
*Changes to legislation: There are currently no known outstanding effects for the
Planning and Compensation Act 1991, SCHEDULE 16. (See end of Document for details)*

SCHEDULES

SCHEDULE 16

Section 77.

COMPENSATION WHERE PERMISSION FOR ADDITIONAL DEVELOPMENT GRANTED AFTER ACQUISITION-SCOTLAND

Commencement Information

II Sch. 16 wholly in force at 25.09.1991 see s. 84(2)(3) and S.I. 1991/2092, art. 3.

1 After section 30 of the ^{M1}Land Compensation (Scotland) Act 1963 there is inserted—

“PART V

COMPENSATION WHERE PERMISSION FOR ADDITIONAL DEVELOPMENT GRANTED AFTER ACQUISITION

31 Compensation where planning decision made after acquisition.

(1) Where—

- (a) any interest in land is compulsorily acquired or is sold to an authority possessing compulsory purchase powers and, before the end of the period of ten years beginning with the date of completion, a planning decision is made granting permission for the carrying out of additional development of any of the land; and
- (b) the principal amount of the compensation which was payable in respect of the compulsory acquisition or, in the case of a sale by agreement, the amount of the purchase price, was less than the amount specified in subsection (2) of this section,

then, subject to the following provisions of this section, the person to whom the compensation or purchase price was payable shall be entitled, on a claim duly made by him, to compensation from the acquiring authority of an amount equal to the difference.

(2) The amount referred to in subsection (1)(b) of this section is the principal amount of the compensation which would have been payable in respect of a compulsory acquisition of the interest by the acquiring authority, in pursuance of a notice to treat served on the relevant date if—

- (a) the planning decision mentioned in subsection (1)(a) of this section had been made before that date; and
- (b) the permission granted by it had been in force on that date.

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- (3) No compensation shall be payable by virtue of this section in respect of a planning decision in so far as it relates to land acquired by the acquiring authority, whether compulsorily or by agreement—
- (a) under section 142 or 143 of the ^{M2}Local Government, Planning and Land Act 1980 (acquisitions by urban development corporations and by roads authorities in connection with urban development areas);
 - (b) under the ^{M3}New Towns (Scotland) Act 1968 (acquisitions by development corporations and by roads authorities in connection with new town areas); or
 - (c) where the compulsory purchase order included a direction under section 107 of the ^{M4}Town and Country Planning (Scotland) Act 1972 (minimum compensation in case of listed building deliberately left derelict).
- (4) If—
- (a) in accordance with the preceding provisions of this section the person referred to in subsection (1) of this section would be entitled to compensation under this section; but
 - (b) before the planning decision in question that person has died, or any other act or event has occurred whereby the right to compensation under this section, if vested in him immediately before that act or event, would thereupon have vested in some other person,
- the right to compensation under this section shall be treated as having devolved as if that right had been vested in him immediately before his death or immediately before that act or event, as the case may be, and the compensation shall be payable to the persons claiming under him accordingly.
- (5) Compensation under this section shall carry interest at the rate prescribed under section 40 of this Act from the date of the planning decision in question until payment.
- (6) The provisions of Part II of this Act (so far as applicable) shall apply (subject to the following provisions) in relation to the assessment of compensation under this section as they apply in relation to the assessment of compensation in respect of the compulsory acquisition of an interest in land.

32 Provisions as to claims under section 31.

- (1) For the purpose of facilitating the making of claims for compensation under section 31 of this Act—
- (a) the person entitled to receive the compensation or purchase price in respect of such an acquisition or sale as is mentioned in section 31(1) (a) of this Act; or
 - (b) any person claiming under him as being a person who, if compensation under that section became payable, would be entitled to it by virtue of subsection (4) of that section,
- may give to the acquiring authority an address for service under this section.
- (2) Where, at any time—

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- (a) after a person has given an acquiring authority an address for service under this section; and
 - (b) before the end of the period mentioned in paragraph (a) of section 31(1) of this Act,such a planning decision is made as is mentioned in that paragraph, the acquiring authority shall, subject to subsection (3) of this section, give notice of the decision in the prescribed form to that person at that address.
- (3) If—
 - (a) an address for service has been given by such a person as is mentioned in subsection (1)(b) of this section; and
 - (b) the acquiring authority have reasonable grounds for believing that the person mentioned in subsection (1)(a) of this section is dead or that any other act or event has occurred as mentioned in section 31(4)(b) of this Act,the acquiring authority need not give a notice to the person mentioned in subsection (1)(a).
- (4) A claim for compensation under section 31 of this Act in respect of a planning decision shall not have effect if made more than six months after the following date, that is to say—
 - (a) if the claim is made by a person who has not given the acquiring authority an address for service under this section, the date of the decision;
 - (b) if the claim is made by a person who has given the acquiring authority such an address, the date on which notice of the decision is given to him in accordance with subsection (2) of this section;but, where there is an appeal against the planning decision, the reference in paragraph (a) of this subsection to the date of the planning decision shall be read as a reference to the date of the decision on the appeal.
- (5) The references in subsection (4) of this section to an appeal against a planning decision include an appeal made by virtue of section 34 of the ^{M5}Town and Country Planning (Scotland) Act 1972.
- (6) Where—
 - (a) a person has given to an acquiring authority an address for service under this section; and
 - (b) that authority, before the end of the period mentioned in section 31(1)(a) of this Act, cease to be entitled to an interest in the whole or part of the land comprised in the acquisition or sale, without remaining or becoming entitled to the dominium utile, or a tenancy, of that land or that part of it, as the case may be,they shall notify the planning authority; and after that it shall be the duty of the planning authority to give notice to the acquiring authority of any planning decision of which the acquiring authority are required to give notice under subsection (2) of this section.
- (7) Notice under subsection (6) of this section of a planning decision—
 - (a) in the case of a decision made by the planning authority, shall be given within seven days after the making of the decision; and

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- (b) in any other case, shall be given within seven days after the making of the decision has been notified to the planning authority.

