

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Act (Northern Ireland) 1934, SECOND SCHEDULE . (See end of Document for details)*

## SCHEDULES

### SECOND SCHEDULE <sup>F1</sup>

Section 22.

#### ACQUISITION OF LAND BY VESTING ORDERS

**F1** See note to s.22(2)

##### PRELIMINARY PROCEDURE

- 1 The local authority, where they propose to acquire land otherwise than by agreement, may submit to the Ministry of Home Affairs an application in the prescribed form for an order vesting in the local authority the land specified in the application.
- 2 Notice of the application shall be published by the local authority in the prescribed manner, and such notice shall be given both in the locality in which the land is proposed to be acquired and to the [<sup>F2</sup> persons appearing to the local authority to have interests in] that land as may be prescribed.

Notice of the application shall also be given to such Government departments as may be prescribed.

**F2** 1946 c.4 (NI)

- 3 On the expiration of one month after the publication of the notice of the application, the Ministry of Home Affairs, after considering all objections to the application which may have been presented to the said Ministry by persons interested in the land specified in the application, and after causing a local inquiry to be held (if the said Ministry thinks it necessary to do so) as to the propriety of making the order applied for, may make an order vesting in the local authority the said land, or so much thereof, as the said Ministry thinks proper.

If a local inquiry is held as aforesaid, the local authority and all persons interested in the land, and such other persons as the person holding the inquiry in his discretion thinks fit to allow, shall be permitted to appear and to be heard at the inquiry, and before making the order, the Ministry of Home Affairs shall consider the report of the person who held the inquiry, and all objections made thereat.

- 4 The order shall contain such provisions as the Ministry of Home Affairs thinks necessary for the purpose of carrying the order into effect, and may provide for the suspension of the operation of the order, or any part thereof, until the local authority have paid, or made provision to the satisfaction of the said Ministry for the payment of, compensation to persons interested in the land to which the order relates, or in land injuriously affected by the works proposed to be carried out by the local authority.

An order made by the Ministry of Home Affairs as aforesaid is in this Schedule referred to as a “vesting order.”

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- 5 Notice of a vesting order which has become operative shall be given to such Government departments (including the Ministry of Finance) as may be prescribed.

#### OPERATION OF VESTING ORDER

- 6 A vesting order shall be effectual to pass and vest in the local authority, as from the date on which the vesting order becomes operative (in this Schedule referred to as “the date of vesting” ), an estate in fee simple in the land to which it relates, discharged from all claims, estates, incumbrances or charges whatsoever, or (if the case so requires) such easement or right as the vesting order may specify; and the rights and claims of all persons in respect of such land or any interest therein shall, as from the date of vesting, be transferred and attached, to the extent to which compensation may be payable in accordance with the provisions of this Schedule, to the rate or fund out of which the expenses of the local authority in acquiring the land are to be defrayed (in this Schedule referred to as “the compensation fund” ), and shall be discharged by payments out of the compensation fund.

In so far as a vesting order relates to land, the ownership of which is registered under the Local Registration of Title (Ireland) Act, 1891 <sup>F3</sup>, the date of vesting shall, notwithstanding anything in the foregoing provisions of this article, be either the date on which the vesting order becomes operative, or the date of the lodgment of the vesting order with the registering authority under the said Act, whichever is the later.

**F3** [1970 c.18 \(NI\)](#)

- 7 A vesting order, or the title created by a vesting order (if it relates to land the ownership of which is registered as aforesaid), shall, forthwith upon production of such vesting order, be registered in the proper office for the registration of deeds or titles, as the case requires.
- 8 Where a vesting order relates to any land forming part of a holding which is subject to the future payment of an annuity under the Land Purchase Acts, it shall not be necessary for any consent or authority for the sub-division of the holding to be given under any enactment of those Acts.
- 9 On and after the date of vesting, the local authority may enter upon and use the land to which the vesting order relates.

[<sup>F4</sup> REFERENCE OF DISPUTED CASES TO LANDS TRIBUNAL]

**F4** [1964 c.29 \(NI\)](#)

- 10 (1) As soon as a vesting order has become operative, any question of disputed compensation arising between the local authority and any person interested in any land to which the vesting order relates, or land injuriously affected by the works proposed to be carried out by the local authority, shall be referred to and determined by [<sup>F5</sup> the Lands Tribunal for Northern Ireland (in this Schedule referred to as “the Lands Tribunal” )].
- (2) <sup>F6</sup> Where a vesting order relates to any land forming part of a holding which is subject to the future payment of an annuity under the Land Purchase Acts, an agreement for the payment of compensation by the local authority to any person interested in such land shall not have effect unless—

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- (a) the prescribed notice of the proposed agreement has been given to the Ministry of Finance, and
- (b) the prescribed period has elapsed.

