



Land Development Values (Compensation) Act (Northern Ireland) 1965

1965 CHAPTER 23

^{F1}PART II

^{F2}COMPENSATION FOR PLANNING DECISIONS RESTRICTING NEW DEVELOPMENT

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| F1 | 1972 NI 17 |
| F2 | rep. with saving by 2001 c. 2 (NI) |

ATTRIBUTION OF DEVELOPMENT VALUE TO LAND

8 ^{F3}**Interpretation (Part II).**

- (1) In this Part any reference to the development value of land is, subject to the following provisions of this Part, a reference to the value which is determined to be the development value of the land under Part I.
- (2) For the purposes of this Part, land shall be taken to have a development value if, and only if, either—
 - (a) the land consists of a valued area and of no other land; or
 - (b) the land consists of part of a valued area and of no other land.
- (3) For the purposes of this Part, the development value of part of a valued area shall be so much of the amount of the development value of the land which forms that area as might reasonably have been attributed to that part if the Ministry had been required to apportion it between that part and the residue of the valued area in accordance with sections 1 to 3, but so that the aggregate of the development values of all the parts of a valued area shall equal the development value of that area.

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Subs. (3A) inserted by 1972 NI 17 art. 96 which was rep. by 1973 NI 21

- (4) In this section ...^{F4} “valued area” means any land in respect of which, in pursuance of a Part I application, a development value is determined to exist.

F3 rep. with saving by [2001 c. 2 \(NI\)](#)

F4 [1973 NI 21](#)

9 ^{F5}**Reduction or extinguishment of development value following planning compensation.**

- (1) Where at any time any such compensation as is mentioned in subsection (2) has been paid or becomes payable, then, for the purpose of determining whether the land in question or any part thereof has or had a balance of development value at any subsequent time—
- (a) the amount of the compensation shall be deducted from the development value of that land; and
 - (b) the development value of that land or that part thereof shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.
- (2) The said compensation is either—
- (a) any compensation under the Act of 1944 in relation to—
 - (i) a planning decision given on an application for planning permission for new development made after 25th February 1963; or
 - (ii) a planning decision given after the passing of this Act on an application for planning permission for new development made before 26th February 1963; or
 - (b) any compensation under this Part.
- (3) Subsection (1) shall have effect subject to the provisions of this Act relating to the recovery of compensation on subsequent development.

F5 rep. with saving by [2001 c. 2 \(NI\)](#)

10 ^{F6}**Reduction or extinguishment of development value on initiation of new development.**

- (1) Where any land has a development value and any new development of that land to which this section applies, is or was initiated, then for the purpose of determining whether that land or any part thereof has or had a balance of development value at any subsequent time:—
- (a) if the development relates or related only to that land the value (ascertained in accordance with Schedule 3) of that development; or
 - (b) if the development relates or related to that land together with other land, so much of the value (so ascertained) of that development as is or was attributable to that land;
- shall be deducted from the development value of that land, and that value shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

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- (2) This section applies to new development other than—
- (a) development which, when determining the state of the land for the purposes of section 3, was taken to have been completed at the date of the passing of this Act;
 - (b) development initiated in pursuance of a planning decision given (whether with or without conditions) before the passing of this Act on an application for planning permission made before 26th February 1963.
- (3) Where, under subsection (1), it becomes necessary to determine whether any land had a balance of development value by reference to a date occurring before the passing of this Act, for the references in subsection (2) to the passing of this Act there shall be substituted references to that date.

F6 rep. with saving by [2001 c. 2 \(NI\)](#)

11 ^{F7}**Reduction or extinguishment of development value following severance or injurious affection.**

- (1) Where—
- (a) at any time after the passing of this Act, any land is acquired by or sold to a public body; and
 - (b) compensation is or was payable, or an amount is or was included in the purchase price, in respect of a compensatable estate in land other than the acquired land for damage sustained by reason that the acquired land is or was severed from other land held therewith, or that any other land (whether held with the acquired land or not) is or was injuriously affected;

then for the purpose of determining whether that other land or any part thereof has a balance of development value at any subsequent time, there shall be deducted from the development value of that other land an amount calculated in accordance with subsection (2) and the development value of that land, or of the part thereof in question, as the case may be, shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

- (2) The amount required under subsection (1) to be deducted shall be the amount, if any, by which the compensation payable, or amount included in the purchase price as therein mentioned exceeds or exceeded the compensation which would have been so payable or the amount which would have been so included, if the extent of the damage sustained in respect of the other land in question had fallen to be ascertained on the assumption that planning permission would not be granted for any new development of that land, but would be granted for any development thereof other than new development.
- (3) In this section “the acquired land”, in relation to an acquisition or sale, means the land acquired or sold.

