
STATUTORY INSTRUMENTS

1992 No. 811

**The Registration (Land and Deeds)
(Northern Ireland) Order 1992**

PART II

LAND REGISTRATION

Errors

Compensation: amendments of section 71 of the 1970 Act

31.—(1) The amendments specified in paragraphs (2) to (4) shall be made in section 71 of the 1970 Act (claims for compensation).

(2) In subsection (2) for “, subject to section 70(4), be paid out of the Insurance Fund” substitute “be paid by the Department out of money appropriated for the purpose”.

(3) For subsection (3) substitute:

“(3) Subject to subsections (3A), (3B) and (3C), where any such compensation is paid by the Department, the Department shall be entitled to recover the amount so paid from all or any of the following persons—

- (a) any person who caused or substantially contributed to the loss in question;
- (b) any person who has, directly or indirectly, derived title or any other advantage—
 - (i) from such a person as is mentioned in paragraph (a), or
 - (ii) by reason of an error or omission giving rise to the loss;

and, without prejudice to the generality of the foregoing provision, the Department may enforce any express or implied covenant or other right which the person receiving the compensation would have been entitled to enforce in relation to the matter in respect of which the compensation is paid.

(3A) A person shall not be treated for the purposes of subsection (3)(a) or (b)(i) as having caused or substantially contributed to the loss unless he has done so by his fraud or lack of proper care; and where a person substantially contributed to the loss (but did not cause it completely), the amount recoverable under subsection (3) from him or from any person who has derived title or other advantage from him shall be such amount as is just.

(3B) The Department is not entitled under subsection (3) to recover any amount from a person by reason only of his derivation of title or advantage as mentioned in paragraph (b) of that subsection where that person has derived the title or other advantage for valuable consideration and he has not caused or contributed to the loss by his fraud.

(3C) Where the Department is entitled to recover an amount under subsection (3)(b) from a person who did not cause or substantially contribute to the loss, that amount shall not exceed the value, immediately before the Department gives notice to that person of its

intention to recover an amount from him under subsection (3), of the advantage obtained by him.”.

(4) For subsection (4) substitute:

“(4) Any question arising as to whether the Department is entitled to recover some amount under subsection (3) from a particular person, as to the quantum of that amount or as to the enforcement of any right by the Department under that subsection shall be referred to and determined by the Lands Tribunal.

(5) A question referred under subsection (4) and one referred under paragraph 10 of Schedule 9 (entitlement to and amount of compensation) may be determined in the same proceedings.

(6) Except where the amount recoverable by the Department under subsection (3) is determined as mentioned in subsection (5),—

- (a) the right of the Department to recover any amount under subsection (3) shall be deemed to accrue on the date on which the Department pays the compensation to which that right relates; and
- (b) a claim to recover such an amount shall not be the subject of a reference under subsection (4) after the expiration of one year from the time when the right to recover that amount accrued or after the expiration of 12 years from the time of the error or omission which gave rise to the loss, whichever first occurs.

(7) When the Lands Tribunal determines that any amount is recoverable under subsection (3), it may make an order for the payment of that amount and such an order is a money judgment for the purposes of Article 4 of the Judgments Enforcement (Northern Ireland) Order 1981^{F1}.”.

(5) Paragraphs (3) and (4) apply only to and in connection with a loss sustained as a result of a rectification, error, omission, loss or destruction occurring after the commencement of this Article.

(6) In the application of section 71 of the 1970 Act to or in connection with a loss sustained as a result of a rectification, error or omission occurring before the commencement of this Article, subsection (3) shall have effect with the insertion, after “section 70(4)”, of “or paid out of money appropriated for the purpose”.

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Changes to legislation:

There are currently no known outstanding effects for the The Registration (Land and Deeds) (Northern Ireland) Order 1992, Section 31.