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## STATUTORY INSTRUMENTS

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# 1991 No. 1220

## The Planning (Northern Ireland) Order 1991

### PART XIII

#### MISCELLANEOUS AND SUPPLEMENTARY

##### Grants for research and bursaries

**119.**—(1) The Department may, with the consent of the Department of Finance and Personnel, make grants for assisting establishments engaged in promoting or assisting research relating to, and education with respect to, the planning and design of the physical<sup>[F1</sup> or built] environment.

(2) For the purpose of enabling persons to undertake a course in town planning, the Department may, with the consent of the Department of Finance and Personnel, make provision for the payment by the Department of sums by way of bursaries in respect of those persons.

F1 2003 NI 8

##### Grants to bodies providing assistance in relation to certain development proposals

**120.**—(1) The Department may make grants to any body of persons (not being a body carried on for profit) which appears to the Department to have among its principal objectives—

- (a) furthering an understanding of the planning and other technical aspects of proposals made by any body or person for the development, redevelopment or improvement of land; and
- (b) providing assistance to the community, or to a section of the community, in relation to such proposals.

<sup>[F2</sup>(1A) The Department may make grants to any body of persons (not being a body carried on for profit) which appears to the Department to have among its principal objectives furthering the preservation, conservation and regeneration of historic buildings.]

(2) Grants under paragraph (1)<sup>[F2</sup> or (1A)] shall be of such amounts and subject to such terms and conditions as the Department, with the approval of the Department of Finance and Personnel, thinks fit.

F2 2003 NI 8

##### Rights of entry

**121**<sup>F3</sup>.—(1) Any person duly authorised in writing by the Department may at any reasonable time enter any land for the purpose—

- (a) of surveying it in connection with—

*Status: Point in time view as at 13/02/2015.*

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- (i) the making, altering, repealing or replacing of a development plan relating to the land under Part III;
  - (ii) the making or altering of a simplified planning zone scheme relating to the land;
  - (iii) the preparation, adoption or amendment of a development scheme relating to the land under Part VII;
  - (iv) any application under Part IV or V, or under any order or regulations made thereunder, for any permission, consent, agreement, approval or determination to be given or made in connection with that land or any other land under Part IV or V or under any such order or regulations;
  - (v) any proposal by the Department to make, issue or serve any order or notice under<sup>[F4]</sup> Part IV or V], or under any order or regulations made thereunder, or any notice under Article 109(4);
- (b) of surveying any building on the land in connection with a proposal to include the building in, or exclude it from, a list compiled under Article 42;
- (c) of ascertaining—
- Head (i) rep. by 2003 NI 8*
- (ii) whether any listed building on the land is being maintained in a proper state of repair;  
*Head (iii) rep. by 2003 NI 8*
  - (iv) whether any order or notice made, issued or served as mentioned in<sup>[F5]</sup> sub-paragraph (a)(v)] in respect of the land has been complied with;
- (d) of<sup>[F4]</sup> affixing a notice in accordance with Article 42B(1) or] displaying a notice in accordance with Article 73(5) or (6);

*Sub-para. (e) rep. by 2003 NI 8*

(2) Any member of the planning appeals commission may at any reasonable time enter any land for the purpose of surveying it in connection with the exercise of the functions of the commission under this Order.

(3) Any person, being an officer of the Valuation Office of the Department of Finance and Personnel or a person duly authorised in writing by the Department, may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with—

- (a) any proposal to acquire that land or any other land under this Order or any claim for compensation in respect of any such acquisition;
- (b) any claim for compensation in respect of that land under Article 65A or 66A of the Planning (Northern Ireland) Order 1972.

(4) Any power conferred by this Article to survey land shall be construed as conferring power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein, but a person shall not carry out any works authorised by virtue of this paragraph unless notice of his intention to do so was included in the notice required by Article 122(1)(b).