F7 rep. with saving by [2001 c. 2 \(NI\)](#)

12 ^{F8}**Supplementary provisions as to deductions from development value.**

- (1) Where—

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- (a) any land taken as a whole has a development value; and
- (b) an act or event occurs or has occurred in relation to part of that land such that, in accordance with any of the preceding provisions of this Part, an amount is required to be deducted from the development value of that part of that land for the purpose of determining whether that part has or had a balance of development value at any subsequent time;

then (without prejudice to the operation of any of the preceding provisions of this Part with respect to any part of the land taken separately) the land taken as a whole shall be treated as not having (or as not having had) any such balance at that subsequent time.

- (2) Where in accordance with any of the preceding provisions of this Part an amount is required to be deducted from the development value of any land, there shall be attributed to the various parts of that land so much of that amount as might reasonably be expected to have been attributed thereto if the authority determining the amount had been required to apportion it between those parts in accordance with the same principles as applied to its determination.
- (3) Where two or more acts or events occur or have occurred in relation to the same land such that in accordance with any of the preceding provisions of this Part, an amount is required to be deducted from the development value of that land or any part thereof—
 - (a) those provisions shall apply cumulatively; and
 - (b) the requisite deduction from the development value of that land or that part shall be made by reference to each of those acts or events.

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| F8 rep. with saving by 2001 c. 2 (NI) |
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13 ^{F9}**Information relating to development value.**

- (1) Subject to subsections (2) to (9), the Ministry shall, on application being made to it by any person, and may if it thinks fit without any such application issue a certificate in the prescribed form with respect to any land—
 - (a) stating whether any of that land has a development value;
 - (b) if it has, specifying the amount of the development value;
 - (c) giving a general statement of what was taken to be the state of the land for the purposes of Part I and specifying any planning decision which, under section 3(4), affected the development value of that land.
- (2) Any such certificate issued with respect to any land shall contain additional information with respect to acts or events (being acts or events of which the Ministry is aware) which are or may be relevant for the purpose of determining the balance of the development value of that land under this Part.
- (3) Nothing in subsection (1) shall be construed as entitling any person to the issue of a certificate under this section unless and until the development value, if any, of any land to which the application relates has been determined in accordance with Part I.
- (4) Where the issue of a certificate under this section with respect to any land involves a new apportionment, then—
 - (a) except where the certificate is a certificate which the Ministry proposes to issue without an application in that behalf, the certificate shall not be issued otherwise than on the application of a person who is for the time being entitled to an estate in the land;

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- (b) before issuing the certificate, the Ministry shall serve a notice in writing on any person entitled to an estate in land appearing to it to be an estate which will be substantially affected by the apportionment—
 - (i) giving particulars of the proposed apportionment; and
 - (ii) stating that objections or other representations with respect thereto may be made to the Ministry within the period of thirty days from the date of the notice; and
 - (c) the certificate shall not be issued before the end of that period, and if within that period an objection to the proposed apportionment has been made by any person to whom notice has been given under paragraph (b), or by any other person who establishes that he is entitled to an estate in land which is substantially affected by the apportionment, and that objection has not been withdrawn, subsection (5) shall have effect.
- (5) Where, by virtue of subsection (4)(c) this subsection has effect, then—
- (a) if within a further period of thirty days the person by whom any such objection was made requires the matter to be referred to the Lands Tribunal, the matter shall be so referred, and the certificate shall not be issued until either the Tribunal has decided the matter or the reference to the Tribunal has been withdrawn;
 - (b) the certificate may be issued before the end of that further period if every such objection has been withdrawn;
 - (c) the certificate shall be issued at the end of that further period notwithstanding that every such objection has not been withdrawn, if a requirement has not been made within that period under paragraph (a).
- (6) Where, on a reference to the Lands Tribunal under this section, it is shown—
- (a) that a new apportionment relates partly to the same matters as a previous apportionment; and
 - (b) that the new apportionment is consistent with the previous apportionment in so far as it relates to those matters;
- the Tribunal shall not vary the new apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.
- (7) A certificate under this section shall be sufficient proof of any facts stated therein unless the contrary is shown.
- (8) An application for a certificate under this section—
- (a) shall be made in such form and manner as may be prescribed; and
 - (b) shall be accompanied by sufficient particulars, including a map if necessary, to enable the land to be identified, and, where a new apportionment will be involved—
 - (i) particulars of the nature of the applicant's estate; and
 - (ii) such information as to the nature of any other estate in the land, and as to the name and address of the person entitled to that other estate, as may be known to the applicant.
- (9) On any application under subsection (1)—
- (a) the applicant shall pay in the prescribed manner a fee of [^{F10} 25p]; and
 - (b) if the application involves a new apportionment the certificate shall not be issued until the applicant has paid in the prescribed manner a further fee of [^{F10} 75p].

