)

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### **Effect of valid purchase notice**

**196.**—(1) Where a purchase notice has been served and either—

- (a) a notice is served under section 193(1)(a); or
- (b) where a counter-notice has been served, the objection is withdrawn, or on a reference to the Lands Tribunal, is not upheld by the Tribunal; or
- (c) the period referred to in section 193(2) has expired,

the council shall, on the date of acceptance, be deemed to have entered into a contract to purchase the estate of the person who served the purchase notice in respect of which the notice is effective and that person shall, on that date, be deemed to have entered into a contract to sell that estate to the council.

(2) The amount to be paid for an estate by the council under a contract deemed to have effect under subsection (1) shall be the amount which the council would have paid for the estate if it had compulsorily acquired it on that date.

(3) Any dispute as to the amount to be paid under subsection (2) for an estate shall be determined by the Lands Tribunal.

(4) A person who has served a purchase notice in relation to an estate in land may withdraw that notice at any time before the amount to be paid for the estate has been agreed with the council or determined by the Lands Tribunal or at any time before the end of 6 weeks beginning with the date on which that amount is so agreed or determined; and where a purchase notice is withdrawn by virtue of this subsection any contract deemed to have been made under subsection (1) in consequence thereof shall be deemed not to have been made.

(5) The date for the completion of the purchase of an estate in pursuance of a contract deemed to have effect under subsection (1) shall, unless the owner of the estate and the council otherwise agree, be 3 months from the date on which they agree upon the amount to be paid for that estate or, in default of agreement on that amount, from the date on which the Lands Tribunal determines that amount.

(6) If on the date for the completion of a contract deemed to have effect under subsection (1), the council fails to pay to the claimant the amount payable to the claimant under this section, the council shall, unless that failure arises from a cause other than the council's act or default, pay to the claimant, from that date until the date on which it pays that amount, interest on that amount at such rate as may for the time being be determined by the Department of Finance and Personnel under paragraph 18(2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c. 9).

(7) For the purposes of determining the amount to be paid for an estate under a contract deemed to have effect under subsection (1), for any reference in Articles 12 and 13 of the Land Compensation (Northern Ireland) Order 1982 (NI 9) to the date of acquisition or the date on which the vesting order becomes effective there shall be substituted a reference to the date of acceptance.

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(8) In this section “the date of acceptance”—

- (a) in a case where the Lands Tribunal, on a reference to it, does not uphold an objection, is the date of the Tribunal's determination;
- (b) in any other case, is the date on which a notice is served under section 193(1)(a) or the date on which the period referred to in section 193(2) expires, whichever is the earlier.

**Commencement Information**

**I6** [S. 196](#) in operation at 13.2.2015 for specified purposes by [S.R. 2015/49, art. 2, Sch. 1](#)

**Special provision as to compensation under this Part**

**197** Where by virtue of section 26 of the Act of 1965 compensation is payable in respect of expenditure incurred in carrying out any work on land, then, if a purchase notice is served in respect of an estate in that land, any compensation payable in respect of the acquisition of that estate in pursuance of the purchase notice shall be reduced by an amount equal to the value of the works in respect of which compensation is payable under that section.

**Commencement Information**

**I7** [S. 197](#) in operation at 13.2.2015 for specified purposes by [S.R. 2015/49, art. 2, Sch. 1](#)

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