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STATUTORY INSTRUMENTS

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**1981 No. 608**

**The Planning Blight (Compensation)  
(Northern Ireland) Order 1981**

*Introductory*

**Title and commencement**

1. This Order may be cited as the Planning Blight (Compensation) (Northern Ireland) Order 1981 and shall come into operation on the expiration of one month from the day on which it is made.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>F1</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“Act” includes an Act of the Parliament of the United Kingdom and a Measure of the Northern Ireland Assembly;

<sup>F2</sup>“the Act of 1971” means the Planning and Land Compensation Act (Northern Ireland) 1971;

“the affected area”, in relation to an agricultural unit, means so much of that unit as, on the date of service of a blight notice, consists of land falling within any of the specific descriptions;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

“agricultural unit” means land which is occupied as a unit for agricultural purposes, including any dwelling-house or other building occupied by the same person for the purpose of farming the land;

<sup>F3</sup> .....

“appropriate authority”, in relation to any land, means the government department, district council or other body<sup>F4</sup> or person] by which, by virtue of the circumstances described in Article 3, the land is liable to be acquired as mentioned in that Article or is indicated as being proposed to be so acquired;

“authority possessing compulsory acquisition powers” means a person with power to acquire an interest in land otherwise than by agreement;

“blight notice” means a notice served under Article<sup>F5</sup> 12 or 14 which has not been withdrawn];

<sup>F6</sup> “ capital value ” means capital value for the purposes of the Rates (Northern Ireland) Order 1977 and shall be construed in accordance with Article 39 of that Order; ]

“the claimant” in relation to a blight notice means the person who served that notice and any reference to the interest of the claimant in relation to such a notice is a reference to the interest which the notice requires the appropriate authority to purchase as mentioned in Article 5 or 14;

“the Department” means the Department of the Environment;

“hereditament” (subject to paragraphs (3) and (4)) means the aggregate of the land which forms the subject of a single entry in [<sup>F7</sup>a valuation list] for the time being in force;

“mortgagee” includes a person entitled to a charge or lien for securing money or money's worth;

[<sup>F8</sup> “ net annual value ” means net annual value for the purposes of the Rates (Northern Ireland) Order 1977 and shall be construed in accordance with Articles 39 and 39A of that Order; ]

[<sup>F9</sup>“the Planning Order” means the Planning (Northern Ireland) Order 1991;]

[<sup>F10</sup> “ the Planning Act ” means the Planning Act (Northern Ireland) 2011; ]

“prescribed” means prescribed by regulations made by the Department;

“relevant statutory provision” in relation to land falling within any of the specified descriptions, means the statutory provision which provides for the compulsory acquisition of land as being land falling within that description;

“specified descriptions” means the descriptions specified in Article 3(1)(a) to (l);

“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;

“unaffected area” has the meaning assigned by Article 9(1).

[<sup>F11</sup> “ value ”, in relation to a hereditament, means the value which on the date of service of a blight notice, is shown in a valuation list as the net annual value (if any) or, as the case maybe the capital value (if any) of the hereditament or in relation to land certified by the Commissioner of Valuation under this paragraph means the net annual value or, as the case maybe, the capital value as it appears in such a certificate;

“ valuation list ” has the meaning assigned to it by Article 2(2) of the Rates (Northern Ireland) Order 1977; ]

- (3) Where land is on the boundary between two or more district councils, and accordingly—
  - (a) different parts of that land form the subject of single entries in the valuation lists for those districts, but
  - (b) if the whole of the land had been in one of those districts, it would have formed the subject of a single entry in [<sup>F12</sup>a valuation list] for that district,

the whole of the land shall be treated, for the purposes of the definition of “hereditament” in paragraph (2), as if it formed the subject of a single entry in [<sup>F12</sup>a valuation list], and [<sup>F13</sup> the definition of value] in that paragraph shall apply as if any reference to a value shown in [<sup>F12</sup>a valuation list] were a reference to the aggregate of the values shown as net annual values [<sup>F14</sup>or, as the case maybe, capital values] in the valuation lists in relation to the different parts of that land.