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- (10) In this section “new apportionment” means an apportionment which relates wholly or partly to any matter to which no previous apportionment related.

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| F9 rep. with saving by 2001 c. 2 (NI) F10 1969 c. 19 |
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RIGHT TO COMPENSATION

14 ^{F11}**Right to compensation arising out of certain planning decisions.**

- (1) Subject to this Part, compensation shall be payable under this Part in respect of, and only in respect of, a compensatable estate subsisting in land which is the subject of a planning decision, given on an application for planning permission made after 25th February 1963, whereby planning permission for the carrying out of any new development is refused, or is granted subject to conditions, if at the time of the decision—
- (a) the land to which the decision relates has a balance of development value; and
 - (b) the value of that compensatable estate, or, in the case of a compensatable estate extending to other land, the value of that compensatable estate in so far as it subsists in such land as is referred to in paragraph (a), is depreciated by the decision; and
 - (c) compensation under the Act of 1944 has not been paid and is not payable in respect of the planning decision.
- (2) Subsection (1) shall not apply in relation to a compensatable estate to which at the date of the planning decision in question a public body are entitled unless the compensatable estate subsists in land specified in regulations made under section 4 or land of a class or description so specified.

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| F11 rep. with saving by 2001 c. 2 (NI) |
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15 ^{F12}**Exclusion of compensation in certain cases.**

- (1) Compensation shall not be payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision whereby permission for the carrying out of any new development is refused—
- (a) where the development consists of—
 - (i) a change in the use ofng (including the conversion or adaptation of any building for the purpose of the proposed development); or
 - (ii) a change in the use of any land other than buildings, unless the development consists of the carrying out of any building operations or the getting of minerals or the stationing of any caravans on the land;
 - (b) if the reason or one of the reasons stated for the refusal is that development of the kind proposed would be premature having regard to either or both of the following matters, that is to say—
 - (i) the order of priority, if any, for development contained in [^{F13}a local development plan];

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- (ii) any existing deficiency in the provision of water supplies, sewerage services or roads and the period within which any such deficiency may reasonably be expected to be made good;
- so, however, that paragraph (b) shall not apply if the planning decision refusing the permission is given on an application made more than seven years after the date of a previous planning decision whereby permission to develop the same land was refused for the same reason, or for reasons which included the same reason.
- (2) Compensation shall not be payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision whereby permission for the carrying out of any new development is refused if the reason or one of the reasons stated for the refusal is that the land is unsuitable for the proposed development on account of its liability to flooding or subsidence.
- (3) Compensation shall not be payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision whereby permission to display any advertisements is refused or is granted subject to conditions.
- (4) Compensation shall not be payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision whereby permission for the carrying out of any new development is granted subject to conditions relating to—
- (a) the dimensions, design, structure or external appearance of any building, or the materials to be used in its construction;
 - (b) the number of any buildings included in the development or the disposition of any building so included;
 - (c) the character or user of any building or other land included in the development;
 - (d) the position in which caravans may be stationed on a caravan site at any one time or the number of caravans which may be so stationed;
 - (e) the net annual value of any building included in the development;
 - (f) the manner in which any land is to be laid out for the purposes of the development, including the provision of facilities for the parking, loading, unloading or fuelling of vehicles on the land;
 - (g) without prejudice to paragraph (h), the width, position or arrangement of streets or the materials to be used in the construction of streets;
 - (h) the width, position or arrangement of any means of access to a highway or the materials to be used in the construction of any such means of access;
 - (i) the getting of minerals or any operations incidental thereto.
- (5) Where a planning decision is given whereby permission to develop land is granted subject to conditions, compensation shall not be payable under this Part in respect of a compensatable estate subsisting in land which is the subject of that decision if any development permitted by the decision is initiated before the date on which an appeal is determined under [F14section 58 of the Planning Act in respect of that decision].
- (6) For the purposes of this section, a planning decision whereby permission for the carrying out of any new development is granted subject to a condition prohibiting development on a specified part of that land shall be treated as a decision refusing the permission with respect to that part of the land.
- (7) In this section—
- “advertisement” means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, employed wholly or partly for the purposes of advertisement, announcement or direction and includes any

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hoarding or similar structure which is used or intended for use for displaying advertisements;

“street” has the same meaning as in the Private Streets Act (Northern Ireland) 1964 .

