



# Land Compensation (Scotland) Act 1973

## 1973 CHAPTER 56

### PART III

#### PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

##### *Home loss payments*

#### **27 Right to home loss payment where person displaced from dwelling.**

- (1) Where a person is displaced from a dwelling on any land in consequence of—
- (a) the compulsory acquisition of an interest in the dwelling;
  - (b) the making, passing or acceptance of a housing order, resolution or undertaking in respect of the dwelling;
  - (c) where the land has been previously acquired by an authority possessing compulsory purchase powers or appropriated by a local authority and is for the time being held by the authority for the purposes for which it was acquired or appropriated, the carrying out of [<sup>F1</sup>any improvement to the dwelling or of] redevelopment on the land,
  - [<sup>F2</sup>(d) the carrying out of any improvement to the dwelling or of redevelopment on the land by a housing association which has previously acquired the land and at the date of the displacement is registered,]
  - [<sup>F3</sup>(e) a requirement to remove from the building containing the dwelling in pursuance of section 13 of the <sup>M1</sup>Building (Scotland) Act 1959 (dangerous buildings) or any other enactment which requires the demolition of the building on account of its condition,]
  - [<sup>F4</sup>(f) an order for recovery of possession of the dwelling under section [<sup>F5</sup>48(2) of the Housing (Scotland) Act <sup>M2</sup>1987] on the ground set out in paragraph 10 of Part I of Schedule [<sup>F5</sup>3] to that Act,]

he shall, subject to the provisions of this section and section 29 below, be entitled to receive a payment (hereafter referred to as a “home loss payment”) from

- [<sup>F6</sup>(i) where paragraph (a) above applies, the acquiring authority;

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- (ii) where paragraph (b) above applies, the authority who made the order, passed the resolution or accepted the undertaking;
  - (iii) where paragraph (c) above applies, the authority carrying out the improvement or redevelopment; and
  - (iv) where paragraph (d) above applies, the housing association carrying out the improvement or redevelopment.]
  - [<sup>F7</sup>(v) where paragraph (e) above applies the authority requiring the removal.]
  - [<sup>F8</sup>(vi) where paragraph (f) above applies, the landlord.]
- (2) A person shall not be entitled to a home loss payment unless throughout a period of not less than five years ending with the date of displacement—
- (a) he has been in occupation of the dwelling, or a substantial part of it, as his only or main residence; and
  - (b) he has been in occupation as aforesaid by virtue of an interest or right to which this section applies.
- [<sup>F9</sup>and in a case within subsection (1)(d) above, unless the <sup>M3</sup>displacement occurred on or after 31st July 1974 (on which date Housing Act 1974 was passed).]
- (3) For the purposes of this section a person shall not be treated as displaced from a dwelling in consequence of the compulsory acquisition of an interest therein if he gives up his occupation thereof before the date on which the acquiring authority were authorised to acquire that interest, but, subject to that, it shall not be necessary for the acquiring authority to have required him to give up his occupation of the dwelling.
- [<sup>F10</sup>(3A) For the purposes of this section a person shall not be treated as displaced from a dwelling in consequence of [<sup>F11</sup>(a)] the carrying out of any improvement to the dwelling [<sup>F12</sup>or; (b) a requirement to remove as mentioned in subsection (1)(e) above] unless he is permanently displaced from it in consequence of the carrying out of the improvement in question [<sup>F13</sup>or removal as the case may be.]]
- (4) This section applies to the following interests and rights—
- (a) any interest in the dwelling;
  - (b) a right to occupy the dwelling as a statutory tenant within the meaning of the <sup>M4</sup>Rent (Scotland) Act 1971 or under a contract to which Part VII of that Act (furnished lettings) applies or would apply if the contract or dwelling were not excluded by section 85(3)(d) or 86 of that Act;
  - [<sup>F14</sup>(bb) a right to occupy the dwelling as a statutory assured tenant within the meaning of the Housing (Scotland) Act 1988;]
  - (c) a right to occupy the dwelling under a contract of employment.
- (5) No home loss payment shall be made to any person displaced from a dwelling in consequence of the compulsory acquisition of an interest therein if the acquisition is in pursuance of the service by him of a blight notice within the meaning of section 181 of the <sup>M5</sup>Town and Country Planning (Scotland) Act 1972 or of a notice under section 11 of the <sup>M6</sup>New Towns (Scotland) Act 1968.
- (6) Where an authority possessing compulsory purchase powers acquire the interest of any person in a dwelling by agreement, then, in relation to any other person who is displaced from the dwelling in consequence of the acquisition, subsections (1) to (4) above shall have effect as if the acquisition were compulsory and the authority (if not authorised to acquire the interest compulsorily) had been so authorised on the date of the agreement.