If within the prescribed period the said Ministry notifies the local authority of its intention to bring before [<sup>F5</sup> the Lands Tribunal] any question with respect to the apportionment or redemption of the annuity, such agreement as aforesaid shall not have effect pending the decision of [<sup>F5</sup> the Lands Tribunal], and a question of disputed compensation shall be deemed to have arisen for the purposes of this Schedule.

**F5** [1964 c.29 \(NI\)](#)

**F6** functions transf. by 1982 NI 6

- 11 (1) [<sup>F7</sup> Where any question of disputed compensation arises, the local authority shall, as soon as practicable thereafter,] cause to be made out, and to be signed by their clerk or some other principal officer appointed by them maps and schedules of any lands to which the vesting order relates and lands injuriously affected by the works proposed to be carried out by the local authority (in this Schedule referred to as “the scheduled lands”), together with the names, so far as the same can be reasonably ascertained, of all persons who immediately prior to the making of the vesting order were interested in such lands as owners or reputed owners, lessees or reputed lessees, or occupiers.
- (2) The maps made by the local authority shall be upon such scale and be framed in such manner as is hereinafter set forth, that is to say—
- (a) The maps shall be upon a scale of not less than one inch to every two hundred and twenty feet, and unless the whole of such maps shall be upon a scale of not less than one inch to every hundred feet an enlarged plan shall be added of any building, yard or garden upon a scale of not less than one inch to every hundred feet;
  - (b) Each field, enclosure, road, passage, house or building to which the vesting order relates, whether wholly or in part, shall be clearly shown on the maps, with the fences of the lands abutting thereon accurately indicated, and with the areas acquired marked in acres, roods, and perches, statute measure, and clearly defined by boundaries;
  - (c) Each separate parcel of land or property of any kind shall be indicated and marked on the maps by a distinctive number corresponding to a number assigned to such property in the schedule of the scheduled lands;
  - (d) The maps shall show the names of the townlands, electoral divisions, county districts and counties in which the scheduled lands are situated, and all townland boundaries so far as they intersect or closely adjoin the scheduled lands;
  - (e) The scale of each map shall be clearly marked thereon and the points of the compass and a portion of any closely adjoining street or road shown, with the name thereof, or with words indicating the towns or villages to or from which the street or road leads.
- (3) The local authority shall deposit such maps and schedules [<sup>F7</sup> with the appropriate officer of the Lands Tribunal] and shall deposit and keep copies of such maps and schedules at the office of the local authority [<sup>F8</sup> and the local authority shall publish once in each of three successive weeks a notice stating that such documents have been deposited and the times and place at which copies of them may be inspected by any person desiring to inspect them.]

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*Para. 12 rep. by 1964 c. 29 (NI)*

**F7** 1964 c.29 (NI)  
**F8** 1964 c.29 (NI)

#### SPECIAL POWERS OF [F9 THE LANDS TRIBUNAL]

**F9** 1964 c.29 (NI)

- 13 (1) [F10 The Lands Tribunal] shall have the same power of apportioning any rent-service, rent-charge, chief, or other rent, payment, or incumbrance, or any rent payable in respect of lands comprised in a lease, as two justices have under the Lands Clauses Consolidation Act, 1845 .
- (2) [F10 The Lands Tribunal] in fixing the amount of compensation to be awarded may in the case of the severance of any house, building or manufactory, have regard to and take into account any loss or damage which has been occasioned by or may ensue from such severance and award compensation therefor in addition to the value of the part of the premises taken by the local authority.
- (3) Subject to the provisions of article twenty of this Schedule, the amount of purchase money or compensation to be paid in pursuance of section one hundred and twenty-four of the Lands Clauses Consolidation Act, 1845, in respect of any estate, right, or interest in or charge affecting any of the scheduled lands which the local authority have through mistake or inadvertence failed or omitted duly to purchase or make compensation for, shall be awarded by [F10 the Lands Tribunal], and be paid, in like manner, as near as may be, as the same would have been awarded and paid if the claim of such estate, right, interest, or charge had been delivered to [F10 the Lands Tribunal] before the day fixed for the delivery of statements of claims.
- If [F10 the Lands Tribunal] is satisfied that the failure or omission to purchase the said estate, right, interest, or charge, arose from any default on the part either of the claimant or of the local authority, [F10 the Lands Tribunal] may direct the costs to be paid by the party so in default.
- (4) In determining the amount of any disputed compensation [F10 the Lands Tribunal] shall have regard to the extent to which any remaining and contiguous lands and hereditaments, belonging to the same proprietor, may be benefited by the proposed work for which the land, to which the vesting order relates, is acquired by the local authority.
- (5) In determining the amount of any disputed compensation, [F10 the Lands Tribunal] shall not award any sum of money for or in respect of any improvement or alteration made, or building erected, after the date of the giving by the local authority of the notice prescribed for the purposes of article two of this Schedule, if, in the opinion of [F10 the Lands Tribunal], the improvement, alteration or building, in respect of which the claim is made, was made or erected with a view to obtaining or increasing compensation; nor, in the case of any estate or interest created after the said date in any land to which the vesting order relates, shall any sum of money be awarded so as to increase the total amount of compensation which would otherwise have been required to be paid in respect of the acquisition of such lands.