F12 rep. with saving by 2001 c. 2 (NI)

F13 Words in s. 15(1) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 4 para. 1\(a\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F14 Words in s. 15(5) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 4 para. 1\(b\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

16 ^{F15}**Exclusion of compensation where permission for alternative development is available.**

- (1) Compensation shall not be payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision whereby permission for the carrying out of any new development is refused if, notwithstanding the refusal, there is available with respect to that land permission for development to which this subsection applies, but where the permission is available with respect to part only of the land, this subsection shall have effect with respect only to that part.
- (2) Where a claim for any Part II compensation is made in respect of a compensatable estate subsisting in any land, permission for development to which subsection (1) applies shall, for the purposes of that subsection, be taken to be available with respect to that land or a part thereof, if immediately before the Ministry gives notice of its findings in respect of that claim there is in force with respect to that land or part, a grant of, or an undertaking by the Ministry to grant, some such permission, subject to no conditions other than such as are mentioned in section 15(4).
- (3) Subsection (1) applies to any development of a residential, commercial or industrial character, being development which consists wholly or mainly of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination thereof.

F15 rep. with saving by 2001 c. 2 (NI)

MEASURE OF COMPENSATION

17 ^{F16}**Amount of compensation.**

- (1) Where compensation is payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision depreciating the value of that compensatable estate, the amount of the compensation shall, subject to subsections (2) to (5), be whichever is the lesser of the following amounts:—
 - (a) the amount by which the value of that compensatable estate (if it is a compensatable estate subsisting only in land to which this section applies), or (if it is a compensatable estate extending to other land) the amount by which

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- the value of the compensatable estate in so far as it subsists in land to which this section applies, is depreciated by the decision;
- (b) the amount of the balance of development value, immediately before the decision, of so much of the land in which the compensatable estate subsists as is land to which this section applies.
- (2) Land to which this section applies, in relation to a planning decision, is land which—
- (a) constitutes or forms part of the decision area; and
- (b) at the time of the decision has a balance of development value.
- (3) If in relation to any land to which this section applies—
- (a) compensation is payable under this Part in respect of two or more compensatable estates in that land by reason of the same planning decision; and
- (b) the aggregate amount of compensation payable apart from this subsection in respect of the compensatable estates referred to in paragraph (a) would exceed the amount mentioned in subsection (1)(b);
- the amount mentioned in subsection (1)(b) shall be allocated between those compensatable estates in proportion to the depreciation of the value of each of them respectively, and the amount of the compensation payable in respect of any of those compensatable estates shall be the sum so allocated to that compensatable estate.
- (4) Where—
- (a) at the date of such a planning decision as is mentioned in section 14(1), a public body are entitled to a compensatable estate in the land constituting or forming part of the decision area; and
- (b) by virtue of section 14(2), compensation is not payable in respect of that compensatable estate;
- then for the purpose of determining the amount of compensation payable in respect of any other compensatable estate in that land, subsection (3) shall have effect as if the public body had made a claim for and were entitled to compensation under this Part.
- (5) Where the land constituting the decision area, taken as a whole, does not satisfy both of the following conditions—
- (a) that at the time of the decision it has a balance of development value; and
- (b) that every compensatable estate subsisting therein, the value of which is depreciated by the decision, subsists in the whole of that land;
- subsection (6) shall have effect for the purpose of assessing the compensation payable under this Part in respect of any compensatable estate subsisting in that land or any part thereof.
- (6) Where this subsection applies in relation to a compensatable estate in land—
- (a) the depreciation of the value of the compensatable estate by the planning decision shall first be ascertained with reference to the whole of the land which constitutes or forms part of the decision area and is land in which that compensatable estate subsists;
- (b) the land referred to in paragraph (a) shall then be treated as divided into as many parts as may be requisite to ensure that each such part consists of land which either—
- (i) satisfies both of the conditions mentioned in subsection (5); or
- (ii) is not land which, at the time of the decision, has a balance of development value;

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- (c) the depreciation of the value of the compensatable estate, ascertained in accordance with paragraph (a), shall then be apportioned between those parts, according to the nature of those parts and the effect of the planning decision in relation to each of them;

and the amount of the compensation shall be the aggregate of the amounts which would be payable by virtue of the preceding provisions of this section if the planning decision had been made separately with respect to each of those parts.

- (7) In this section “the decision area” in relation to a planning decision means the aggregate of the land to which the decision relates.

F16 rep. with saving by 2001 c. 2 (NI)

18 ^{F17}Assessment of depreciation.