(4) Land which forms the subject of an entry in [<sup>F15</sup>a valuation list] by reason only that it is land over which any shooting, fishing and other sporting rights are exercisable, or that it is land over which a right of exhibiting advertisements is let out or reserved, shall not be taken to be a hereditament within the meaning of this Order.

(5) If any question arises as to which authority is the appropriate authority for the purpose of this Order, the question shall be determined by the Department, whose decision shall be final.

(6) If any such question as is referred to in paragraph (5) arises—

- (a) Article 4(2)(b) and (4)(b) shall apply with the substitution for the reference to a period of one year of a reference to that period extended by so long as it takes to have the question determined;
- (b) Article 12(3)(b) shall apply with the substitution for the reference to a period of six months of a reference to that period extended by so long as it takes to have the question determined;
- (c) Article 6(1) shall apply with the substitution for the reference to the date of service of a blight notice of a reference to the date on which that question is determined, if that is after the date of service.

(7) For the purposes of section 42(2) of the Northern Ireland Constitution Act 1973<sup>F16</sup> (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

- F1** 1954 c. 33 (NI)
- F2** 1971 c. 23 (NI)
- F3** Art. 2(2): definition of "annual value" omitted (1.4.2007) by virtue of Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(i)**
- F4** 1984 c.12
- F5** 1982 NI 20
- F6** Art. 2(2): definition of "capital value" inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(ii)**
- F7** Art. 2(2): words in definition of "hereditament" substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(iii)**
- F8** Art. 2(2): definition of "net annual value" inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(ii)**
- F9** 1991 NI 11
- F10** Words in art. 2(2) inserted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 35** (with s. 211); S.R. 2015/49, arts. 2, 3, **Sch. 1** (with **Sch. 2**) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F11** Art. 2(2): definitions of "value" and "valuation list" inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(ii)**
- F12** Words in art. 2(3) substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(iv)(aa)**
- F13** Words in art. 2(3) substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(iv)(bb)**
- F14** Words in art. 2(3) inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(iv)(cc)**
- F15** Words in art. 2(4) substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(a)(v)**
- F16** 1973 c. 36

### *Blight notices-general*

#### **Application of this Order**

3.—(1) This Order has effect in relation to any land which—

- (a) is land authorised by any Local or Private Act to be compulsorily acquired, or falling within the limits of deviation within which powers of compulsory acquisition are exercisable under such an Act; or
- (b) is land shown on a map or plan approved by a resolution of the Northern Ireland Housing Executive, or land described in a resolution of the Housing Executive, as land which may be acquired for the purpose of re-development under the Housing (Northern Ireland) Order 1981<sup>F17</sup>; or
- (c) is land in an area which, under a declaration of the Northern Ireland Housing Executive, is a proposed re-development area; or
- (d) is land on which the Department proposes to<sup>F18</sup> construct, improve or alter] a road and has given to the district council for the area written notice of its intention to<sup>F18</sup> construct, improve or alter] the road, together with a map or plan sufficient to identify the proposed route of the road<sup>F18</sup> or (as the case may be) the proposed extent of the improvement or alteration]; or
- (e) is land—
  - (i) on which the Department proposes to<sup>F18</sup> construct, improve or alter] a road; and
  - (ii) in respect of which the Department has exercised its power under the Planning<sup>F19</sup> Order] to prevent or restrict development of that land; or
- (f) is land on or adjacent to the line of a road or special road proposed to be constructed, improved or altered as indicated in a draft order referred to in a notice published in accordance with paragraph 1 of<sup>F20</sup> Schedule 8 to the Roads (Northern Ireland) Order 1993, or an order under Article 14(1) or 15(1) of that Order, being land in relation to which a power of compulsory acquisition conferred by that Order] is or may become exercisable, as being land required for purposes of construction, improvement, or alteration as indicated in the draft order or order or for the purposes of<sup>F20</sup> Article 112 of that Order]; or
- (g) is land [<sup>F21</sup>indicated in a development plan document (within the meaning of section 6(2) of the Planning Act)] as land which may be required for the purposes of any function of a government department, district council or authority possessing compulsory purchase powers; or
- <sup>F22</sup>(h) is land indicated in a plan (not being a local development plan) as land which may be required for the purposes of any function of a government department, district council or authority possessing compulsory purchase powers, being land in respect of which the council intends to exercise its powers of planning control under Part 3 of the Planning Act by reference to such a plan;]
- <sup>F23</sup>(i) is land in respect of which a council—
  - (a) has resolved to take action to safeguard it for development for the purposes of any function mentioned in sub-paragraph (h); or
  - (b) has been directed by the Department to restrict the grant of planning permission in order to safeguard it for such development;]
- (j) is land indicated in a development scheme adopted under<sup>F19</sup> Article 86 of the Planning Order] as land which may be required for the purposes of any function of a government department, district council or authority possessing compulsory purchase powers; or
- (k) is land shown on a map or plan published by the Department as land proposed to be acquired by it or the purposes of<sup>F20</sup> Article 112 of the Roads (Northern Ireland) Order 1993]; or

