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STATUTORY INSTRUMENTS

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**1981 No. 608**

**The Planning Blight (Compensation)  
(Northern Ireland) Order 1981**

*Blight notices-general*

**Application of this Order**

- 3.—(1) This Order has effect in relation to any land which—
- (a) is land authorised by any Local or Private Act to be compulsorily acquired, or falling within the limits of deviation within which powers of compulsory acquisition are exercisable under such an Act; or
  - (b) is land shown on a map or plan approved by a resolution of the Northern Ireland Housing Executive, or land described in a resolution of the Housing Executive, as land which may be acquired for the purpose of re-development under the Housing (Northern Ireland) Order 1981<sup>F1</sup>; or
  - (c) is land in an area which, under a declaration of the Northern Ireland Housing Executive, is a proposed re-development area; or
  - (d) is land on which the Department proposes to<sup>F2</sup> construct, improve or alter] a road and has given to the district council for the area written notice of its intention to<sup>F2</sup> construct, improve or alter] the road, together with a map or plan sufficient to identify the proposed route of the road<sup>F2</sup> or (as the case may be) the proposed extent of the improvement or alteration]; or
  - (e) is land—
    - (i) on which the Department proposes to<sup>F2</sup> construct, improve or alter] a road; and
    - (ii) in respect of which the Department has exercised its power under the Planning<sup>F3</sup> Order] to prevent or restrict development of that land; or
  - (f) is land on or adjacent to the line of a road or special road proposed to be constructed, improved or altered as indicated in a draft order referred to in a notice published in accordance with paragraph 1 of<sup>F4</sup> Schedule 8 to the Roads (Northern Ireland) Order 1993, or an order under Article 14(1) or 15(1) of that Order, being land in relation to which a power of compulsory acquisition conferred by that Order] is or may become exercisable, as being land required for purposes of construction, improvement, or alteration as indicated in the draft order or order or for the purposes of<sup>F4</sup> Article 112 of that Order]; or
  - (g) is land indicated in a development plan adopted under Part III of<sup>F3</sup> the Planning Order] as land which may be required for the purposes of any function of a government department, district council or authority possessing compulsory purchase powers; or
  - (h) is land indicated in a plan (not being a development plan) as land which may be required for the purposes of any function of a government department, district council or authority possessing compulsory purchase powers, being land in respect of which the Department

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- has given to the district council written notice of its intention to exercise its powers of planning control under Part IV of<sup>F3</sup> the Planning Order] by reference to such a plan; or
- (i) is land in respect of which the Department has exercised its powers under Part IV of that Order to safeguard it for development for the purposes of any function mentioned in subparagraph (h); or
- (j) is land indicated in a development scheme adopted under<sup>F3</sup> Article 86 of the Planning Order] as land which may be required for the purposes of any function of a government department, district council or authority possessing compulsory purchase powers; or
- (k) is land shown on a map or plan published by the Department as land proposed to be acquired by it or the purposes of<sup>F4</sup> Article 112 of the Roads (Northern Ireland) Order 1993]; or
- (l) is land in a housing action area, being land in respect of which the Northern Ireland Housing Executive has published information indicating that the Executive intends to acquire it.
- (2) In paragraph (1)(g) the reference to a development plan includes a reference to—
- <sup>F3</sup>(a) a plan, an alteration to a plan or a replacement plan of which copies have been made available for inspection under Article 5(4) or 6(3) of the Planning Order;
- (b) modifications proposed to be made by the Department in any such plan, alteration or replacement plan, being modifications of which notice has been given by the Department in accordance with regulations under Part III of that Order.]
- (3) In paragraph (1)(j) the reference to a development scheme adopted under<sup>F3</sup> Article 86 of the Planning Order] includes a reference to—
- (a) a development scheme copies of which have been made available for inspection under<sup>F3</sup> Article 86(1)] of that Order;
- (b) proposals under<sup>F3</sup> Article 86(4)] of that Order for amending a development scheme.
- (4) No blight notice shall be served by virtue of paragraph (2) or (3) after the relevant provisions have been adopted by the Department (whether in their original form or with modifications).
- (5) Where an appropriate authority has served a counter-notice objecting to a blight notice served by virtue of paragraph (2) or (3) then, if the relevant provisions are adopted (whether in their original form or with modifications or alterations) the appropriate authority may serve on the claimant, in substitution for the counter-notice already served, a further counter-notice specifying different grounds of objection and Article 7 shall have effect in relation to the further counter-notice as it has effect in relation to the counter-notice already served, but a further counter-notice under this paragraph shall not be served—
- (a) at any time after the end of the period of two months beginning with the date on which the relevant provisions are adopted; or
- (b) if the objection in the counter-notice already served has been withdrawn or the Lands Tribunal has already determined whether or not to uphold that objection.
- (6) In paragraphs (4) and (5) “relevant provisions” means the relevant plan or development scheme or the proposals for such a plan or scheme.