<sup>[F6]</sup>(5) Where it is proposed to search or bore in pursuance of paragraph (4) in a street within the meaning of the Street Works (Northern Ireland) Order 1995—

- (a) Article 15 of that Order (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street which is likely to be affected by the works;
- (b) Article 29 of that Order (requirements to be complied with where works likely to affect another person's apparatus in the street); and
- (c) Article 42 of that Order (liability for damage or loss caused),

have effect in relation to the searching or boring as if they were street works within the meaning of that Order.]

- F3 functions transferred SR 1999/481
- F4 2003 NI 8
- F5 2001 c. 2 (NI)
- F6 1995 NI 19

### Supplementary provisions as to powers of entry

**122**<sup>F7</sup>.—(1) A person authorised or permitted under Article 121 to enter upon any land—

- (a) shall, if so required, produce evidence of his authority or of his appointment as a member of the planning appeals commission<sup>[F8]</sup> and state the purpose of his entry] before so entering;
- (b) shall not demand admission as of right to any land which is occupied unless three days' notice of the intended entry has been given to the occupier.

(2) Any person who wilfully obstructs a person acting in the exercise of his powers under Article 121 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If any person who, in compliance with Article 121, is admitted into a factory, workshop or work place discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of performing his duty in connection with the survey or estimate for which he was authorised to enter the<sup>[F8]</sup> land], be guilty of an offence and liable —

- <sup>[F8]</sup>(a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.]

(4) Where any property is damaged in the exercise of a right of entry conferred under Article 121, or in the making of a survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the property from the Department.

(5) Any question of disputed compensation recoverable under paragraph (4) shall be determined by the Lands Tribunal.

- F7 functions transferred SR 1999/481
- F8 2003 NI 8

### <sup>[F9]</sup>Supplementary provisions as to powers of entry: Crown land

**122A.**—(1) Article 121 applies to Crown land subject to the following modifications.

- (2) A person shall not enter Crown land unless he has the relevant permission.
- (3) Relevant permission is the permission of—
  - (a) a person appearing to the person seeking entry to the land to be entitled to give it; or
  - (b) the appropriate authority.
- (4) In paragraph (4) the words from “, but a person” to the end of that paragraph shall be omitted.
- (5) Article 122 does not apply to anything done by virtue of this Article.
- (6) “Appropriate authority” and “Crown land” shall be construed in accordance with Article 118(1).]

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**F9** Art. 122A inserted (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), 21(3), **Sch. 1 para. 4**

### Local inquiries

**123.**—(1) The Department may cause a public local inquiry to be held for the purpose of the exercise of any of its functions under this Order.

(2) Without prejudice to section 23 of the Interpretation Act (Northern Ireland) 1954, the Department may make rules regulating the procedure [<sup>F10</sup>(except the procedure in relation to any matter for which rules under paragraph (6) of Article 123A or paragraph (3) of Article 123B may make provision)] to be followed in connection with inquiries held by or on behalf of the Department under this Order.

**F10** Words in art. 123(2) inserted (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), **22(2)**

### [<sup>F11</sup>Inquiries to be held in public subject to certain exceptions

**123A.**—(1) Subject to paragraph (2), at any public local inquiry or independent examination held under this Order oral evidence shall be heard in public and documentary evidence shall be open to public inspection.

(2) If the Secretary of State is satisfied in the case of any such inquiry or examination—

(a) that giving evidence of a particular description or, as the case may be, making it available for inspection would be likely to result in the disclosure of information as to any of the matters mentioned in paragraph (3); and

(b) that the public disclosure of that information would be contrary to the national interest,

he may direct that evidence of the description indicated in the direction shall only be heard or, as the case may be, open to inspection at that inquiry or examination by such persons or persons of such descriptions as he may specify in the direction.

(3) The matters referred to in paragraph (2)(a) are—

(a) national security; and

(b) the measures taken or to be taken to ensure the security of any premises or property.