- (l) is land in a housing action area, being land in respect of which the Northern Ireland Housing Executive has published information indicating that the Executive intends to acquire it.

[<sup>F24</sup>( 2 ) In paragraph (1)(g) the reference to a development plan document is a reference to—

- (a) a development plan document adopted or approved for the purposes of Part 2 of the Planning Act;
- (b) a revision of a development plan document in pursuance of section 14 of the Planning Act which is adopted or approved for the purposes of Part 2 of that Act;
- (c) a development plan document which has been submitted to the Department for independent examination under section 10 of the Planning Act;
- (d) a revision of a development plan document in pursuance of section 14 of the Planning Act if the document has been submitted to the Department for independent examination under section 10 of that Act.

(2A) But paragraph (2)(c) and (d) does not apply if the document is withdrawn under section 11 of the Planning Act at any time after it has been submitted for independent examination.

(2B) In paragraph (2)(c) and (d) the submission of a development plan document to the Department for independent examination is to be taken to include the holding of an independent examination by the planning appeals commission or a person appointed by the Department.]

(3) In paragraph (1)(j) the reference to a development scheme adopted under [<sup>F19</sup> Article 86 of the Planning Order] includes a reference to—

- (a) a development scheme copies of which have been made available for inspection under [<sup>F19</sup> Article 86(1)] of that Order;
- (b) proposals under [<sup>F19</sup> Article 86(4)] of that Order for amending a development scheme.

(4) No blight notice shall be served by virtue of paragraph (2) or (3) after the relevant provisions have been [<sup>F25</sup>adopted or approved] (whether in their original form or with modifications).

(5) Where an appropriate authority has served a counter-notice objecting to a blight notice served by virtue of paragraph (2) or (3) then, if the relevant provisions are adopted [<sup>F26</sup>or approved] (whether in their original form or with modifications or alterations) the appropriate authority may serve on the claimant, in substitution for the counter-notice already served, a further counter-notice specifying different grounds of objection and Article 7 shall have effect in relation to the further counter-notice as it has effect in relation to the counter-notice already served, but a further counter-notice under this paragraph shall not be served—

- (a) at any time after the end of the period of two months beginning with the date on which the relevant provisions are adopted [<sup>F26</sup>or approved]; or
- (b) if the objection in the counter-notice already served has been withdrawn or the Lands Tribunal has already determined whether or not to uphold that objection.

(6) In paragraphs (4) and (5) “relevant provisions” means the relevant plan or development scheme or the proposals for such a plan or scheme.

**F17** 1981 NI 3

**F18** 1982 NI 20

**F19** 1991 NI 11

**F20** 1993 NI 15

**F21** Words in art. 3(1)(g) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 36\(a\)\(i\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

- F22** Art. 3(1)(h) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 36\(a\)\(ii\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F23** Art. 3(1)(i) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 36\(a\)\(iii\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F24** Art. 3(2)-(2B) substituted for art. 3(2) (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern-Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 36\(b\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F25** Words in art. 3(4) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 36\(c\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)
- F26** Words in art. 3(5) inserted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 36\(d\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

### Interests qualifying for protection

4.—(1) An interest in land qualifies for protection under this Order if, on the date of service of a blight notice in respect thereof, the interest—

- (a) is that of a resident owner-occupier; or
- (b) is that of an owner-occupier—
  - (i) in an agricultural unit or part thereof; or
  - [<sup>F27</sup>(ii) in a hereditament if either of the following sub-paragraphs applies—
    - (aa) the net annual value of the land does not exceed £19,685; or
    - (bb) the capital value of the hereditament does not exceed £2,100,000.]