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- (7) In this section “a housing order, resolution or undertaking” means—
- (a) a demolition or closing order under Part <sup>F15</sup>VI of the Housing (Scotland) Act <sup>F15</sup>1987<sup>F16</sup> or an order under section <sup>F15</sup>88 of that Act<sup>F16</sup>;
  - (b) a resolution under section <sup>F17</sup>125 of the said Act . . . <sup>F18</sup>, . . . <sup>F19</sup>
  - (c) an undertaking accepted under section <sup>F20</sup>117(2)(a) of the said Act . . . <sup>F21</sup>; <sup>F22</sup>or
  - (d) a final resolution under Part <sup>F23</sup>I of Schedule 8 to that Act<sup>F22</sup>
- . . . <sup>F24</sup>
- <sup>F25</sup>(7A) In this section “improvement” includes alteration and enlargement; and “redevelopment” includes a change of use<sup>F25</sup>
- (8) Where an interest in a dwelling is vested in trustees and a person beneficially entitled (whether directly or derivatively) under the trust is entitled or permitted by reason of his interest to occupy the dwelling, he shall be treated for the purposes of this section as occupying it by virtue of an interest in the dwelling.
- (9) <sup>F26</sup>Subject to subsection (2) above,<sup>F26</sup> this section applies if the date of displacement is on or after 17th October 1972 <sup>F27</sup>except that, where the displacement is in consequence of the circumstances referred to in subsection (1)(e) above, it applies if the date of displacement is on or after the coming into force of paragraph 12 of Schedule 2 to the <sup>M7</sup>Housing (Financial Provisions) (Scotland) Act 1978.]

#### Textual Amendments

- F1** Words inserted by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 42(1)(a)**
- F2** S. 27(1)(d) substituted by Housing Rents and Subsidies (Scotland) Act 1975 (c. 28), **Sch. 3 para. 9(1)**
- F3** S. 27(1)(e) inserted by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 12(a)(i)**
- F4** S. 27(1)(f) inserted by Housing (Scotland) Act 1986 (c. 65, SIF 61), **s. 20(2)(a)**
- F5** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(1)**
- F6** Paras. (i) to (iv) substituted for words by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 42(1)(b)**
- F7** Para. (v) added by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 12(a)(ii)**
- F8** S. 27(1)(vi) inserted by Housing (Scotland) Act 1986 (c. 65, SIF 61), **s. 20(2)(b)**
- F9** Words added by Housing Rents and Subsidies (Scotland) Act 1975 (c. 28), **Sch. 3 para. 9(2)**
- F10** S. 27(3A) inserted by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 42(2)**
- F11** Word inserted by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 12(b)(i)**
- F12** Words inserted by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 12(b)(ii)**
- F13** Words added by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 12(b)(iii)**
- F14** S. 27(4)(bb) inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 1**
- F15** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(2)**
- F16** Words added by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 39**
- F17** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(2)(b)**
- F18** Words repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(2)(b)**
- F19** Word repealed by Housing (Scotland) Act 1974 (c. 45), **Sch. 5**
- F20** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(2)(c)**

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- F21** Words repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 19(2)(c)**
- F22** [S. 27\(7\)\(d\)](#) inserted by [Housing \(Scotland\) Act 1974 \(c. 45, SIF 61\)](#), **Sch. 3 para. 48**
- F23** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 19(2)(d)**
- F24** Words repealed by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 15**
- F25** [S. 27\(7A\)](#) inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 42(3)**
- F26** Words inserted by [Housing Rents and Subsidies \(Scotland\) Act 1975 \(c. 28\)](#), **Sch. 3 para. 9(3)**
- F27** Words added by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14, SIF 61\)](#), **Sch. 2 para. 12(c)**

#### Marginal Citations

- M1** 1959 c. 24.
- M2** 1987 c.26 (61).
- M3** 1974 c. 44.
- M4** 1971 c. 28.
- M5** 1972 c. 52.
- M6** 1968 c. 16.
- M7** 1978 c. 14.

