

## SCHEDULE

Regulation 4

### COMPENSATION FOR GRANT OF RIGHTS

#### **Interpretation**

1. In this Schedule—

“the grantor” means the person who grants, or joins in granting, any right pursuant to Article 18(2) of the 1999 Order; and

“relevant interest” means an interest in land out of which a right has been granted or which is bound by a right granted.

#### **Period for making an application**

2. An application for compensation shall be made within the period beginning with the date of the grant of the rights in respect of which compensation is claimed and ending on whichever is the latest of the following dates:—

- (a) 12 months after the date of the grant of those rights;
- (b) where there is an appeal against the works notice which imposed requirements in relation to which those rights were granted, 12 months after the date on which the appeal is determined or abandoned; or
- (c) six months after the date on which the rights were first exercised.

#### **Manner of making an application**

3.—(1) An application for compensation shall be made in writing and delivered at or sent by pre-paid post to the last known address for correspondence of the person to whom the right was granted.

(2) The application shall contain—

- (a) a copy of the grant of rights in respect of which the grantor is applying for compensation and of any plans attached to such grant;
- (b) a description of the exact nature of any interest in land in respect of which compensation is applied for; and
- (c) a statement of the amount of compensation applied for, distinguishing the amounts applied for under each of sub-paragraphs (a) to (e) of paragraph 4 and showing how the amount applied for under each sub-paragraph has been calculated.

#### **Loss and damage for which compensation payable**

4. Compensation shall be payable for loss and damage of the following descriptions—

- (a) any depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the right;
- (b) loss or damage, in relation to any relevant interest to which he is entitled, which—
  - (i) is attributable to the grant of the right or the exercise of it;
  - (ii) does not consist of depreciation in the value of that interest; and
  - (iii) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if that interest had been acquired compulsorily under the Land Acquisition and Compensation (Northern Ireland) Order 1973(1),

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(1) S.I.1973/1896 (N.I. 21)

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

in pursuance of a notice to treat served on the date on which the grant of the right was made;

- (c) damage to, or injurious affection of, any interest in land to which the grantor is entitled which is not a relevant interest and which results from the grant of the right or from the exercise of it;
- (d) any loss or damage sustained by the grantor, other than in relation to any interest in land to which he is entitled, which is attributable to the grant of the right or the exercise of it; and
- (e) the amount of any valuation and legal expenses reasonably incurred by the grantor in granting the right and in the preparation of the application for and the negotiation of the amount of compensation.

#### **Basis on which compensation assessed**

5.—(1) The rules set out in Article 6 of the Land Compensation (Northern Ireland) Order 1982<sup>(2)</sup> (rules for assessing compensation) shall, so far as applicable and subject to any necessary modifications, have effect for the purpose of assessing any compensation under paragraph 4, as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) Where the relevant interest in respect of which any compensation is to be assessed is subject to a mortgage—

- (a) the compensation shall be assessed as if the interest were not subject to the mortgage;
- (b) no compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
- (c) any compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall, in either case, be applied by him as if it were proceeds of sale.

#### **Determination of disputes**

6.—(1) Any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

(2) In relation to the determination of any such question of compensation the provisions of Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982 (procedure on references to the Lands Tribunal and costs) shall apply as if—

- (a) the reference in Article 4 of the Land Compensation (Northern Ireland) Order 1982 to Article 3 of that Order were a reference to sub-paragraph (1);
- (b) and references in Article 5 of the Land Compensation (Northern Ireland) Order 1982 to the acquiring authority were references to the person to whom the rights were granted.

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(2) S.I. 1982/712 (N.I. 9)