[<sup>F28</sup>(1A) The Department may by Order substitute a different limit for any limit specified in paragraph (1)(aa) or (bb).]

(2) In this Order “resident owner-occupier” in relation to a hereditament means an individual who—

- (a) occupies, in right of an owner's interest, the whole or a substantial part of the hereditament as a private dwelling and has so occupied the hereditament or that part during the whole of the period of six months ending with the date of service of a blight notice; or
  - (b) occupied, in right of an owner's interest, the whole or a substantial part of the hereditament as a private dwelling during the whole of a period of six months ending not more than one year before the date of service of a blight notice, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.
- (3) In this Order “owner-occupier” in relation to an agricultural unit means a person who—
- (a) occupies the whole of that unit, and has occupied it during the whole of the period of six months ending with the date of service of a blight notice; or
  - (b) occupied the whole of that unit during the whole of a period of six months ending not more than one year before the date of service of a blight notice,

and, at all times material for the purposes of sub-paragraph (a) or, as the case may be, sub-paragraph (b), has been entitled to an owner's interest in the whole or part of that unit.

- (4) In this Order “owner-occupier” in relation to a hereditament means a person who—

- (a) occupies, in right of an owner's interest, the whole or a substantial part of the hereditament and has so occupied the hereditament or that part during the whole of the period of six months ending with the date of service of a blight notice; or
  - (b) occupied, in right of an owner's interest, the whole or a substantial part of the hereditament during the whole of a period of six months ending not more than one year before the date of service of a blight notice, the hereditament or that part thereof, as the case may be, having been unoccupied since the end of that period.
- (5) In this Article “owner's interest” means a freehold interest (whether legal or equitable) or a<sup>F29</sup> legal tenancy] granted or extended for a term of years of which, on the date of service, not less than three years remain unexpired.

**F27** Art. 4(1)(b)(ii)(1A) substituted (1.4.2007) for art. 4(1)(b)(ii) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(b)**

**F28** Art. 4(1)(b)(ii)(1A) substituted (1.4.2007) for art. 4(1)(b)(ii) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 5(b)**

**F29** 1982 NI 20

#### **Notice requiring purchase of claimant's interest**

5.—(1) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the specified descriptions and a person claims that—

- (a) he is entitled to an interest in that hereditament or agricultural unit which qualifies for protection under this Order, and
- (b) he has made reasonable endeavour to sell that interest, and
- (c) in consequence of the fact that the hereditament or unit or part of it was, or was likely to be, comprised in land of any of the specified descriptions, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land,

he may serve on the appropriate authority a blight notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, this Order.

(2) Paragraph (1) applies to an interest in part of a hereditament or agricultural unit, but this paragraph does not enable any person—

- (a) if he is entitled to an interest in the entirety of a hereditament or agricultural unit to make any claim or serve a blight notice in respect of his interest in part of the hereditament or agricultural unit; or
- (b) if he is entitled to an interest only in part of a hereditament or agricultural unit, to make any claim or serve a blight notice in respect of his interests in less than the entirety of that part.

#### **Objection to blight notice**

6.—(1) Where a blight notice has been served under this Order, the appropriate authority may, within two months from the date of service of that notice, serve on the claimant a counter-notice in the prescribed form objecting to the notice.