(4) If the Secretary of State is considering giving a direction under paragraph (2) the Advocate General for Northern Ireland may appoint a person to represent the interests of any person who will be prevented from hearing or inspecting any evidence at an inquiry or examination if the direction is given.

(5) If before the Secretary of State gives a direction under paragraph (2) no person is appointed under paragraph (4), the Advocate General for Northern Ireland may at any time appoint a person as mentioned in paragraph (4) for the purposes of the inquiry or examination.

(6) The Lord Chancellor may by rules make provision—

(a) as to the procedure to be followed by the Secretary of State before he gives a direction under paragraph (2) in a case where a person has been appointed under paragraph (4);

(b) as to the functions of a person appointed under paragraph (4) or (5).

(7) Rules made under paragraph (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(8) If a person is appointed under paragraph (4) or (5) (the appointed representative) the Secretary of State may direct any person who he thinks is interested in the inquiry or examination in relation to a matter mentioned in paragraph (3) (the responsible person) to pay the fees and expenses of the appointed representative.

(9) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount shall be determined by the Secretary of State.

(10) The Secretary of State shall cause the amount agreed between the appointed representative and the responsible person or determined by him to be certified.

(11) An amount so certified is recoverable from the responsible person as a civil debt.

(12) In relation to any time before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002, the reference in paragraphs (4) and (5) to the Advocate General for Northern Ireland is to be read as a reference to the Attorney General.

**F11** Arts. 123A, 123B inserted (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), **22(1)**

## National security

**123B.**—(1) Where, in relation to an application for planning permission or an application for any consent, certificate, approval or determination under this Order or a development order, the Secretary of State is of the opinion—

- (a) that the consideration by the Department of the application or of any representations or objections made in respect of the application raises matters relating to—
  - (i) national security; or
  - (ii) the measures taken or to be taken to ensure the security of any premises or property; and
- (b) that the public disclosure of information as to any of those matters would be contrary to the national interest,

he may certify that the application is one to which this Article applies.

(2) The Department shall, subject to any provision contained in rules under paragraph (3), cause a public local inquiry to be held for the purpose of determining any application to which this Article applies.

(3) The Secretary of State may by rules make provision—

- (a) for the procedure to be followed in relation to the issue of a certificate under paragraph (1);
- (b) enabling the Department to dispense with an inquiry where the Department has not received any objections or representations in respect of an application to which this Article applies or where every objection or representation made in respect of such an application is withdrawn.

(4) Articles 31, 32(1), 33, 56, 57(1), 83E, 123(1), paragraphs 7(1) and 8 of Schedule 1, paragraphs 6(11) and (12), 11 and 13 of Schedule 1A and paragraphs 9 and 10 of Schedule 1B do not apply in relation to an application to which this Article applies.

(5) Rules made under paragraph (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(6) Section 23 of the Interpretation Act (Northern Ireland) 1954 shall apply to an inquiry under paragraph (2) as if that inquiry were an inquiry referred to in that section.]

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**F11** Arts. 123A, 123B inserted (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), **22(1)**

### Planning register

**124.**—(1) The Department shall keep, in such manner as may be specified by a development order, one or more registers containing such information as may be so specified with respect to—

- (a) applications made, or deemed to be made, under this Order to the Department or to the planning appeals commission for any permission, consent, approval or determination;
- (b) the manner in which such applications have been dealt with;
- (c) the revocation or modification of any permission or consent granted under this Order;
- (d) enforcement notices, listed building enforcement notices or hazardous substances contravention notices;
- (e) stop notices;
- (f) orders under Article 39;
- (g) hazardous substances consent deemed to be granted under paragraph 4 of Schedule 4;
- (h) simplified planning zones and enterprise zones;
- (i) directions given by the Department under—
  - (i) Article 51(3);
  - (ii) Article 62; and
  - (iii) any provision included in a development order by virtue of Article 13(4).
- [<sup>F12</sup>(j) notices under Article 66A;
- (k) breach of condition notices;
- (l) certificates under Article 83A or 83B;
- (m) building preservation notices.]
- [<sup>F13</sup>(n) temporary stop notices issued under Article 67E;]

(2) Every register kept under paragraph (1) shall be available for inspection by the public at all reasonable hours.

