



## 2016 CHAPTER 28

### **Loss payments: supplementary provisions**

3. After Article 33C of the 1973 Order (inserted by section 2) insert—

#### **“33D Claims**

- (1) This Article applies for the purposes of Articles 33A to 33C.
- (2) A claim for payment must be made in writing to the acquiring authority.
- (3) The claim must give such particulars as the authority may reasonably require for the purpose of deciding—
  - (a) whether a payment is to be made;
  - (b) the amount of any such payment.
- (4) For the purposes of the Limitation (Northern Ireland) Order 1989 a person’s right of action to recover a payment must be taken to have accrued—
  - (a) in the case of a claim under Article 33A on the last day of the period specified in paragraph (4) of that Article;
  - (b) in the case of a claim under Article 33B or 33C on the date the vesting order is operative.

#### **33E Insolvency of claimant**

- (1) This Article applies if a person is entitled to a payment under Article 33A, 33B or 33C but before a claim is made under Article 33D insolvency proceedings are started in relation to the person.

(2) Any of the following may make a claim instead of the person mentioned in paragraph (1)—

- (a) a receiver, trustee in bankruptcy or the official receiver in the case of an individual;
- (b) an administrator, administrative receiver, liquidator or provisional liquidator or the official receiver in the case of a company or a partnership.

(3) Insolvency proceedings are—

- (a) proceedings in bankruptcy;
- (b) proceedings under the Insolvency (Northern Ireland) Order 1989 for the winding up of a company or an unregistered company (including voluntary winding up of a company under Part 5 of that Order;
- (c) proceedings for the winding up of a partnership.

### **33F Death of claimant**

(1) This Article applies if a person is entitled to a payment under Article 33A, 33B or 33C but before a claim is made under Article 33D the person dies (“the deceased”).

(2) A claim may be made by a person who—

- (a) occupied the land for a period of not less than one year ending with the date on which the vesting order is operative, and
- (b) is entitled to benefit on the death of the deceased by virtue of—
  - (i) a testamentary disposition;
  - (ii) the law of intestate succession; or
  - (iii) the right of survivorship between joint tenants.

### **33G Payment**

(1) Any dispute as to the amount of a payment to be made under Article 33A, 33B or 33C must be determined by the Lands Tribunal.

(2) The acquiring authority must make any payment required by Article 33A not later than whichever is the latest of the following dates—

- (a) the last day of the period specified in Article 33A(4);
- (b) the last day of the period of 3 months beginning with the day the claim is made;
- (c) the day on which the amount of the payment is determined.

(3) The authority must make any payment required by Article 33B or 33C not later than whichever is the latest of the following dates—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the date on which the vesting order is operative;
- (b) the last day of the period of 3 months beginning with the day the claim is made;
- (c) the day on which the amount of the payment is determined.

(4) If sub-paragraph (c) of paragraph (2) or (3) applies the authority may at any time make a payment in advance to the person entitled to a payment (“the claimant”).

(5) If when the value of the interest is agreed or determined the amount of a payment made under paragraph (4) differs from the payment required by Article 33A, 33B or 33C—

- (a) the amount by which the advance payment exceeds the payment required must be repaid by the claimant to the authority;
- (b) the amount by which the payment required exceeds the advance payment must be paid by the authority to the claimant.

(6) The acquiring authority must pay interest on the amount required to be paid at the rate for the time being determined by order under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972.

(7) Interest accrues from the date specified in sub-paragraph (a) of paragraph (2) or (3) (as the case may be).

(8) The authority may, at the request of the person entitled to the payment, make a payment on account of the interest mentioned in paragraph (6).

### **33H Acquisition by agreement or following service of purchase notice or blight notice**

- (1) This Article applies if—
  - (a) an interest in land which is a qualifying interest for the purpose of Article 33A is acquired by agreement by an authority which has power to acquire the interest compulsorily, and
  - (b) the interest is acquired from a person who would be entitled to a payment under Article 33A, 33B or 33C if the interest is acquired compulsorily.
- (2) This Article also applies if—
  - (a) an interest in land which is a qualifying interest for the purpose of Article 33A is acquired by an authority which has power to acquire the interest compulsorily,
  - (b) the interest is acquired from a person who would be entitled to a payment under Article 33A, 33B or 33C if the interest is acquired compulsorily; and
  - (c) the interest is acquired in consequence of the service of—

- (i) a purchase notice under section 191 of the Planning Act (Northern Ireland) 2011 (right to require purchase of certain interests); or
  - (ii) a notice under Article 5 of the Planning Blight (Compensation)(Northern Ireland) Order 1981 (purchase of blighted land).
- (3) The authority may make a payment to the person of an amount equal to the amount it would be required to pay if the interest is acquired compulsorily.

### **33I Regulations**

- (1) The Department for Regional Development may by regulations—
- (a) provide that no payment is to be made under Article 33A, 33B or 33C to a person of such description, or in such circumstances, as may be prescribed in the regulations;
  - (b) substitute for any amount or percentage figure specified in Articles 33A to 33C such other amount or percentage figure (as the case may be) as it thinks fit.
- (2) Regulations under this Article shall not be made unless a draft of the regulations has been laid before and approved by resolution of the Assembly.”.