(2) The grounds on which objection may be made in a counter-notice to a blight notice are—

- (a) that no part of the hereditament or agricultural unit to which the notice relates is comprised in land of any of the specified descriptions;

- (b) that the appropriate authority (unless compelled to do so by virtue of this Order) does not propose to acquire compulsorily any part of the hereditament or (in the case of an agricultural unit) any part of the affected area;
  - (c) that the appropriate authority proposes to acquire compulsorily part of the hereditament or (in the case of an agricultural unit) a part of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of this Order) does not propose to acquire compulsorily any other part of that hereditament or area;
  - (d) that on the date of service of the blight notice the claimant was not entitled to an interest in any part of the hereditament or agricultural unit;
  - (e) that (for reasons specified in the counter-notice) the interest of the claimant does not qualify for protection under this Order;
  - (f) that the conditions in Article 5 (1) (b) and (c) are not fulfilled;
  - (g) in the case of land of a description specified in Article 3 (1) (b), (d), (e), (g), (h), (i), (j) or (l), that the appropriate authority (unless compelled to do so by virtue of this Order) does not propose to acquire compulsorily any part of the hereditament or (in the case of an agricultural unit) any part of the affected area during the period of fifteen years from the date of the counter-notice, or such longer period as may be specified in the counter-notice;
  - (h) that in the case of a blight notice served by a mortgagee—
    - (i) on the date of service of the blight notice the claimant had no interest as mortgagee in any part of the hereditament or agricultural unit to which the notice relates;
    - (ii) (for reasons specified in the counter-notice) the claimant had not at that date the power referred to in Article 12 (1) (a);
    - (iii) (for reasons specified in the counter-notice) neither of the conditions specified in Article 12 (3) was, on the date of service of the blight notice, satisfied with regard to the interest referred to in that Article.
- (3) An objection may not be made under paragraph (2) (g) if it could be made under paragraph (2) (b).
- (4) A counter-notice served under this Article shall specify on which of the grounds mentioned in paragraph (2) or Article 10 (1) or 14 (3) the appropriate authority objects to a blight notice.
- (5) The Department of Finance may advance money from the Government Loans Fund to any person for the purpose of enabling him to acquire a hereditament or (in the case of an agricultural unit) the affected area in respect of which a counter-notice has been served specifying the grounds mentioned in paragraph (2) (g) as, or as one of, the grounds of objection.

### **Reference of objection to Lands Tribunal**

7.—(1) Where a counter-notice has been served objecting to a blight notice, the claimant may, within two months of the date of service of the counter-notice, refer the objection to the Lands Tribunal.

(2) On any such reference, if the objection is not withdrawn, the Lands Tribunal shall consider the matters set out in the blight notice served by the claimant and the grounds of objection specified in the counter-notice; and, subject to paragraph (3), unless it is shown to the satisfaction of the Tribunal that the objection is not well founded, the Tribunal shall uphold the objection.

(3) An objection on the ground mentioned in Article 6 (2) (b), (c) or (g) shall not be upheld unless it is shown to the satisfaction of the Tribunal that the objection is well founded.

(4) The Tribunal shall not uphold an objection on the ground mentioned in Article 6 (2) (c) if the part of the hereditament which the appropriate authority proposes to acquire is, or includes, part



of a house, building or factory and the Tribunal is satisfied that the part cannot be acquired without causing material detriment to the house, building or factory.

(5) If the Tribunal determines not to uphold the objection, it shall declare the blight notice to which the counter-notice relates as valid.

(6) If the Tribunal upholds the objection, but only on the grounds mentioned in Article 6 (2) (c), it shall declare that the notice is a valid notice in relation to the part of the hereditament or (in the case of an agricultural unit) of the affected area specified in the counter-notice as the part which the appropriate authority proposes to acquire compulsorily, but not in relation to any other part.

(7) In determining under paragraph (4) whether part of a house, building or factory can be taken without material detriment to the house, building or factory, the Lands Tribunal shall take into account not only the effect of the severance but also the use to be made of the part proposed to be acquired; and in a case where the part is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.

### **Effect of valid blight notice**

8.—(1) Where a blight notice has been served and either—

- (a) no counter-notice has been served; or
- (b) where such a counter-notice has been served, the objection is withdrawn, or on a reference to the Lands Tribunal, is not upheld by the Tribunal,

the appropriate authority shall, on the date of acceptance, be deemed to have entered into a contract to purchase the interest of the claimant in respect of which the notice is effective and the claimant shall, on that date, be deemed to have entered into a contract to sell that interest to the authority.

(2) The amount to be paid for an interest by an appropriate authority under a contract deemed to have effect under paragraph (1) shall be the amount which the authority would have paid for the interest if it had compulsorily acquired the interest on the date of acceptance under the relevant statutory provision.

