

SCHEDULES

SCHEDULE 3

Articles 2, 10, 85.

APPROVAL OF SITES, DISPOSAL OF SITES OR PREMISES AND GRANT OF LICENCES FOR PREMISES ON APPROVED SITES

PART I

APPROVAL OF SITES

Interpretation

1. In this Schedule—

“approved sites” has the meaning assigned to it by paragraph 4(1);

“the area” means the area in which the sites are situated;

“declaration” means a declaration under paragraph 4;

“the Department” means the Department of the Environment;

“preferred applicant” has the meaning assigned to it by paragraph 9(2);

“proposed re-development area” means an area in respect of which a resolution has been passed under section 8 of the Housing Act (Northern Ireland) 1956 or an area declared to be a proposed re-development area under Article 47 of the Housing (Northern Ireland) Order 1981;

“re-development area” means an area in respect of which a re-development scheme has been approved by the Department under Article 49 of the Housing (Northern Ireland) Order 1981.

Proposals as to sites

2.—(1) A housing authority who proposes to make an application for a declaration with respect to any sites shall submit to the Department proposals as to the number and situation of those sites and as to the kind of premises that may be erected on those sites.

(2) Where the proposals relate to sites in a re-development area or proposed re-development area, the number of sites shall not exceed the number of licensed premises in the area at the time of the submission of the re-development scheme.

(3) The Department may approve, with or without modification, proposals made to it under subparagraph (1) and shall notify the housing authority accordingly.

(4) The housing authority may request the Department to approve modifications of proposals which have been approved under this paragraph and the Department may approve the modifications.

Applications

3.—(1) A housing authority who intends to make an application for a declaration shall—

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- (a) not more than 6 weeks nor less than 2 weeks before the time of the opening of the court sittings at which the application is to be made cause notice of the application to be published at least once in 2 newspapers circulating in the vicinity of the area;
 - (b) not less than 3 weeks before that time serve notice of the application upon the chief clerk and at the same time serve a copy of the notice upon—
 - (i) the sub-divisional commander of each police sub-division in which the area, or any part of it, is situated;
 - (ii) the district council for each district in which the area, or any part of it, is situated.
- (2) The notices mentioned in sub-paragraph (1) shall be in such form and contain such information as may be prescribed by county court rules.
- (3) A sub-divisional commander upon whom notice is required by sub-paragraph (1)(b) to be served, the district council mentioned in that sub-paragraph or any person owning, or residing or carrying on business in, premises in the vicinity of the area, may appear and object to the issue of a declaration with respect to any site.
- (4) A person intending to object under sub-paragraph (3) shall not less than 1 week before the time of the opening of the court sitting at which the application is to be made—
 - (a) serve upon the housing authority notice of his intention to object, briefly stating his grounds for so doing;
 - (b) serve a copy of the notice upon the chief clerk.
- (5) At the hearing of the application, the housing authority shall furnish such further information as to the proposed development or re-development of the area, in such detail, as the court may require.

Declarations

- 4.—(1) Where proposals made under paragraph 2 by a housing authority have been approved by the Department, the county court on application made to it by that housing authority under Article 10(1) may, after hearing the objections, if any, made under paragraph 3, issue a declaration that the court approves the sites or any of them as sites for licensed premises of a kind or kinds specified in the declaration (in this Schedule referred to as the “approved sites”).
- (2) Where proposals approved under sub-paragraph (3) of paragraph 2 are modified under sub-paragraph (4) thereof, the county court on the application of the housing authority may make a fresh declaration.
- (3) An application for a declaration may be made to the county court for any division in which the area is wholly or partly situated.

Duration of declaration

- 5.—(1) A declaration shall, subject to sub-paragraph (2) remain in force for such period as is specified in the declaration or, where no period is so specified, for a period of 10 years from the date of the issue of the declaration.
- (2) At any time, whether before or after the expiration of the period for which a declaration is in force, the county court, on application made to it by the housing authority or by any person who has acquired a site specified in the declaration, may, after hearing the objections, if any, made by virtue of sub-paragraph 3(3), order—
 - (a) where the application is made by the housing authority, that the declaration shall continue to be in force in relation to all the sites specified in the declaration or to such of those sites as the court thinks fit; or

(b) where the application is made by a person who has acquired an estate in a site specified in the declaration, that the declaration shall continue to be in force in relation to that site, for such period as the court thinks fit.

(3) Paragraph 3 shall apply in relation to applications for orders under sub-paragraph (2) as if references to a declaration were references to such an order and as if references to a housing authority included references to a person who has acquired an estate in a site with respect to which an application under sub-paragraph (2) is proposed to be made.

