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STATUTORY INSTRUMENTS

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**1993 No. 3160**

**The Roads (Northern Ireland) Order 1993**

**PART IX**

**POWERS OF DEPARTMENT IN RELATION TO LAND**

*Acquisition of land*

**Acquisition of land for purposes of functions under this Order**

**110.**—(1) The Department may, for any purpose in connection with the performance of any of its functions under this Order, acquire by agreement or compulsorily any land including land on either side of a road or proposed road within 200 metres from the middle thereof.

(2) Without prejudice to the generality of paragraph (1), the Department may acquire under that paragraph—

- (a) land adjacent to a road which is being constructed or improved by the Department if the land is required for the depositing of matter obtained in the course of constructing or improving the road;
- (b) land required for the purpose of providing—
  - (i) service areas, being land within 200 metres of the middle of a special road;
  - (ii) maintenance compounds; or
  - (iii) parking places for vehicles under Article 104(1) of the Road Traffic Order; and
- (c) land required for the purpose of providing a means of access to a road from any land, including any land which will be, or has been, deprived of a means of access to a road by the construction or improvement of a road, if it is not reasonably practical to provide that means of access otherwise than by the exercise of powers under this Article.

**Acquisition of land for resettlement of undertakings**

**111.**—(1) The Department may, for the purpose of resettling a relevant undertaking, acquire land by agreement or compulsorily.

(2) The Department shall not acquire compulsorily under paragraph (1) any land of an undertaking which is in use for the purposes of the undertaking, if the undertaking provides employment which is significant having regard to the extent of the land and the nature of the undertaking.

(3) In this Article—

“relevant undertaking” means an undertaking which is being carried on on land which is being or has been acquired by the Department under Article 110;

“undertaking” means any trade or business or other activity providing employment.

**Acquisition of land for mitigation of adverse effect of road construction or improvement**

**112.**—(1) Subject to paragraphs (3) and (4), the Department may acquire land by agreement or compulsorily for the purpose of mitigating any adverse effect which the existence or use of a road constructed or improved by it, or proposed to be constructed or improved by it, has or will have on the surroundings of the road.

(2) Subject to paragraphs (3) and (4), the Department may acquire by agreement—

- (a) land the enjoyment of which is seriously affected by the carrying out of works by the Department for the construction or improvement of a road;
- (b) land the enjoyment of which is seriously affected by the use of a road which the Department has constructed or improved,

if the interest of the vendor is one which falls within Article 4 of the Planning Blight (Compensation) (Northern Ireland) Order 1981<sup>(1)</sup> (interests qualifying for protection under blight provisions) taking references to the date of service of a blight notice under Article 5 of that Order as references to the date on which the purchase agreement is made.

(3) The powers conferred by paragraph (1) to acquire land compulsorily and the powers conferred by paragraph (2)(a) shall not be exercisable unless the acquisition is begun before the date on which the road or, as the case may be, the improved road is first open to public traffic.

(4) The powers conferred by paragraph (1) to acquire land by agreement and the powers conferred by paragraph (2)(b) shall not be exercisable unless the acquisition is begun before the expiration of one year from the date on which the road or, as the case may be, the improved road is first open to public traffic.

(5) For the purposes of paragraphs (3) and (4) the acquisition of any land is begun—

- (a) if it is compulsory, on the date on which the notice required by paragraph 2 of Schedule 6 to the Local Government Act (Northern Ireland) 1972<sup>(2)</sup> as applied by Article 113 is first published;
- (b) if it is by agreement, on the date on which the agreement is made;

and where compulsory acquisition of any land under paragraph (1) is begun within the time limited by paragraph (3) but is not proceeded with, any subsequent compulsory acquisition of that land under paragraph (1) shall be treated for the purposes of this Article as begun within that time.

(6) For the purpose of assessing the compensation payable on the compulsory acquisition of land under this Article the land shall be treated as if it were being acquired for the construction of the road or, as the case may be, the improvement in question.

**Vesting orders**

**113.**—(1) Where the Department in exercise of the power conferred on it by Article 110, 111 or 112 desires to acquire any land otherwise than by agreement, the Department may make an order (in this Article referred to as a “vesting order”) vesting the land in the Department.

(2) Schedule 6 to the Local Government Act (Northern Ireland) 1972<sup>(3)</sup> shall, subject to the modifications specified in Schedule 7, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(3) The power to make a vesting order in respect of land—

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(1) 1981 NI 16  
 (2) 1972 c. 9 (N.I.)  
 (3) 1972 c. 9 (N.I.)

(a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily; or

(b) which is declared by or under any transferred provision to be inalienable,

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Northern Ireland Assembly.

(4) In paragraph (3) “public body” means—

(a) a Northern Ireland department; and

(b) any other body established by or under a transferred provision.

### **Appropriation or disposal of land acquired under this Part**

**114.**—(1) Land acquired by the Department under this Part for any purpose may be appropriated by the Department for any other purpose for which it is authorised to acquire land under this Part.

(2) The Department may dispose of any land acquired under this Part.

(3) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933(4) shall not affect the disposal of land acquired under this Part.

### *Development of land*

### **Development of land for resettlement of undertakings**

**115.**—(1) The Department may, for the purpose mentioned in Article 111(1)—

(a) develop any land to which this Article applies, whether by the erection or extension of buildings, the carrying out of works, the provision or facilitation of the provision of means of access, services or other facilities, or otherwise;

(b) enter into an agreement with any person for the development in any manner described in sub-paragraph (a) of any land to which this Article applies.

(2) This Article applies to—

(a) any land appropriated by the Department under Article 114(1) for the purpose mentioned in Article 111(1); and

(b) any land acquired by the Department under Article 111(1).