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

[<sup>F30</sup>(3A) A claimant may withdraw a blight notice at any time before the amount to be paid for the interest of the claimant has been agreed with the appropriate authority or determined by the Lands Tribunal or at any time before the end of six weeks beginning with the date on which that amount is so agreed or determined; and where a blight notice is withdrawn by virtue of this paragraph any contract deemed to have been made in consequence thereof shall be deemed not to have been made.]

(4) The date for the completion of the purchase of an interest in pursuance of a contract deemed to have effect under paragraph (1) shall, unless the claimant and the appropriate authority otherwise agree, be three months from the date on which they agree upon the amount to be paid for that interest or, in default of agreement on that amount, from the date on which the Lands Tribunal determines that amount.

(5) If on the date for the completion of a contract deemed to have effect under paragraph (1), the appropriate authority fails to pay to the claimant the amount payable to him under this Article, the authority shall, unless that failure arises from a cause other than the appropriate authority's act or default, pay to him, 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 under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972<sup>F31</sup>.

(6) Where a counter-notice has been served objecting to a blight notice on the grounds mentioned in Article 6(2)(c), then if either—

- (a) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired, gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the hereditament or affected area specified in the counter-notice, and withdraws his claim as to the remainder of that hereditament or area, or
- (b) on a reference to the Lands Tribunal, the Tribunal makes a declaration in accordance with Article 7(6),

paragraph (1) shall have effect in relation to the interest of the claimant in the part of the hereditament or affected area specified in the counter-notice (but not in any other part of the hereditament or area) except that in a case falling under sub-paragraph (a) the date of acceptance shall be the date on which notice is given by the claimant under that sub-paragraph.

(7) For the purposes of determining the amount to be paid for an interest under a contract deemed to have effect under paragraph (1), for any reference in Part II of the Act of 1971 to the date of acquisition substitute a reference to the date of acceptance.

(8) Where a relevant authority acquires a lesser estate than a fee simple in any land under this Article, or it has acquired such an estate under section 7 of the Act of 1971, that authority may purchase (by agreement or otherwise) such estates in the land as it considers appropriate or may make, or apply for, a vesting order in respect of the land under the relevant statutory provision.

(9) Where under paragraph (8) a relevant authority may purchase, otherwise than by agreement, an estate in land, it shall do so under the relevant statutory provision.

(10) In this Article—

“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 the period of two months beginning with the date of service of a blight notice comes to an end;

“relevant authority” means an appropriate authority or any predecessor in title of that authority.

**F30** 1982 NI 20

**F31** 1972 c. 9 (NI)

### *Blight notices in respect of whole agricultural units*

#### **Blight notice requiring purchase of whole agricultural unit**

**9.—(1)** Where a blight notice is served in respect of an interest in the whole or part of an agricultural unit and on the date of service that unit or part contains land (in this Order referred to as “the unaffected area”) which does not fall within any of the specified descriptions as well as land which does so, the claimant may include in the notice—

- (a) a claim that the unaffected area is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
- (b) a requirement that the appropriate authority shall purchase his interest in the whole of the unit or, as the case may be, in the whole of the part of it to which the notice relates.

(2) Subject to Article 10(3), “otherwise relevant land” in paragraph (1) means—

- (a) land comprised in the remainder of the agricultural unit if the blight notice is served only in respect of part of it;

- (b) land comprised in any other agricultural unit occupied by the claimant on the date of service, being land in respect of which he is then entitled to an owner's interest as defined in Article 4(5).

### **Objection to blight notice requiring purchase of whole agricultural unit**

**10.**—(1) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of Article 9 shall include the ground that the claim made in the notice is not justified.

(2) Objection shall not be made to a blight notice served by virtue of Article 9 on the ground mentioned in Article 6(2)(c) unless it is also made on the ground mentioned in paragraph (1); and the Lands Tribunal shall not uphold an objection to any such notice on the ground mentioned in Article 6(2)(c) unless it also upholds the objection on the ground mentioned in paragraph (1).