<b>F1</b>	1981 NI 3
<b>F2</b>	1982 NI 20
<b>F3</b>	1991 NI 11
<b>F4</b>	1993 NI 15

### Interests qualifying for protection

4.—(1) An interest in land qualifies for protection under this Order if, on the date of service of a blight notice in respect thereof, the interest—

- (a) is that of a resident owner-occupier; or
- (b) is that of an owner-occupier—
  - (i) in an agricultural unit or part thereof; or
  - (ii) in a hereditament the annual value of which does not<sup>F5</sup> exceed in the case of a specified hereditament (as defined by Article 39A(3) of the Rates (Northern Ireland) Order 1977)<sup>F6</sup> £19,685] and in the case of any other hereditament, £2,250 or such other amounts as the Department may by order substitute for those sums.]

(2) In this Order “resident owner-occupier” in relation to a hereditament means an individual who—

- (a) occupies, in right of an owner's interest, the whole or a substantial part of the hereditament as a private dwelling and has so occupied the hereditament or that part during the whole of the period of six months ending with the date of service of a blight notice; or
- (b) occupied, in right of an owner's interest, the whole or a substantial part of the hereditament as a private dwelling during the whole of a period of six months ending not more than one year before the date of service of a blight notice, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.

(3) In this Order “owner-occupier” in relation to an agricultural unit means a person who—

- (a) occupies the whole of that unit, and has occupied it during the whole of the period of six months ending with the date of service of a blight notice; or
- (b) occupied the whole of that unit during the whole of a period of six months ending not more than one year before the date of service of a blight notice,

and, at all times material for the purposes of sub-paragraph (a) or, as the case may be, sub-paragraph (b), has been entitled to an owner's interest in the whole or part of that unit.

(4) In this Order “owner-occupier” in relation to a hereditament means a person who—

- (a) occupies, in right of an owner's interest, the whole or a substantial part of the hereditament and has so occupied the hereditament or that part during the whole of the period of six months ending with the date of service of a blight notice; or
- (b) occupied, in right of an owner's interest, the whole or a substantial part of the hereditament during the whole of a period of six months ending not more than one year before the date of service of a blight notice, the hereditament or that part thereof, as the case may be, having been unoccupied since the end of that period.

(5) In this Article “owner's interest” means a freehold interest (whether legal or equitable) or a<sup>F7</sup> legal tenancy] granted or extended for a term of years of which, on the date of service, not less than three years remain unexpired.

<b>F5</b>	SR 1997/144
<b>F6</b>	SR 2003/73
<b>F7</b>	1982 NI 20

### Notice requiring purchase of claimant's interest

5.—(1) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the specified descriptions and a person claims that—

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- (a) he is entitled to an interest in that hereditament or agricultural unit which qualifies for protection under this Order, and
- (b) he has made reasonable endeavour to sell that interest, and
- (c) in consequence of the fact that the hereditament or unit or part of it was, or was likely to be, comprised in land of any of the specified descriptions, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land,

he may serve on the appropriate authority a blight notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, this Order.

(2) Paragraph (1) applies to an interest in part of a hereditament or agricultural unit, but this paragraph does not enable any person—

- (a) if he is entitled to an interest in the entirety of a hereditament or agricultural unit to make any claim or serve a blight notice in respect of his interest in part of the hereditament or agricultural unit; or
- (b) if he is entitled to an interest only in part of a hereditament or agricultural unit, to make any claim or serve a blight notice in respect of his interests in less than the entirety of that part.