- (1) For the purposes of this Part, the value of a compensatable estate in land, or of a compensatable estate in so far as it subsists in particular land, shall be taken to be depreciated by a planning decision (in this section referred to as “the relevant decision”) if, and to the extent to which, that value, calculated in accordance with subsections (2) to (5), falls short of what that value, so calculated, would have been if the relevant decision had been a decision to the contrary effect.

- (2) Subject to subsections (3) to (5), any such value shall for the purposes of this section be calculated as at the time of the relevant decision, but—

- (a) as affected by that decision, by any grant of planning permission made in relation to the land in question after that decision and by any [^{F18} direction under Article 69 of the Order of 1972]; and
- (b) on the assumption that, after the relevant decision, and apart from any such permission or [^{F18} direction] as is mentioned in paragraph (a), planning permission would not be granted for any new development of the land in question but would be granted for any development thereof other than new development.

- (3) If in consequence of another planning decision or of an order under [^{F19}section 68 or 72 of the Planning Act] revoking or modifying any planning permission, being a decision given or order made—

- (a) before the relevant decision; and
- (b) either in respect of the whole or part of the land to which the relevant decision relates, or in respect of land which includes the whole or part of that land;

compensation to which this subsection applies has been paid or is payable in respect of a compensatable estate subsisting in land which is the subject of that other planning decision or that order, the calculation to be made under this section shall be made as if that other planning decision had been a decision to the contrary effect, or that order had not been made, as the case may be.

- (4) Where under this section a calculation has to be made as if a planning decision were a decision to the contrary effect or an order under [^{F19}section 68 or 72 of the Planning Act] had not been made the calculation shall be made on the footing that any development must comply with the provisions of any statutory provision (other than the Planning [^{F20}Act]) which would be applicable thereto.

- (5) Subsection (3) applies—

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- (a) to any compensation under the Act of 1944;
 - (b) to any compensation under this Part; and
 - (c) to so much of any compensation as is payable or was paid under section 26 in respect of loss or damage consisting of depreciation of the value of a compensatable estate in land.
- (6) In this section and in section 19 “a decision to the contrary effect” means—
- (a) in relation to a decision refusing permission, a decision granting the permission subject to such conditions, if any, of a description falling within section 15(4) as the person giving the decision might reasonably have been expected to impose had he not refused the permission;
 - (b) in relation to a decision granting the permission subject to conditions, a decision granting the permission subject only to such of those conditions, if any, as fall within section 15(4).

F17 rep. with saving by 2001 c. 2 (NI)

F18 1972 NI 17

F19 Words in s. 18(3)(4) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 4 para. 2](#) (with s. 211); [S.R. 2015/49, arts. 2, 3, Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F20 Word in s. 18(4) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 4 para. 3](#) (with s. 211); [S.R. 2015/49, arts. 2, 3, Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

19 ^{F21}Further provisions as to calculation of depreciation.

- (1) For the purpose of calculating in accordance with section 18 the value of a compensatable estate subsisting in any relevant land on the basis that the relevant decision had been a decision to the contrary effect, the following provisions shall have effect:—
- (a) where a person entitled to a compensatable estate in the relevant land is also at the date of a relevant decision entitled to a compensatable estate in any other land, the value of the first-mentioned compensatable estate shall be reduced by the amount, if any, by which the value of the second-mentioned compensatable estate would be depreciated if any development permitted by a decision to the contrary effect to the relevant decision were carried out; and
 - (b) the value of the compensatable estate in the relevant land shall be reduced by the amount, if any, of any loss in the nature of disturbance in respect of the purposes for which the relevant land was being used at the date of the relevant decision which would necessarily be involved if any development permitted by a decision to the contrary effect were carried out.
- (2) Where a compensatable estate in any land is vested in any trustees or in the beneficiaries under a settlement, then the trustees or beneficiaries shall not, for the purposes of subsection (1), be taken to be entitled to a compensatable estate in any other land unless that other land and the relevant land are held on trust or settled under the same instrument or series of instruments.
- (3) In this section “relevant decision” has the same meaning as in section 18 and “relevant land” means land to which a relevant decision relates.