Effect of declaration

6. Where a declaration is in force approving any site as a site for licensed premises of a kind mentioned in Article 5(1)(a) or (b) and an application is made for the grant or provisional grant of a licence for premises of that kind which have been, or are proposed to be, erected on that site, Article 7(4)(e)(i) shall not apply.

PART II

DISPOSAL OF APPROVED SITES OR PREMISES IN RE-DEVELOPMENT AREAS

Application of this Part

7. This Part applies where sites in a re-development area or proposed re-development area have been approved under paragraph 4(1).

Power to dispose of sites or premises

8. The housing authority may dispose of—
- (a) the approved sites; or
 - (b) premises erected on the approved sites,

in accordance with the provisions of this Part.

Acquisition of sites or premises by persons dispossessed of licences

9.—(1) The housing authority shall serve on every person who has been, or in the opinion of the housing authority will be, dispossessed of a licence in consequence, whether directly or indirectly, of the acquisition by the housing authority of the premises to which the licence relates or of the carrying out of the re-development scheme, or, where any such person has died, on his personal representative or on any other person who is entitled in consequence of his death to a beneficial interest in the business carried on in the licensed premises, a notice—

- (a) describing the approved sites and referring to the declaration by which they were approved;
- (b) stating whether or not the authority propose to erect premises on the sites;
- (c) inviting offers in writing from those persons for the purchase or, if the housing authority think fit, the lease of any of those sites or premises;
- (d) specifying the period (not being less than 2 months from the date on which the notice is served) within which offers may be made.

(2) A person entitled to receive a notice under sub-paragraph (1) is in this Schedule referred to as a “preferred applicant”.

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(3) After the expiration of the period during which offers may be made as mentioned in subparagraph (1)(d), the housing authority may, with the approval of the Department, dispose of a site or premises on that site to any preferred applicant who has made an offer for that site or those premises within that period.

(4) Without prejudice to its right to refuse its approval to the disposal under this paragraph of any approved site or premises, the Department shall—

- (a) refuse to approve the disposal of the site or premises to any preferred applicant for a consideration which is less than the fair value thereof;
- (b) refuse to approve the disposal to a preferred applicant of a greater number of sites or premises than the number of licensed premises in respect of which he has been or will be dispossessed of licences in consequence, whether directly or indirectly, of the acquisition of the licensed premises or the carrying out of the re-development scheme.

Disposal of remaining sites or premises, if any

10.—(1) Where, after steps have been taken by a housing authority in accordance with the provisions of paragraph 9, any sites or premises have not been disposed of to preferred applicants, the housing authority shall cause to be published in 2 successive weeks in at least 1 newspaper circulating in the vicinity of those sites or premises a notice—

- (a) describing those sites or premises and referring to the declaration under paragraph 4(1);
- (b) inviting offers in writing for the purchase or, if the housing authority think fit, the lease of any one of those sites or premises;
- (c) specifying the period (not being less than 2 months from the date of the last publication of the notice) within which offers may be made.

(2) After the expiration of the period during which offers may be made as mentioned in subparagraph (1)(c), the housing authority may, with the approval of the Department, dispose of the sites or premises to persons making offers therefor within that period.

Contracts as to sites

11. A contract for the acquisition from a housing authority of an estate in an approved site or premises erected thereon may be subject to such conditions as the housing authority, with the approval of the Department, may determine including, but without prejudice to the generality of the foregoing words, a condition that the contract shall be voidable at the option of the person acquiring the estate if he does not for any reason, or within any period specified in the contract, obtain the grant of a licence for premises on the site or, as the case may be, for those premises.

Procedure where contract cancelled, etc

12. Where a contract for the acquisition of an estate in an approved site or in premises on such a site is terminated, the housing authority shall—

- (a) where the other party to the contract was a preferred applicant, dispose of the site or premises in accordance with paragraph 9, or, if the site is, or premises are, not disposed of in accordance with that paragraph, dispose of it or them in accordance with paragraph 10;
- (b) where the other party to the contract was not a preferred applicant, dispose of the site or premises in accordance with paragraph 10.

Transfer of land between housing authorities

13. Where a housing authority disposes of land within a re-development area to any other housing authority, that other authority shall, in relation to the land, have the like powers and be subject to the like duties as are imposed on the first-mentioned authority by the foregoing provisions of this Schedule.

**PART III
EXPENSES**

Financial provisions

14. Any increase attributable to any provision of this Order in sums which under any other statutory provision are payable out of money charged on and issued out of the Consolidated Fund may be defrayed in the same manner as those sums are by that statutory provision authorised or required to be defrayed and any statutory provision as to the borrowing of money for the purpose of providing such sums shall apply accordingly.