### **Objection to blight notice**

**6.—**(1) Where a blight notice has been served under this Order, the appropriate authority may, within two months from the date of service of that notice, serve on the claimant a counter-notice in the prescribed form objecting to the notice.

(2) The grounds on which objection may be made in a counter-notice to a blight notice are—

- (a) that no part of the hereditament or agricultural unit to which the notice relates is comprised in land of any of the specified descriptions;
- (b) that the appropriate authority (unless compelled to do so by virtue of this Order) does not propose to acquire compulsorily any part of the hereditament or (in the case of an agricultural unit) any part of the affected area;
- (c) that the appropriate authority proposes to acquire compulsorily part of the hereditament or (in the case of an agricultural unit) a part of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of this Order) does not propose to acquire compulsorily any other part of that hereditament or area;
- (d) that on the date of service of the blight notice the claimant was not entitled to an interest in any part of the hereditament or agricultural unit;
- (e) that (for reasons specified in the counter-notice) the interest of the claimant does not qualify for protection under this Order;
- (f) that the conditions in Article 5 (1) (b) and (c) are not fulfilled;
- (g) in the case of land of a description specified in Article 3 (1) (b), (d), (e), (g), (h), (i), (j) or (l), that the appropriate authority (unless compelled to do so by virtue of this Order) does not propose to acquire compulsorily any part of the hereditament or (in the case of an agricultural unit) any part of the affected area during the period of fifteen years from the date of the counter-notice, or such longer period as may be specified in the counter-notice;
- (h) that in the case of a blight notice served by a mortgagee—
  - (i) on the date of service of the blight notice the claimant had no interest as mortgagee in any part of the hereditament or agricultural unit to which the notice relates;

- (ii) (for reasons specified in the counter-notice) the claimant had not at that date the power referred to in Article 12 (1) (a);
  - (iii) (for reasons specified in the counter-notice) neither of the conditions specified in Article 12 (3) was, on the date of service of the blight notice, satisfied with regard to the interest referred to in that Article.
- (3) An objection may not be made under paragraph (2) (g) if it could be made under paragraph (2) (b).
- (4) A counter-notice served under this Article shall specify on which of the grounds mentioned in paragraph (2) or Article 10 (1) or 14 (3) the appropriate authority objects to a blight notice.
- (5) The Department of Finance may advance money from the Government Loans Fund to any person for the purpose of enabling him to acquire a hereditament or (in the case of an agricultural unit) the affected area in respect of which a counter-notice has been served specifying the grounds mentioned in paragraph (2) (g) as, or as one of, the grounds of objection.

### **Reference of objection to Lands Tribunal**

- 7.—(1) Where a counter-notice has been served objecting to a blight notice, the claimant may, within two months of the date of service of the counter-notice, refer the objection to the Lands Tribunal.
- (2) On any such reference, if the objection is not withdrawn, the Lands Tribunal shall consider the matters set out in the blight notice served by the claimant and the grounds of objection specified in the counter-notice; and, subject to paragraph (3), unless it is shown to the satisfaction of the Tribunal that the objection is not well founded, the Tribunal shall uphold the objection.
- (3) An objection on the ground mentioned in Article 6 (2) (b), (c) or (g) shall not be upheld unless it is shown to the satisfaction of the Tribunal that the objection is well founded.
- (4) The Tribunal shall not uphold an objection on the ground mentioned in Article 6 (2) (c) if the part of the hereditament which the appropriate authority proposes to acquire is, or includes, part of a house, building or factory and the Tribunal is satisfied that the part cannot be acquired without causing material detriment to the house, building or factory.
- (5) If the Tribunal determines not to uphold the objection, it shall declare the blight notice to which the counter-notice relates as valid.
- (6) If the Tribunal upholds the objection, but only on the grounds mentioned in Article 6 (2) (c), it shall declare that the notice is a valid notice in relation to the part of the hereditament or (in the case of an agricultural unit) of the affected area specified in the counter-notice as the part which the appropriate authority proposes to acquire compulsorily, but not in relation to any other part.
- (7) In determining under paragraph (4) whether part of a house, building or factory can be taken without material detriment to the house, building or factory, the Lands Tribunal shall take into account not only the effect of the severance but also the use to be made of the part proposed to be acquired; and in a case where the part is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.