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F21 rep. with saving by 2001 c. 2 (NI)

20 ^{F22}**Claims for compensation.**

- (1) Compensation under this Part shall not be payable unless a claim for it is duly made to the Ministry in accordance with this section.
- (2) A claim for compensation under this Part shall not have effect unless it is made before the end of the period of six months beginning with the date of the planning decision to which it relates or beginning with the passing of this Act, whichever period last expires, but the Ministry may in any particular case (either before, on or after the date on which the time for claiming compensation under this Part would otherwise have expired) allow an extended, or further extended, period for making such a claim.
- (3) Regulations made under this section may—
 - (a) require claims for compensation under this Part to be made in a form prescribed by the regulations;
 - (b) require a claimant to provide such evidence and information in support of the claim and as to the interests of other persons in the land to which the claim relates (being evidence, information or interests of which the claimant is aware) as may be so prescribed.
- (4) Where a claim is made to the Ministry under subsection (1)—
 - (a) if it appears to the Ministry—
 - (i) that the development to which the planning decision related was not new development; or
 - (ii) that at the time of the planning decision no part of the land to which the claim relates had a balance of development value; or
 - (iii) that compensation is excluded by section 15 or 16;
 the Ministry shall notify the claimant accordingly, stating on which of those grounds it appears to the Ministry that compensation is not payable;
 - (b) in any other case or if a claimant disputes the Ministry's findings, the Ministry shall serve notice of the claim on every other person appearing to it to be entitled to an estate in the land to which the claim relates and, where the land is the subject of a settlement, on the trustees of the settlement, if any, if an estate in the land is not vested in them.

F22 rep. with saving by 2001 c. 2 (NI)

21 ^{F23}**Apportionment of compensation.**

- (1) Where on a claim for compensation which is payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision, the Ministry determines that compensation exceeding fifty pounds is payable, the Ministry may, if it appears to it to be practicable to do so, apportion the amount of compensation between different parts of the land to which the claim relates.
- (2) In making an apportionment under subsection (1) the Ministry shall divide the land into parts and distribute the compensation between those parts, according to the manner in which the different parts of the land appear to the Ministry to be differently

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affected by the planning decision in respect of which the claim for compensation is made.

- (3) On a reference to the Lands Tribunal under section 23, subsections (1) and (2) shall, unless the decision of the Tribunal will not affect the amount of the compensation or any apportionment thereof by the Ministry, have effect as if for references to the Ministry there were substituted references to the Lands Tribunal.

F23 rep. with saving by 2001 c. 2 (NI)

F25 **22** **F24** **Payment of compensation.**

- (1) Where any compensation (in this Act referred to as “Part II compensation”) is payable under this Part in respect of a compensatable estate in land (other than a compensatable estate which at the date of the relevant decision is the subject of a settlement), the Ministry shall pay that compensation to the person who was entitled to that estate at the date of the relevant decision, except that if that person does not make a claim for the compensation, the Ministry may pay the compensation to any person or persons (being persons entitled to equitable interests) who as against the person in whom the compensatable estate is vested are entitled absolutely to that estate.
- (2) Where any Part II compensation is payable in respect of a compensatable estate in land (being a compensatable estate which at the date of the relevant decision is the subject of a settlement), the Ministry shall pay that compensation to the trustees of the settlement, except that where the trustees do not make a claim for the compensation, the Ministry may—
- (a) where the compensatable estate in question is vested in trustees, pay the compensation to the persons, if any, who as against the trustees are entitled absolutely to that estate;
 - (b) where the compensatable estate is not vested in trustees, pay the compensation to the persons, if any, who as against the trustees of the settlement are entitled absolutely to the capital moneys of the settlement.
- (3) Where under subsection (1) or (2) the Ministry is required to pay any Part II compensation to any trustees, the Ministry may, if there is only one trustee or the others cannot be found (or being corporations have been dissolved), pay the compensation to one trustee of a trust or settlement, notwithstanding anything in any enactment or any instrument.
- (4) Where the amount of any Part II compensation which is payable in respect of a compensatable estate does not exceed fifty pounds, the Ministry may, without prejudice to subsections (1) and (2), pay the compensation to any person who at the date of the relevant decision was entitled to the rents and profits of the compensatable estate in respect of which the compensation was payable or, where he is under a disability, to his guardian or committee.
- (5) Where the Ministry is unable to determine to whom any Part II compensation is payable under this section, the Ministry may—
- (a) where the amount of the compensation does not exceed^{F26} £30,000], pay the money into the county court, and that court may exercise all the jurisdiction exercisable by the High Court under the Lands Clauses Acts in relation to the compensation;

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- (b) where the amount of the compensation exceeds^[F26] £30,000], pay the money into the High Court, and that Court may deal with the compensation under the Lands Clauses Acts as if the compensation were purchase money under those Acts coming to persons having limited interests.
- (6) Where the Ministry pays any Part II compensation to any person under this section or into court under subsection (5), the liability of the Ministry to pay the compensation shall, to the extent of the payment, be discharged.
- (7) Subsections (1) to (6) shall have effect subject to section 32.
- (8) In this section “relevant decision” has the same meaning as in section 18.

