
STATUTORY INSTRUMENTS

1992 No. 811

**The Registration (Land and Deeds)
(Northern Ireland) Order 1992**

PART II

LAND REGISTRATION

Errors

Rectification of errors

29. The following subsections shall be substituted for section 69(2) of the 1970 Act (rectification of errors):

“(2) Where, in the opinion of the Registrar, an incorrect entry in, or omission from, the register is of a clerical nature, he may, after making such enquiries (if any) and serving such notices (if any) as he considers necessary, rectify the register.

(2A) The Registrar may in his discretion, after making such enquiries (if any), serving such notices (if any) and obtaining such consents (if any) as he considers necessary, amend any mistake in, or omission from, any document presented to the Land Registry, if, in his opinion, the mistake or omission is of a clerical nature.

(2B) The Registrar may, after making such enquiries (if any) and serving such notices (if any) as he considers necessary, order the rectification of the register where all persons interested—

- (a) consent to the rectification; or
- (b) do not, within the prescribed period after being served with notice of the Registrar's intention to order the rectification, notify the Registrar in writing that they object to the rectification.

(2C) Where the Registrar exercises the power conferred by subsection (2) or (2B) he may make such order as to the costs of rectification as the persons interested may, in writing, agree.”.

Winding up of Insurance Fund

30.—(1) After the commencement of this Article no compensation under section 71 of and Schedule 9 to the 1970 Act shall be paid out of the Insurance Fund kept under section 70 of that Act, and that Fund shall be wound up in accordance with paragraphs (2) and (3).

(2) Any money which, at the commencement of this Article, stands to the credit of the Insurance Fund shall be paid into the Consolidated Fund.

(3) Any other assets comprised in the Insurance Fund at that commencement shall be realised forthwith, and the proceeds shall be paid into the Consolidated Fund.

(4) Immediately following the completion of the winding-up, section 70 of the 1970 Act shall cease to have effect.

Compensation: amendments of section 71 of the 1970 Act

31.—(1) The amendments specified in paragraphs (2) to (4) shall be made in section 71 of the 1970 Act (claims for compensation).

(2) In subsection (2) for “, subject to section 70(4), be paid out of the Insurance Fund” substitute “be paid by the Department out of money appropriated for the purpose”.

(3) For subsection (3) substitute:

“(3) Subject to subsections (3A), (3B) and (3C), where any such compensation is paid by the Department, the Department shall be entitled to recover the amount so paid from all or any of the following persons—

- (a) any person who caused or substantially contributed to the loss in question;
- (b) any person who has, directly or indirectly, derived title or any other advantage—
 - (i) from such a person as is mentioned in paragraph (a), or
 - (ii) by reason of an error or omission giving rise to the loss;

and, without prejudice to the generality of the foregoing provision, the Department may enforce any express or implied covenant or other right which the person receiving the compensation would have been entitled to enforce in relation to the matter in respect of which the compensation is paid.

(3A) A person shall not be treated for the purposes of subsection (3)(a) or (b)(i) as having caused or substantially contributed to the loss unless he has done so by his fraud or lack of proper care; and where a person substantially contributed to the loss (but did not cause it completely), the amount recoverable under subsection (3) from him or from any person who has derived title or other advantage from him shall be such amount as is just.

(3B) The Department is not entitled under subsection (3) to recover any amount from a person by reason only of his derivation of title or advantage as mentioned in paragraph (b) of that subsection where that person has derived the title or other advantage for valuable consideration and he has not caused or contributed to the loss by his fraud.

(3C) Where the Department is entitled to recover an amount under subsection (3)(b) from a person who did not cause or substantially contribute to the loss, that amount shall not exceed the value, immediately before the Department gives notice to that person of its intention to recover an amount from him under subsection (3), of the advantage obtained by him.”.

(4) For subsection (4) substitute:

“(4) Any question arising as to whether the Department is entitled to recover some amount under subsection (3) from a particular person, as to the quantum of that amount or as to the enforcement of any right by the Department under that subsection shall be referred to and determined by the Lands Tribunal.

(5) A question referred under subsection (4) and one referred under paragraph 10 of Schedule 9 (entitlement to and amount of compensation) may be determined in the same proceedings.