(3) Where objection is made to a blight notice served by virtue of Article 9 on the ground mentioned in paragraph (1) and also on that mentioned in Article 6(2)(c), the Lands Tribunal, in determining whether or not to uphold the objection, shall treat that part of the affected area which is not specified in the counter-notice as included in “other relevant land” as defined in Article 9(2).

(4) If the Land Tribunal upholds an objection but only on the ground mentioned in paragraph (1), the Tribunal shall declare that the blight notice is a valid notice in relation to the affected area but not in relation to the unaffected area.

(5) If the Tribunal upholds an objection both on the ground mentioned in paragraph (1) and on that mentioned in Article 6(2)(c) (but not on any other ground) the Tribunal shall declare that the blight notice is a valid notice in relation to the part of the affected area specified in the counter-notice as being the part which the appropriate authority proposes to acquire as therein mentioned but not in relation to any other part of the affected area or in relation to the unaffected area.

(6) Article 7(6) shall not apply to any blight notice served by virtue of Article 9.

### **Effect of blight notice requiring purchase of whole agricultural unit**

**11.**—(1) Article 8 (6) shall not apply to a blight notice served by virtue of Article 9.

(2) Where a counter-notice has been served objecting to a blight notice on the ground mentioned in Article 10(1), then if either—

- (a) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired, gives notice to the appropriate authority that he withdraws his claim as to the unaffected area; or
- (b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with Article 10(4),

Article 8(1) shall have effect in relation to the interest of the claimant in so far as it subsists in the affected area (but not in so far as it subsists in the unaffected area) except that in a case falling within sub-paragraph (a) the date of acceptance shall be the date on which notice is given by the claimant under that sub-paragraph.

(3) Where a counter-notice has been served objecting to a blight notice on the ground mentioned in Article 10(1) and also on the grounds mentioned in Article 6(2)(c) then if either—

- (a) the claimant, without referring that objection to the Lands Tribunal and before the time for so referring it has expired, gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the affected area specified in the counter-notice and withdraws his claim as to the remainder of that area and as to the unaffected area; or
- (b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with Article 10(5) in respect of that part of the affected area;

Article 8(1) shall have effect in relation to the interest of the claimant in so far as it subsists in the part of the affected area specified in the counter-notice (but not in so far as it subsists in any other part of that area or in the unaffected area) except that in a case falling within sub-paragraph (a) the date of acceptance shall be the date on which notice is given by the claimant under that sub-paragraph.

(4) The compensation payable in respect of the acquisition by virtue of this Article of an interest in land comprised in—

- (a) the unaffected area of an agricultural unit; or
- (b) if a counter-notice has been served objecting to the blight notice on the grounds mentioned in Article 6(2)(c) so much of the affected area of the unit as is not specified in the counter-notice,

shall be assessed on the assumptions mentioned in Article 8(2), (3) and (4) of the Land Acquisition and Compensation (Northern Ireland) Order 1973.

(5) In relation to a blight notice served by virtue of Article 9, any reference to the appropriate authority shall be construed as if the unaffected area of an agricultural unit were part of the affected area.

### *Special cases*

#### **Mortgagees**

**12.**—(1) Subject to paragraphs (2) to (5), a person may serve a blight notice on the appropriate authority under and in accordance with this Order where he claims that—

- (a) he is entitled as mortgagee, by virtue of a power which has become exercisable, to sell an interest in a hereditament or agricultural unit comprised in land of any of the specified descriptions, giving immediate vacant possession of the land; and
- (b) he has complied with the requirements specified in Article 5(1)(b) and (c) in relation to that interest.

(2) Article 5(2) applies to the interest of a mortgagee as it applies to an interest which qualifies for protection under Article 4.

(3) A mortgagee shall not serve a blight notice unless one or other of the following conditions is satisfied with regard to the interest which the mortgagee claims he has the power to sell, namely;—

- (a) the interest could be the subject of a blight notice under Article 5 served by the person entitled thereto on the date of service of a notice under this Article; or
- (b) the interest could have been the subject of such a notice by that person on a date not more than six months before the date of service of a notice under this Article.

(4) No blight notice under this Article shall be served in respect of a hereditament or agricultural unit, or any part of a hereditament or agricultural unit at a time when a notice already served under Article 5 is outstanding in respect of that hereditament, unit or part; and no notice shall be so served under Article 5 when a notice under the Article is so outstanding.