F24 rep. with saving by 2001 c. 2 (NI)

F25 1972 NI 17

F26 SR 1992/372

Modifications etc. (not altering text)

C1 S. 22 applied (with modifications) (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), **ss. 181(4), 254(1), (2)** (with s. 211); [S.R. 2015/49, arts. 2, 3, Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159, art. 2](#))

23 ^{F27}**Determination of claims.**

- (1) Provision shall be made by regulations under this section—
 - (a) for requiring claims for compensation under this Part to be determined by the Ministry in such manner as may be prescribed;
 - (b) for regulating the practice and procedure to be followed in connection with the determination of such claims;
 - (c) for requiring the Ministry, on determining any such claim to give notice of its findings to the claimant, and to every other person, if any, who has made a claim for compensation under this Part in respect of the same planning decision, and, if the Ministry's findings include an apportionment, to give particulars of the apportionment to any other person entitled to an estate in land appearing to the Ministry to be an estate substantially affected by the apportionment.
- (2) Subject to subsection (3), provision shall be made by regulations under this section—
 - (a) for enabling the claimant or any other person to whom notice of the Ministry's findings has been given in accordance with subsection (1), if he wishes to dispute the findings, and any other person to whom particulars of an apportionment included in those findings have been so given, or who establishes that he is entitled to an estate in land which is substantially affected by such an apportionment, if he wishes to dispute the apportionment, to require the findings or, as the case may be, the apportionment to be referred to the Lands Tribunal;
 - (b) for enabling the claimant and every other person to whom notice of any findings or apportionment has been given as mentioned in paragraph (a) to be heard by the Lands Tribunal on any reference under this section of those findings or of that apportionment, as the case may be; and

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- (c) for requiring the Lands Tribunal, on any such reference, either to confirm or to vary the Ministry's findings or the apportionment, as the case may be, and to notify the parties of the decision of the Lands Tribunal.
- (3) Where on a reference to the Lands Tribunal under this section it is shown that an apportionment—
- (a) relates wholly or partly to the same matters as a previous apportionment; and
 - (b) is consistent with that previous apportionment in so far as it relates to those matters;
- the Lands Tribunal shall not vary the apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.
- (4) Any reference in this section to any findings of the Ministry includes a reference to any decision of the Ministry as to the person to whom any compensation under this Part is payable.

F27 rep. with saving by [2001 c. 2 \(NI\)](#)

24 ^{F29} ^{F28} **Recovery of compensation on subsequent development.**

- (1) Where compensation exceeding fifty pounds becomes payable under this Part in respect of a compensatable estate subsisting in land which is the subject of a planning decision—
- (a) the Ministry shall serve on any person making a claim in relation to the compensation and on the planning authority to whom the application for planning permission was made a notice in the prescribed form containing particulars of the payment and, if an apportionment has been made under section 21, of that apportionment;
 - (b) the following condition shall be observed with respect to the relevant land and to every part of that land, namely, no relevant development shall be initiated thereon or therein until such amount, if any, of the compensation as is repayable under this section has been paid to or secured to the Ministry under this section.
- (2) The condition specified in subsection (1) and any notice served under that subsection shall be included amongst the matters which are required to be registered in the Statutory Charges Register ... ^{F30}.
- (3) Where any relevant development is to be carried out on any relevant land, the amount repayable under this section in respect of the compensation—
- (a) if the land on which the relevant development is to be carried out (in this section referred to as “the development area”) is identical with or includes (with other land) the whole of the relevant land, shall be the amount of that compensation;
 - (b) if the development area forms part of the relevant land, or includes part of that land together with other land, shall be so much of the compensation as is attributable to the development area in accordance with subsection (4).
- (4) In subsection (3)(b) the reference to so much of the compensation as is attributable to the development area is a reference—
- (a) where the compensation is not apportioned under section 21, to the amount of the compensation distributed rateably according to area over the relevant land;