### **Execution of works in connection with roads**

**116.**—(1) The Department may carry out—

(a) on land acquired by it under this Part;

(b) on any other land belonging to it;

(c) on any road,

works for mitigating any adverse effect which the construction, improvement, alteration, existence or use of a road has, or will have, on the surroundings of the road.

(2) Without prejudice to the generality of paragraph (1), the works that may be carried out under that paragraph include the planting of trees, shrubs or plants of any other description and the laying out of any area as grassland.

(3) Notwithstanding anything in the Land Clauses Consolidation Act 1845<sup>(5)</sup>, the Department may develop or redevelop any land acquired by it under this Part, or any other land belonging to it, for the purpose of improving the surroundings of a road in any manner which it thinks desirable by reason of its construction, improvement, alteration, existence or use.

### **Agreements as to use of land near roads**

**117.**—(1) For the purpose of mitigating any adverse effect which the construction, improvement, alteration, existence or use of a road has or will have on the surroundings of the road, the Department may enter into an agreement with any person interested in land adjoining or in the vicinity of the road for restricting or regulating the use of the land either permanently or during such period as may be specified in the agreement.

(2) An agreement under this Article may, in particular, make provision for the planting and maintenance of trees, shrubs or plants of any other description on the land and for restricting the lopping or removal of trees, shrubs or other plants on the land.

(3) An agreement under this Article may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the Department to be necessary or expedient for the purposes of the agreement.

(4) Subject to Part X of the Land Registration Act (Northern Ireland) 1970<sup>(6)</sup>, the provisions of any agreement made under this Article with any person interested in land shall be binding on persons deriving title from that person in respect of the land.

### *Miscellaneous powers*

#### **Power to obtain information as to ownership of land**

**118.**—(1) The Department may, for the purpose of enabling it to carry out any of its functions under this Order, by notice in writing require the occupier of any land and any person who, either directly or indirectly, receives rent in respect of any land, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.

(2) Any person required to give information in pursuance of this Article who without reasonable excuse fails to give, or knowingly misstates, that information shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Power to enter on land**

**119.**—(1) Subject to this Article, a person authorised in that behalf by the Department shall, on producing if so required some duly authenticated document showing his authority, have a right to enter on any land at all reasonable hours for the purpose of—

- (a) surveying land or boring or carrying out other works in order to ascertain the suitability of the land for the execution of works or whether land ought to be acquired by the Department under this Order;
- (b) inspecting, repairing, altering, renewing or removing any works executed under this Order in or on the land;
- (c) ascertaining whether there is or has been on or in connection with the land any contravention of this Order;

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(5) 1845 c. 18

(6) 1970 c. 18 (N.I.)

(d) ascertaining whether or not circumstances exist which would authorise the Department to take any action or execute any works under this Order;

(e) taking any action, or executing any works authorised or required by this Order to be taken or executed by the Department.

(2) Except in a case of emergency, admission to land for the purpose of executing work thereon shall not be demanded under paragraph (1) unless at least 7 days' notice of the intended entry has been given to the occupier.

(3) Where notice of intended entry for a particular purpose has been given as respects the first occasion on which the right of entry is exercised, no further notice shall be required before entering on the land on a subsequent occasion in connection with that purpose.

(4) If it is shown to the satisfaction of a justice of the peace on a sworn complaint in writing—

(a) that admission to the land which any person is entitled to enter by virtue of this Article, has been refused to that person, or that refusal is apprehended, or that the land is unoccupied, or the occupier is temporarily absent, or that the case is one of urgency; and

(b) that there are reasonable grounds for entry to the land for any purpose for which the entry is required,

the justice may by warrant under his hand authorise that person to enter on the land if need be by force.

(5) Any person entitled to enter on any land by virtue of a right of entry or of a warrant issued under this Article—

(a) may take with him such other persons and such equipment as may be necessary; and

(b) on leaving any unoccupied land which he has entered by virtue of such a warrant shall leave it as effectually secured against trespassers as he found it.

(6) Every warrant granted under this Article shall continue in force until the purpose for which entry is necessary has been satisfied.

(7) Any person who wilfully obstructs any person upon whom a right of entry has been conferred by this Article or by a warrant issued thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) Where work has been carried out on land in pursuance of this Article, the Department shall reinstate the land as soon as possible.

(9) In determining whether an hour is a reasonable one for the purposes of paragraph (1), regard shall be had to whether there is an emergency or not.

(10) Where—

(a) in the exercise of the powers conferred by this Article any damage is caused to land or chattels, any person interested in the land or chattels may recover compensation in respect of the damage from the Department;

(b) in consequence of the exercise of any such powers any person is disturbed in his enjoyment of land or chattels, he may recover compensation in respect of that disturbance from the Department.

(11) Any question of disputed compensation under paragraph (10) shall be referred to and determined by the Lands Tribunal.

### **Power to enter land for construction of temporary works**

**120.**—(1) Any person authorised in that behalf by the Department may, for the purpose of executing any temporary works which are necessarily incidental to the construction or improvement

of a road, enter on any land adjoining the road, and execute those works after giving reasonable notice in writing to the owner or occupier of the land.

(2) Where the Department is about to construct or repair a road, any person authorised by it in that behalf may enter on any land adjoining the road and construct a temporary road on it, for use while the work is in progress.

(3) Where—

- (a) in the exercise of the powers conferred by paragraph (1) or (2) any damage is caused to land or chattels, any person interested in the land or chattels may recover compensation in respect of the damage from the Department;
- (b) in consequence of the exercise of any such powers any person is disturbed in his enjoyment of land or chattels, he may recover compensation in respect of that disturbance from the Department.

(4) Any person who wilfully obstructs a person acting in exercise of his powers under paragraph (1) or (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Any question of disputed compensation under paragraph (3) shall be referred to and determined by the Lands Tribunal.