



# 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 redevelopment on the land,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 the acquiring authority, the authority who made the order, passed the resolution or accepted the undertaking or the authority carrying out the redevelopment, as the case may be.
- (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.
- (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

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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.

- (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 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)(a) or 86 of that Act;
  - (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 Town and Country Planning (Scotland) Act 1972 or of a notice under section 11 of the 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.
- (7) In this section " a housing order, resolution or undertaking " means—
- (a) a demolition or closing order under Part II of the Housing (Scotland) Act 1966 ;
  - (b) a resolution under section 56 of the said Act of 1966 ; or
  - (c) an undertaking accepted under section 15(4)(i) of the said Act of 1966 ;
- and " redevelopment" includes a change of use.
- (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) This section applies if the date of displacement is on or after 17th October 1972.

## **28 Amount of home loss payment**

- (1) Subject to subsection (2) below, the amount of a home loss payment shall be an amount equal to the rateable value of the dwelling multiplied by six, subject to a maximum of £1,500 and a minimum of £150.
- (2) The Secretary of State may from time to time by order prescribe a different multiplier and a different maximum or minimum for the purposes of subsection (1) above; and the power to make orders under this subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) For the purposes of this section the rateable value of a dwelling shall be determined as follows—

- (a) if the dwelling consists of lands and heritages for which a rateable value is shown in the valuation roll in force on the date of displacement, it shall be that rateable value;
  - (b) if the dwelling forms part only of such lands and heritages or consists or forms part of more than one unit of such lands and heritages, an apportionment or aggregation of the rateable value or values so shown shall be made by the assessor and the rateable value of the dwelling shall be taken to be the amount certified by him as being the amount which, on such an apportionment or aggregation, is properly attributable to the dwelling;
  - (c) if neither paragraph (a) nor paragraph (b) of this subsection applies to the dwelling, its rateable value shall be determined by the assessor in accordance with the Valuation Acts.
- (4) This section shall be construed as one with the Valuation and Rating (Scotland) Act 1956.

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

- (1) Subject to subsection (8) below, no home loss payment shall be made except on a claim in that behalf made by the person entitled thereto (" the claimant") before the expiration of the period of six months beginning with the date of displacement; 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) Where a person (" the deceased") dies before the expiration of the period for making a claim to a home loss payment and would have been entitled to such a payment if he had made a claim within that period, a claim to that payment may be made, before the expiration of that period, 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.

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- (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.
- (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.
- (8) Where the date of displacement is before 23rd May 1973 the period within which a claim to a home loss payment can be made shall be the period of six months beginning with that date.

### **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.
- (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) Section 28(3) above shall have effect as if—
  - (a) paragraph (b) were omitted ; and
  - (b) in paragraphs (a) and (c) for the word " dwelling " there were substituted the words " caravan site together with a caravan ".
- (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 ";

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- (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.