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- (b) where the compensation is so apportioned, to the amount of the compensation distributed in accordance with the apportionment between the different parts of the land by reference to which the apportionment is made, and so much of the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part.
- (5) If any person initiates any relevant development on any relevant land without complying with the condition attached to that land by virtue of subsection (1)(b), the Ministry may serve a notice on him—
- (a) specifying the amount appearing to it to be the amount repayable under this section in respect of the compensation in question; and
 - (b) requiring him to pay that amount within such period, not being less than three months after the service of the notice, as may be specified in the notice.
- (6) Where the Ministry is satisfied having regard to the probable value of any proper development of any relevant land, that such development is unlikely to be carried out unless the condition attached thereto by virtue of subsection (1)(b) is modified, it may in relation to any particular development remit the whole or part of any amount otherwise repayable to it under this section.
- (7) Where, in connection with the development of any land, an amount becomes repayable under this section, then, except where, and to the extent that, payment of that amount has been remitted under subsection (6), no amount shall be repayable under this section in respect of that compensation, in so far as it is attributable to that land, in connection with any subsequent development thereof.
- (8) No amount shall become repayable under this section in respect of any compensation by reference to which a sum has become recoverable by the Ministry under section 38.
- (9) Where any of the following events occurs in relation to any relevant land, or any part thereof, that is to say—
- (a) an amount repayable under this section is repaid to the Ministry or secured to the Ministry under this section; or
 - (b) an amount repayable under this section is remitted in part under subsection (6); or
 - (c) an amount which, but for subsection (8), would otherwise be repayable under this section becomes recoverable by the Ministry under section 38;
- the Ministry shall notify the Registrar of Titles of that event, describing the land to which it relates and giving such further information as appears to the Ministry to be necessary for the purpose, and the Registrar shall note the information so provided in the entry relating to that land in the Statutory Charges Register.
- (10) An amount repayable under this section shall be paid as a single capital payment, without interest, except that where the person seeking to initiate the relevant development makes representations to the Ministry in that behalf, the Ministry may direct that the amount shall be paid—
- (a) as a single capital payment, with interest, at such time as the Ministry may direct; or
 - (b) as a series of instalments of capital and interest combined, or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the Ministry may direct.
- (11) An amount repayable under this section—

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- (a) shall be payable to the Ministry;
 - (b) shall be recoverable by the Ministry as a civil debt; and
 - (c) shall, unless it is payable as a single capital payment without interest, be secured by the person by whom the development is to be carried out in such a manner (whether by mortgage, charge, bond or otherwise) as the Ministry may direct.
- (12) Where any person makes default in paying an amount repayable under this section as a single capital payment without interest, the Ministry may recover that amount, together with interest thereon at such rate as may for the time being be prescribed by an order under section 14 of the Administrative and Financial Provisions Act (Northern Ireland) 1956, as a civil debt due to the Ministry.
- (13) Any interest payable by virtue of subsection (10) shall be at such rate as is prescribed by an order under section 14 of the Administrative and Financial Provisions Act (Northern Ireland) 1956.
- (14) In this section—
- “proper development” means any development which the Ministry, ...^{F31} considers to be desirable for securing the most appropriate planning of the area in question;
 - “relevant development” means, subject to subsections (15) and (16), any new development—
 - (a) which is development of a residential, commercial or industrial character and consists wholly or mainly of the construction of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination thereof; or
 - (b) which, having regard to the probable value of the development, the Ministry determines should constitute relevant development for the purposes of this section;
- “relevant land” means any land in respect of which a notice has been served under subsection (1); and
- any reference to a sum which becomes recoverable under section 38 includes a reference to a sum which would be so recoverable but for subsection (4) of that section.
- (15) The Ministry shall not have power to make a determination under paragraph (b) of the definition of relevant development in relation to any development if, on an application made to the Ministry for the purpose, the Ministry has certified that, having regard to the probable value of the development, it is not reasonable that the development should constitute relevant development for the purposes of this section.
- (16) Where any person is aggrieved by the refusal of the Ministry to issue a certificate under subsection (15), he may apply to the Lands Tribunal for a certificate for the purposes of that subsection, and any certificate issued by that Tribunal shall have the like effect as a certificate of the Ministry under that subsection.
- (17) Where any such compensation as is referred to in subsection (1) became payable in respect of the imposition of conditions on the granting of planning permission to develop any land, “relevant development” does not include the development for which that permission was granted.

F28 rep. with saving by 2001 c. 2 (NI)

F29 1972 NI 17

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F30 1970 c. 18 (NI)

F31 1972 NI 17

25 ^{F32} **Amounts repayable in relation to balances of development value.**

- (1) Where an amount has become repayable under section 24 in respect of any compensation paid under this Part, subsection (2) shall have effect for the purpose of determining any question as to the balance of development value of any land at any subsequent time.
- (2) Except where, and to the extent that, payment of the amount mentioned in subsection (1) has been remitted under section 24(6), so much, if any, of the compensation paid under this Part as is attributable to the land in question shall, for the purpose mentioned in subsection (1), be treated as not having become payable, and accordingly (notwithstanding anything in section 9) shall not be deducted from the balance of development value of that land.

F32 rep. with saving by 2001 c. 2 (NI)

Changes to legislation:

There are currently no known outstanding effects for the Land Development Values (Compensation) Act (Northern Ireland) 1965, PART II .