(5) For the purposes of paragraph (4), a blight notice shall be treated as outstanding until—

- (a) it is withdrawn; or
- (b) an objection to the notice having been made by a counter-notice under Article 6 either—
  - (i) the period of two months specified in Article 7 elapses without the claimant having required the objection to be referred to the Lands Tribunal; or
  - (ii) the objection, having been referred to the Lands Tribunal, is upheld by the Tribunal.

## Partnerships

13.—(1) This Order applies to a hereditament or agricultural unit occupied for the purposes of a partnership firm subject to paragraphs (2) and (3).

(2) Occupation for the purposes of the firm shall be treated as occupation by the firm, and not as occupation by any one or more of the partners individually, and the definition of “owner-occupier” in Article 4 shall apply in relation to the firm accordingly.

(3) If after the service of a blight notice by the firm any change occurs (whether by death or otherwise) in the constitution of the firm, any proceedings, rights or obligations consequential upon that notice may be carried on or exercised by or against, or (as the case may be) shall be incumbent upon, the partners for the time being constituting the firm.

(4) Paragraph (2) does not affect the definition of “resident owner-occupier” in Article 4.

## Personal representatives

14.—(1) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the specified descriptions, and a person claims that—

- (a) he is the personal representative of a person (“the deceased”) who at the date of his death was entitled to an interest in that hereditament or unit; and
- (b) the interest was one which would have qualified for protection under this Order if a notice under Article 5 had been served in respect thereof on that date; and
- (c) he has made reasonable endeavours to sell that interest; and
- (d) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be comprised in land of any of the specified descriptions, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land; and
- (e) one or more individuals are (to the exclusion of any body corporate, beneficially entitled to that interest, he may serve on the appropriate authority a blight notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, this Order.

(2) Paragraph (1) applies to an interest in part of a hereditament or agricultural unit, but this paragraph does not enable any person—

- (a) if the deceased was entitled to an interest in the entirety of a hereditament or agricultural unit, to make any claim or serve a blight notice in respect of the deceased's interest in part of the hereditament or unit; or
- (b) if the deceased was entitled to an interest only in part of a hereditament or agricultural unit, to make any claim or serve a blight notice in respect of the deceased's interest in less than the entirety of that part.

(3) Subject to Article 10(2), the grounds on which objection may be made in a counter-notice under Article 6 to a notice under this Article are those specified in sub-paragraphs (a) to (c) of paragraph (2) of that Article and, in a case to which it applies, the grounds specified in sub-paragraph (g) of that paragraph and also the following grounds—

- (a) that the claimant is not the personal representative of the deceased or that, on the date of the deceased's death, the deceased was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;
- (b) that (for reasons specified in the counter-notice) the interest of the deceased is not such as is specified in paragraph (1)(b);

(c) that a condition specified in paragraph (1)(c), (d) or (e) is not fulfilled.

(4) For the purposes of Article 12(4) and (5), a blight notice served under this Article shall be treated as a blight notice under Article 5.

#### **Death of claimant after service of blight notice**

**15.** In relation to any time after the death of a person who has served a blight notice, Articles 3 to 14 apply as if any reference therein to the claimant were a reference to his personal representatives.

#### **[<sup>F32</sup>Application to Crown land**

**15A.**—(1) The rights conferred by this Order shall be exercisable by a person who is an owner#occupier of a hereditament or agricultural unit which is Crown land, or is a resident ownerdash;occupier of a hereditament which is Crown land, in the same way as they are exercisable in respect of a hereditament or agricultural unit which is not Crown land, and this Order shall apply accordingly.

(2) In paragraph (1) “Crown land” has the same meaning as in [<sup>F33</sup>Part 11 of the Planning Act].]

**F32** 1990 NI 14

**F33** Words in art. 15A(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\)](#), [Sch. 6 para. 37](#) (with s. 211); [S.R. 2015/49, arts. 2, 3, Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159, art. 2](#))

*Article 16—Amendments and repeals*

**Changes to legislation:**

There are currently no known outstanding effects for the The Planning Blight (Compensation) (Northern Ireland) Order 1981.