(6) Except where the amount recoverable by the Department under subsection (3) is determined as mentioned in subsection (5),—

- (a) the right of the Department to recover any amount under subsection (3) shall be deemed to accrue on the date on which the Department pays the compensation to which that right relates; and

(b) a claim to recover such an amount shall not be the subject of a reference under subsection (4) after the expiration of one year from the time when the right to recover that amount accrued or after the expiration of 12 years from the time of the error or omission which gave rise to the loss, whichever first occurs.

(7) When the Lands Tribunal determines that any amount is recoverable under subsection (3), it may make an order for the payment of that amount and such an order is a money judgment for the purposes of Article 4 of the Judgments Enforcement (Northern Ireland) Order 1981^{F1}.”

(5) Paragraphs (3) and (4) apply only to and in connection with a loss sustained as a result of a rectification, error, omission, loss or destruction occurring after the commencement of this Article.

(6) In the application of section 71 of the 1970 Act to or in connection with a loss sustained as a result of a rectification, error or omission occurring before the commencement of this Article, subsection (3) shall have effect with the insertion, after “section 70(4)”, of “or paid out of money appropriated for the purpose”.

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Compensation: amendments of Schedule 9 to the 1970 Act

32.—(1) The amendments specified in paragraphs (2) to (6) shall be made in Schedule 9 to the 1970 Act (compensation payable under the Act).

(2) In paragraph 1(1) (compensation where loss sustained by reason of certain matters):

(a) in head (b) for “which is” substitute “whether or”;

(b) after head (b) insert—

“(bb) the loss or destruction by the Land Registry of any document lodged at the Registry for the purpose of inspection, registration or safe keeping, other than a document destroyed in accordance with Land Registry Rules;” and

(c) after head (d) insert—

“(e) an error in or omission from a filed copy of, or an error in a filed extract from, a document referred to in the title register, where the error or omission was made in preparing the copy or the error was made in preparing the extract.” .

(3) In paragraph 3 (exclusions from compensation) for sub-paragraph (a) substitute:

“(a) where the claimant has himself or by his agent caused or substantially contributed to the loss by his act or omission; or

(aa) where the claimant himself or by his agent contributed to the loss by his fraudulent act or fraudulent omission; or

(ab) where the claimant derives title (otherwise than under a registered disposition taken by him in good faith and for valuable consideration) from a person to whom sub-paragraph (a) or (aa) applies; or

(ac) where the error or omission which gave rise to the loss was occasioned by an error in or omission from an assent or transfer in the prescribed form on the correctness of which the Registrar is required to rely in pursuance of paragraph 6A of Schedule 4 or Land Registry Rules;”.

(4) After paragraph 3 insert:

“**3A.** Where lack of proper care on the part of the claimant or his agent has contributed to the loss, the amount of compensation to which the claimant would have been entitled had he or his agent not so contributed to the loss shall be reduced to such extent as is just having regard to his or his agent's responsibility for the loss.”.

(5) In paragraph 4(2) (limitation of time for claiming compensation) after head (c) insert:

“(cc) where the right to compensation arises from the loss or destruction of a document or an error in, or omission from, a filed copy of, or an error in a filed extract from, a document referred to in the title register, on the date on which the claimant discovers the loss, destruction, error or omission or could with reasonable diligence have discovered it.”;

and in paragraph 4(3) after “(c)” insert “, (cc)” and for “error or omission” substitute “error, omission, loss or destruction”.

(6) For paragraphs 9 to 13 substitute:

“**9.** The Department shall be the respondent to every claim for compensation made under this Schedule; and notice of every such claim shall be served by the claimant on such persons as may be prescribed.

10. Where any question arising as to whether a person is entitled to compensation, or as to the amount of compensation, is not settled between that person and the Department, that question shall be referred to and determined by the Lands Tribunal.

11. Before or instead of determining a question referred to it under paragraph 10, the Lands Tribunal may exercise any power which is exercisable by the court under section 69(1) and (3) or paragraph 4 of Schedule 10 (rectification of errors); and an order made in exercise of such a power is an order of a court of competent jurisdiction for the purposes of section 9(1) (Registrar to obey court orders in relation to registered land) and section 9(2) (clarification of orders).”.

(7) Paragraphs (2) to (5) apply only to and in connection with a loss sustained as a result of a rectification, error, omission, loss or destruction occurring after the commencement of this Article.

Changes to legislation:

There are currently no known outstanding effects for the The Registration (Land and Deeds) (Northern Ireland) Order 1992, Cross Heading: Errors.