(3) The Department may provide a copy of, or of an extract from, any register kept under this Article to any person on payment of such reasonable charge as the Department may specify.

**F12** 2003 NI 8

**F13** Art. 124(1)(n) added (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), **13(3)**

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

**C1** Art. 124 applied (with modifications) by [Electricity \(Northern Ireland\) Order 1992 \(S.I. 1992/231 \(N.I. 1\)\)](#), Sch. 8 para. 3(5)(6) (as added (prosp.) by [Electricity Consents \(Planning\) \(Northern Ireland\) Order 2006 \(S.I. 2006/2955 \(N.I. 19\)\)](#), arts. 1(2), **2(4)**)

### Information as to estates in land

**125** <sup>F14</sup>.—(1) For the purpose of enabling the Department to make an order or issue or serve a notice or other document which by any of the provisions of this Order it is authorised or required to

make, issue or serve, the Department may by notice in writing require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to give in writing within 21 days after the date on which the notice is served, or such longer time as may be specified in the notice or as the Department may allow, such information as to the matters mentioned in paragraph (2) as may be specified.

(2) The matters referred to in paragraph (1) are—

- (a) the nature of the estate in the premises of the person on whom the notice is served;
- (b) the name and [<sup>F15</sup>postal] address of any other person known to that person as having an estate in the premises;
- (c) the purpose for which the premises are being used;
- (d) the time when that use began;
- (e) the name and [<sup>F16</sup>postal] address of any person known to the person on whom the notice is served as having used the premises for that purpose; and
- (f) the time when any activities being carried out on the premises began.

(3) Any person who, without reasonable excuse, fails to comply with a notice served on him under paragraph (1), shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Any person who having been required by a notice under paragraph (1) to give any information knowingly makes any misstatement in respect thereof shall be guilty of an offence and liable

- [<sup>F17</sup>(a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.]

**F14** functions transferred SR 1999/481

**F15** Word in art. 125(2)(b) inserted (1.8.2006) by [Planning \(Electronic Communications\) Order \(Northern Ireland\) 2006 \(S.R. 2006/276\)](#), [art. 5\(2\)\(b\)](#)

**F16** Word in art. 125(2)(e) inserted (1.8.2006) by [Planning \(Electronic Communications\) Order \(Northern Ireland\) 2006 \(S.R. 2006/276\)](#), [art. 5\(2\)\(b\)](#)

**F17** 2003 NI 8

### [<sup>F18</sup>Information as to estates in Crown land

**125A.**—(1) This Article applies to an estate in Crown land which is not a private estate.

(2) Article 125 does not apply to an estate to which this Article applies.

(3) For a purpose mentioned in Article 125(1) the Department may request the appropriate authority to give it such information as to the matters mentioned in Article 125(2) as the Department specifies in the request.

(4) The appropriate authority shall comply with a request under paragraph (3) except to the extent—

- (a) that the matter is not within the knowledge of the authority, or
- (b) that to do so will disclose information [<sup>F19</sup>as to national security or the measures taken or to be taken to ensure the security of any premises or property] .

(5) Expressions used in this Article and in Part XII shall be construed in accordance with that Part.]

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- F18** Art. 125A inserted (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), 21(3), **Sch. 1 para. 13**
- F19** Words in [art. 125A\(4\)\(b\)](#) substituted (13.2.2015 for specified purposes) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), s. 254(1)(2), **Sch. 6 para. 58** (with s. 211); S.R. 2015/49, art. 2

### Power to appoint advisory bodies or committees

**126.** The Head of the Department may appoint such advisory bodies or committees as he considers necessary to assist the Department in the exercise and performance of the functions conferred on the Department by this Order.