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*Sub-para. (6) rep. by 1964 c. 29 (NI)*

**F10** 1964 c.29 (NI)

#### PROCEDURE AND COSTS OF ARBITRATION

*Para. 14 rep. by 1964 c. 29 (NI)*

- 15 ...<sup>F11</sup> all costs, charges, and expenses (if any) which may be incurred by the Ministry of Home Affairs in carrying the provisions of this Schedule into execution, shall, after the amount thereof shall have been certified under this article, be paid by the local authority. The amount of such ...<sup>F11</sup>, costs, charges, and expenses shall from time to time be certified by the said Ministry after first hearing any objections that may be made to the reasonableness of any such ...<sup>F11</sup>, costs, charges and expenses by or on behalf of the local authority; and every certificate of the said Ministry certifying the amount of such fees, costs, charges, and expenses shall be taken as proof in all proceedings at law or in equity of the amount of such respective ...<sup>F11</sup>, costs, charges, and expenses, and the amount so certified shall be a debt due from the local authority to the Crown, and shall be recoverable accordingly.

Further, any such certificate may be made a rule of the High Court on the application of any party named therein, and may be enforced accordingly.

**F11** 1964 c.29 (NI)

#### DELIVERY OF CLAIMS

- 16 When the amount of the compensation has been determined by [<sup>F12</sup> the Lands Tribunal], the local authority shall publish in each of two successive weeks, in some newspaper or newspapers circulating in the locality where the land acquired is situate, a notice requiring all persons claiming any interest therein to deliver to the local authority on or before a day to be named in such notice (such day not being earlier than twenty-one days from the date of the second publication of the notice) a short statement in writing of the nature of such claim and a short abstract of the title on which the same is founded.

**F12** 1964 c.29 (NI)

- 17 Within thirty days from the delivery of such statement and abstract, the local authority shall, where it appears to them that any person so claiming is absolutely entitled to the interest in the compensation fund claimed by him, pay to such person the compensation to which he is entitled, on obtaining from him a receipt for the same in the prescribed form.

#### SATISFACTION OF CLAIMS ATTACHED TO COMPENSATION FUND

- 18 (1) The local authority, before paying out of the compensation fund to any person any compensation (whether the amount thereof has been settled by agreement or determined by [<sup>F13</sup> the Lands Tribunal]) shall obtain from that person a receipt in the prescribed form which shall be prepared by, and executed at the cost of, the local authority, and such receipt shall operate to release the compensation fund from all claims by the person giving it and all parties claiming through or under him.

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- (2) The local authority shall pay the costs of furnishing any statement, abstract or other evidence of title required by them to be furnished by any person claiming any interest in the compensation fund.

**F13** 1964 c.29 (NI)

- 19 (1) Where the compensation payable (whether the amount thereof has been settled by agreement or determined by [<sup>F14</sup> the Lands Tribunal]) to any person claiming any interest in the compensation fund does not exceed the sum of one hundred pounds, and the claimant makes a statutory declaration in the prescribed form stating whether he claims as absolute or as limited owner, and gives prima facie evidence which satisfies the local authority that for not less than six years immediately preceding he, or his immediate predecessor in title, has been personally or by an agent in receipt of the rents or profits of the land in respect of which compensation is payable, or in actual occupation thereof, the local authority may pay to the person claiming as absolute owner the compensation payable for the interest in respect of which he claims, and, in the case of a person claiming as limited owner of the interest in respect of which he claims, the local authority may pay the compensation payable for that interest to the trustees of the settlement under which such limited owner claims, or, where there are no such trustees, may pay such compensation into court in accordance with the provisions of article twenty-one of this Schedule.
- (2) Where any compensation not exceeding the sum of one hundred pounds is payable in respect of an interest which is subject to any mortgage or charge (not being a charge consisting of an annuity under the Land Purchase Acts, or a charge in respect of any sums repayable in respect of a loan or advance made by any Government department), the compensation may be paid to the person entitled to the mortgage or charge, or, if there is more than one such mortgage or charge, then to the person entitled to the mortgage or charge which is first in priority, and the amount so paid shall be received in reduction of the principal sum for the time being owing in respect of the mortgage or charge, notwithstanding any direction, proviso or covenant to the contrary contained in any instrument. Where the compensation is paid to a mortgagee or chargeant, the receipt given by the mortgagee or chargeant shall release the compensation fund from all claims by him and any subsequent mortgagee or chargeant, and also from all claims by the person creating the mortgage or charge and all persons claiming through or under that person.
- (3) A memorandum of the amount paid under the last preceding paragraph shall, when practicable, be endorsed on the instrument creating the mortgage or charge, and shall be signed by the person receiving the compensation, and a copy of the memorandum shall be furnished by the local authority at their expense to all persons appearing to the local authority to be entitled to any interest in the land subject to the mortgage or charge.