VALID FROM 25/09/1991

#### [27A] <sup>F28</sup>Spouses having statutory occupancy rights.

- (1) This section applies where, by reason of the entitlement of one spouse (“A”) to occupy a dwelling by virtue of an interest or right to which section 27 above applies, the other spouse (“B”) acquires occupancy rights (within the meaning of the <sup>M8</sup>Matrimonial Homes (Family Protection) (Scotland) Act 1981).
- (2) So long as—
- (a) those occupancy rights continue;
  - (b) B is in occupation of the dwelling and A is not; and
  - (c) B is not, apart from this section, treated as occupying the dwelling by virtue of an interest or right to which that section applies,
- B shall be treated for the purposes of that section as occupying the dwelling by virtue of such an interest (but not an owner’s interest within the meaning of section 28 below).
- (3) References in this section to a dwelling include a reference to a substantial part of it.]

#### Textual Amendments

- F28** [S. 27A](#) inserted (25.9.1991) (subject to limitation referred to in [S.I. 1991/2092](#), art. 4(1), **Sch. 2 Pt. II**) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), **s. 72** (with s. 84(5)); [S.I. 1991/2092](#), **art. 3**

#### Marginal Citations

- M8** 1981 c. 59.

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**[<sup>F29</sup>28 Amount of home loss payment.**

The amount of a home loss payment shall be £1,500.]

**Textual Amendments**

**F29** S. 28 substituted by S.I. 1989/47, reg. 2

**29 Supplementary provisions about home loss payments.**

- (1) [<sup>F30</sup>No home loss payment shall be made except on a claim in that behalf made by the person entitled thereto (“the claimant”)]; and any such claim shall be in writing and shall be accompanied or supplemented by such particulars as the authority responsible for making the payment may reasonably require to enable them to determine whether the claimant is entitled to a payment and, if so, its amount.
- (2) A home loss payment shall be made not later than three months after the date on which a claim for the payment is made in accordance with subsection (1) above or, if those three months end before the date of displacement, on the date of displacement.
- (3) Where the claimant has been in occupation of a dwelling or a substantial part of it as mentioned in paragraphs (a) and (b) of section 27(2) above for any period (“the claimant’s own qualifying period”) and has also for an immediately preceding period resided in the dwelling, or a substantial part of it, as his only or main residence but without being in occupation as required by those paragraphs then, if another person was, or other persons successively were, in occupation thereof as mentioned in those paragraphs throughout that preceding period, the claimant’s own qualifying period shall be treated for the purposes of section 27(2) above as including that preceding period.
- (4) [<sup>F31</sup>Where a person (“the deceased”) entitled to a home loss payment dies without having claimed it, a claim to the payment may be made] by any person, not being a person under the age of eighteen, who—
  - (a) throughout a period of not less than five years ending with the date of displacement of the deceased, has resided in the dwelling, or a substantial part of it, as his only or main residence; and
  - (b) is entitled to benefit by virtue of—
    - (i) a testamentary disposition or any other deed with testamentary effect taking effect on, or the law of intestate succession as applied to, the death of the deceased; or
    - (ii) a right to *jus relictii*, *jus relictiae* or *legitim* out of the deceased’s estate.
- (5) Where the claimant has successively been in occupation of or resided in different dwellings in the same building, being dwellings consisting of a room or rooms not constructed or structurally adapted for use as a separate dwelling, section 27(2) above and subsections (3) and (4) above shall have effect as if those dwellings were the same dwelling.
- (6) Where there are two or more persons entitled to make a claim to a home loss payment in respect of the same dwelling (whether by virtue of joint occupation or of subsection (4) above) the payment to be made on each claim shall be equal to the whole amount of the home loss payment divided by the number of such persons.