### **Effect of valid blight notice**

- 8.—(1) Where a blight notice has been served and either—
- (a) no counter-notice has been served; or
  - (b) where such a counter-notice has been served, the objection is withdrawn, or on a reference to the Lands Tribunal, is not upheld by the Tribunal,

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the appropriate authority shall, on the date of acceptance, be deemed to have entered into a contract to purchase the interest of the claimant in respect of which the notice is effective and the claimant shall, on that date, be deemed to have entered into a contract to sell that interest to the authority.

(2) The amount to be paid for an interest by an appropriate authority under a contract deemed to have effect under paragraph (1) shall be the amount which the authority would have paid for the interest if it had compulsorily acquired the interest on the date of acceptance under the relevant statutory provision.

(3) Any dispute as to the amount to be paid under paragraph (2) for an interest shall be determined by the Lands Tribunal.

[<sup>F8</sup>(3A) A claimant may withdraw a blight notice at any time before the amount to be paid for the interest of the claimant has been agreed with the appropriate authority or determined by the Lands Tribunal or at any time before the end of six weeks beginning with the date on which that amount is so agreed or determined; and where a blight notice is withdrawn by virtue of this paragraph any contract deemed to have been made in consequence thereof shall be deemed not to have been made.]

(4) The date for the completion of the purchase of an interest in pursuance of a contract deemed to have effect under paragraph (1) shall, unless the claimant and the appropriate authority otherwise agree, be three months from the date on which they agree upon the amount to be paid for that interest or, in default of agreement on that amount, from the date on which the Lands Tribunal determines that amount.

(5) If on the date for the completion of a contract deemed to have effect under paragraph (1), the appropriate authority fails to pay to the claimant the amount payable to him under this Article, the authority shall, unless that failure arises from a cause other than the appropriate authority's act or default, pay to him, from that date until the date on which it pays that amount, interest on that amount at such rate as may for the time being be determined by the Department of Finance under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972<sup>F9</sup>.

(6) Where a counter-notice has been served objecting to a blight notice on the grounds mentioned in Article 6(2)(c), then if either—

- (a) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired, gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the hereditament or affected area specified in the counter-notice, and withdraws his claim as to the remainder of that hereditament or area, or
- (b) on a reference to the Lands Tribunal, the Tribunal makes a declaration in accordance with Article 7(6),

paragraph (1) shall have effect in relation to the interest of the claimant in the part of the hereditament or affected area specified in the counter-notice (but not in any other part of the hereditament or area) except that in a case falling under sub-paragraph (a) the date of acceptance shall be the date on which notice is given by the claimant under that sub-paragraph.

(7) For the purposes of determining the amount to be paid for an interest under a contract deemed to have effect under paragraph (1), for any reference in Part II of the Act of 1971 to the date of acquisition substitute a reference to the date of acceptance.

(8) Where a relevant authority acquires a lesser estate than a fee simple in any land under this Article, or it has acquired such an estate under section 7 of the Act of 1971, that authority may purchase (by agreement or otherwise) such estates in the land as it considers appropriate or may make, or apply for, a vesting order in respect of the land under the relevant statutory provision.

(9) Where under paragraph (8) a relevant authority may purchase, otherwise than by agreement, an estate in land, it shall do so under the relevant statutory provision.

(10) In this Article—

“the date of acceptance”

- (a) in a case where the Lands Tribunal, on a reference to it, does not uphold an objection, is the date of the Tribunal's determination;
- (b) in any other case, is the date on which the period of two months beginning with the date of service of a blight notice comes to an end;

“relevant authority” means an appropriate authority or any predecessor in title of that authority.

**F8** 1982 NI 20

**F9** 1972 c. 9 (NI)

**Status:**

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