**F14** 1964 c.29 (NI)

- 20 Any person claiming to be entitled to any money paid to another person pursuant to the foregoing provisions of this Schedule may, within six years after the payment has been made, on giving such notice as may be required by rules of the<sup>F15</sup> Supreme Court, apply for relief ...<sup>F16</sup> to the High Court where the amount claimed exceeds one

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thousand pounds, or to the county court within the jurisdiction of which the land in respect of which the money has been paid is situate, where the amount claimed does not exceed one thousand pounds; and the court may either dismiss the application, or give judgment or make a decree against the local authority for the amount found due in respect of the claim, and in the latter case the said amount shall be a debt due to the local authority by the person to whom the money was paid by them, and arising at the date of such judgment or decree.

**F15** prosp. subst. by 2005 c. 4

**F16** 1962 c.30

- 21 If it appears to the local authority that any person claiming an interest in the compensation fund is not absolutely entitled to that interest, or is under any disability, or that his title is not satisfactorily deduced, or if any such person refuses to produce his title, or to accept the compensation as determined by [<sup>F17</sup> the Lands Tribunal], or if no claim has been made to the compensation within a year after it has been determined, then—
- (a) if the total amount of the compensation does not exceed one thousand pounds the local authority shall pay the money into the county court, and that court shall have with respect thereto all the jurisdiction exercisable by the High Court under the Lands Clauses Acts;
  - (b) if the amount of the compensation exceeds one thousand pounds, the amount payable by the local authority shall be paid, applied and dealt with in accordance with the provisions of the Lands Clauses Consolidation Act, 1845 , with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, and those provisions shall have effect accordingly.

**F17** 1964 c.29 (NI)

*Para. 22 rep. by 1964 c. 29 (NI)*

- [<sup>F18</sup>23 <sup>F19</sup> The local authority shall pay interest upon the compensation money, from the date of vesting of the land in respect of which the compensation is payable until the time of the payment of such money and interest to the party entitled thereto, or, where such compensation is paid into court, then until the sum with such interest is paid into court accordingly. The rate of interest payable under this Article shall be such rate as may from time to time be determined by the Ministry of Finance.]

**F18** 1955 c.13 (NI)

**F19** 1971 c.23 (NI)

- 24 The payment of the compensation in the manner provided by article twenty-one of this Schedule shall operate to discharge the compensation fund from all claims and interests in respect of which such compensation is payable.
- 25 For the purposes of article twenty-one of this Schedule, section seventy-two of the Lands Clauses Consolidation Act, 1845 , shall have effect as if “ one hundred pounds ” were substituted therein for “twenty pounds.”

*Para. 26 rep. by 1959 c. 25 (NI)*

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#### SUPPLEMENTARY

- 27 All notices required by this Schedule to be published shall be published in a newspaper circulating within the area of the local authority, and where no other form of service is prescribed a notice required to be served upon any person may be served either by delivering it or leaving it at the usual or last known place of abode of the person on whom it is to be served, or by sending it by post as a registered letter<sup>F20</sup> addressed to him at his usual or last known place of abode, or, if that cannot be found, by fixing it on some conspicuous part of the land. Any such notice or document may be addressed, as the case may require, to the “owner,” “occupier,” or “lessee” of the land (describing it) without further name or description.

**F20** 1963 c.5 (NI)

- 28 In this Schedule—

The expression “land”<sup>F21</sup> includes any such land or lands, easements, rights, buildings or other properties as the local authority has power to acquire under section ten of the Local Government (Ireland) Act, 1898<sup>M1</sup>, or section two hundred and two of the Public Health (Ireland) Act, 1878, as the case may be:

The expression “prescribed” means prescribed by regulations made by the Ministry of Home Affairs.

**F21** 1946 c.4 (NI)

**Modifications etc. (not altering text)**

**C1** 1878 c. 52

**Marginal Citations**

**M1** 1898 c. 37

*Third Schedule rep. by SLR (NI) 1952*



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