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(7) Where an interest in a dwelling is acquired by agreement by an authority possessing compulsory purchase powers, the authority may, in connection with the acquisition, make to the person from whom the interest is acquired a payment corresponding to any home loss payment which they would be required to make to him if the acquisition were compulsory and the authority had been authorised to acquire that interest before he gave up occupation of the dwelling.

[<sup>F32</sup>(7A) Section 6 of the Prescription and Limitation (Scotland) Act 1973 (extinction of obligations by prescriptive periods of five years) shall apply to an obligation to make a home loss payment, and in relation to such obligation the appropriate date for the purposes of subsection (1) of the said section 6 shall be the date of displacement.]

[<sup>F33</sup>(7AA) If a landlord recovers possession of a dwelling by agreement—

- (a) after serving notice under section [<sup>F34</sup>47 and 48(2) of the Housing (Scotland) Act <sup>M9</sup>1987] on the tenant specifying the ground set out in paragraph 10 of Part I of Schedule [<sup>F34</sup>3] to that Act; or
- (b) where, but for that agreement, it would have served such notice on him specifying that ground,

it may, in connection with the recovery, make to him a payment corresponding to any home loss payment which it would be required to make to him if the recovery were by order under section 15(2) of that Act.]

(8) ..... <sup>F35</sup>

#### Textual Amendments

- F30** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 114\(2\)\(6\)](#) except in cases where the date of displacement was more than 6 months before 13.11.1980
- F31** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 114\(3\)\(6\)](#) except in cases where the date of displacement was more than 6 months before 13.11.1980
- F32** [S. 29\(7A\)](#) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 114\(5\)\(6\)](#) except in cases where the date of displacement was more than 6 months before 13.11.1980
- F33** [S. 29\(7AA\)](#) inserted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\), s. 20\(3\)](#)
- F34** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\), ss. 335, 339\(2\), Sch. 23 para. 19\(3\)](#)
- F35** [S. 29\(8\)](#) repealed by [Local Government, Planning and Land Act 1980 \(c. 65\), Sch. 34 Pt. XII](#)

#### Marginal Citations

- M9** [1987 c.26 \(61\)](#).

### 30 Home loss payments for certain caravan dwellers.

- (1) Sections 27 to 29 above shall, so far as applicable, have effect in relation to a person residing in a caravan on a caravan site who is displaced from that site as they have effect in relation to a person displaced from a dwelling on any land but shall so have effect subject to the following modifications.
- (2) No home loss payment shall be made to any person by virtue of this section except where no suitable alternative site for stationing a caravan is available to him on reasonable terms.

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- (3) Subsection (1) of section 27 above shall have effect as if for the words preceding paragraph (a) there were substituted the words “Where a person residing in a caravan on a caravan site is displaced from that site in consequence of” and subsection (2) of that section shall have effect as if for paragraphs (a) and (b) there were substituted—
- “(a) he has been in occupation of the caravan site by using a caravan stationed on it as his only or main residence; and
  - (b) he has been in occupation of the site as aforesaid by virtue of an interest or right to which this section applies.”

(4) ..... F36

- (5) Section 29 above shall have effect—
- (a) as if in subsection (3) for the words “in occupation of a dwelling or a substantial part of it”, “resided in the dwelling, or a substantial part of it” and “in occupation thereof” there were substituted respectively the words “in occupation of a caravan site”, “resided in a caravan on that site” and “in occupation of that site”;
  - (b) as if in subsection (4) for the words “resided in the dwelling, or a substantial part of it” there were substituted the words “resided in a caravan on the caravan site”; and
  - (c) as if for subsection (5) there were substituted—
    - “(5) Where any land comprises two or more caravan sites and the claimant has successively been in occupation of or resided in a caravan on different caravan sites on that land, section 27(2) above and subsections (3) and (4) above shall have effect as if those sites were the same site”.

(6) Sections 27 to 29 above shall have effect as if in any provision not modified as aforesaid for any reference to a dwelling or land there were substituted a reference to a caravan site.

(7) In this section “caravan site” means land on which a caravan is stationed for the purpose of human habitation and land which is used in conjunction with land on which a caravan is so stationed.

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**Textual Amendments**

**F36** S. 30(4) repealed by S.I. 1989/47, reg. 3

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