### [<sup>F20</sup>Fees and charges

**127.**—(1) The Department may by regulations make such provision as it thinks fit for the payment of a charge or fee of the prescribed amount in respect of—

- (a) the performance by the Department of any function it has;
- (b) anything done by the Department which is calculated to facilitate or is conducive or incidental to the performance of any such function.

(2) The Office of the First Minister and deputy First Minister may by regulations make such provision as it thinks fit for the payment of a charge or fee of the prescribed amount in respect of—

- (a) an application for planning permission which is deemed to be made to the planning appeals commission under this Order;
- (b) an appeal to the planning appeals commission under this Order.

(3) Regulations under this Article may prescribe—

- (a) the person by whom any charge or fee is payable;
- (b) provision as to the calculation of any charge or fee;
- (c) circumstances in which no charge or fee is to be paid;
- (d) circumstances in which any charge or fee paid is to be remitted or refunded (in whole or in part).]

- F20** [Art. 127](#) substituted (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), **16**

### Modifications etc. (not altering text)

- C2** [Art. 127\(2\)\(b\)](#) modified (17.7.2014) by [The Energy Savings Opportunity Scheme Regulations 2014 \(S.I. 2014/1643\)](#), reg. 1, **Sch. 4 para. 15**

### Time limit for certain summary offences under this Order

**128.**—(1) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981, a magistrates' court shall have jurisdiction to hear and determine a complaint charging the commission of an offence under a provision of this Order specified in paragraph (2) if the complaint is made within 3 years from the time when the offence was committed or ceased to continue.

(2) The provisions of this Order referred to in paragraph (1) are—

- (a) Article 66(1);
- (b) Article[<sup>F21</sup> 72(2)];



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- (c) Article<sup>F21</sup> 72(5)];
- (d) Article 73(7).

**F21** 2003 NI 8

### Regulations and orders

**129.**—(1) The Department may make regulations for prescribing anything which under this Order is authorised or required to be prescribed.

(2) Any regulations made under this Order and orders made under Articles 11(2)(e), 13 and 18(3) shall be subject to negative resolution.

### Financial provision

**130** <sup>F22</sup>.—(1) Any expenses incurred by the Department under this Order shall be defrayed either out of moneys hereafter appropriated for the purposes of defraying such expenses or, if the Department of Finance and Personnel so directs, by means of sums charged on and issued out of the Consolidated Fund.

(2) The Department of Finance and Personnel may borrow moneys for the purpose of providing money for issues out of the Consolidated Fund under paragraph (1).

(3) Any money borrowed under paragraph (2) shall be repaid within any period or periods not exceeding 25 years from the date of borrowing, and provision for such repayment may be made out of moneys thereafter appropriated for that purpose.

**F22** functions transferred SR 1999/481

### Registration of matters in Statutory Charges Register

**131.** In Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (matters requiring to be registered in the Statutory Charges Register) for entries 27 to 30D there shall be substituted the following entry—

- “**27.** Any of the following matters under the Planning (Northern Ireland) Order 1991—
- (a) an entry in a list compiled under Article 42;
  - (b) tree preservation orders;
  - (c) enforcement notices which take effect in relation to any land;
  - (d) listed building enforcement notices which take effect in relation to any land;
  - (e) any conditions imposed on the grant of planning permission—
    - (i) relating to the occupancy of a dwelling house; or
    - (ii) requiring that a dwelling house on any land which is under the control of the applicant be demolished or cease to be used as a dwelling house;
  - (f) notices under Article 82 which take effect in relation to any land;
  - (g) orders under Article 39;
  - (h) any designation under Article 50(1),

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and any matter under the Planning (Northern Ireland) Order 1972 corresponding to any matter mentioned above.”.

### **Transitional provisions**

**132.** The transitional provisions set out in Schedule 4 shall have effect.

*Article 133—Amendments and repeals*

**Status:**

Point in time view as at 13/02/2015.

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