33 Extension to planning permission where no planning decision made.

- (1) The provisions of sections 31 and 32(1) of this Act shall have effect in relation to any planning permission falling within column 1 of the following table for any development as if a planning decision granting that permission had been made on the date shown in column 2.

Planning permission	Date of decision
Permission granted by a development order	When development is initiated
Permission granted by the adoption or approval of a simplified planning zone scheme	When the scheme is approved or adopted
Permission granted by an order designating an enterprise zone	When the designation takes effect
Permission deemed to be granted by a direction under section 37 of the Town and Country Planning (Scotland) Act 1972	When the direction is given
Permission deemed to be granted by a planning authority	The occurrence of the event in consequence of which the permission is deemed to be granted

- (2) Where the provisions of section 31 of this Act have effect as applied by subsection (1) of this section in relation to any planning permission falling within column 1 of that table for any development, then if—

- (a) before the date shown in column 2, a person who (under section 32(1) of this Act as so applied) is entitled to give an address for service under that section has given such an address to the acquiring authority; and
- (b) the development is proposed to be carried out by the acquiring authority or, if it is proposed to be carried out by a person other than the acquiring authority, notice of that proposal is given to the acquiring authority by the person proposing to carry out the development,

it shall, subject to subsection (3) of this section, be the duty of the acquiring authority to give notice of that proposal in the prescribed form to the person mentioned in paragraph (a) of this subsection at the address given by him to the authority.

- (3) An acquiring authority shall not be required by virtue of subsection (2) of this section to give notice of proposed development to the person mentioned in section 32(1)(a) of this Act if—

- (a) an address for service has been given to them by such a person as is mentioned in section 32(1)(b) of this Act; and

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- (b) they have reasonable grounds for believing that the former person is dead or that any other act or event has occurred as mentioned in section 31(4)(b) of this Act.
- (4) A claim for compensation under section 31 of this Act in respect of a planning permission falling within column 1 of that table shall not have effect if made more than six months after the following date, that is to say—
- (a) if the claim is made by a person to whom notice has been given under subsection (2) of this section, the date on which the notice was given;
 - (b) in any other case, the date shown in column 2.

34 Extension to Crown development.

- (1) Where—
- (a) any interest in land is compulsorily acquired or is sold to an authority possessing compulsory purchase powers, and before the end of the period of ten years beginning with the date of completion there is initiated any additional development of any of the land which was comprised in the acquisition or sale; and
 - (b) by reason of any such circumstances as are mentioned in subsection (2) of this section the development in question is development for which planning permission is not required,
- the provisions of sections 31 and 32(1) of this Act shall apply as if a planning decision granting permission for that development had been made at the time when the additional development is so initiated.
- (2) The circumstances referred to in subsection (1) of this section are either or both of the following—
- (a) that the development is initiated by or on behalf of the Crown;
 - (b) that there is a Crown interest in the land and the development is initiated in right of that interest.
- (3) Where—
- (a) the provisions of section 31 of this Act have effect as applied by subsection (1) of this section in relation to the initiation of any development; and
 - (b) before the development is initiated a person who (under section 32(1) of this Act as so applied) is entitled to give an address for service under that section has given such an address to the acquiring authority,
- it shall, subject to subsections (4) and (5) of this section, be the duty of the acquiring authority to give notice in the prescribed form of the initiation of the development to the person mentioned in paragraph (b) of this subsection at the address given by him to the authority.
- (4) Where—
- (a) by virtue of subsection (3) of this section, it is the duty of a government department to give notice of development initiated by or on behalf of that department; and
 - (b) the Minister in charge of the department certifies that for reasons of national security it is necessary that the nature of the development

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- should not be disclosed, except to the extent specified in the certificate,
- the department shall give notice of development, but shall not be required to give any particulars of the nature of the development except to the extent specified in the certificate.
- (5) An acquiring authority shall not be required by virtue of subsection (3) of this section to give notice of proposed development to the person mentioned in section 32(1)(a) of this Act if—
- (a) an address for service has been given to them by such a person as is mentioned in section 32(1)(b) of this Act; and
 - (b) they have reasonable grounds for believing that the former person is dead or that any other act or event has occurred as mentioned in section 31(4)(b) of this Act.
- (6) A claim for compensation under section 31 of this Act in respect of the initiation of any development shall not have effect if made more than six months after the following date, that is to say—
- (a) if the claim is made by a person to whom notice has been given under subsection (3) of this section, the date on which the notice was given;
 - (b) in any other case, the time the development is initiated.
- (7) In this section “Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department.

35 Application of Part V to certain cases.

The preceding provisions of this Part of this Act shall have effect subject to the provisions of the Third Schedule to this Act.

36 Regulations for purposes of Part V.

- (1) The Secretary of State may by statutory instrument make regulations for prescribing the form of any notice required by this Part of this Act to be given in the prescribed form.
- (2) Any statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

37 Interpretation of Part IV.

- (1) In this Part of this Act—

“additional development”, in relation to an acquisition or sale of an interest in land, means any development of the land other than the following, that is to say—

 - (a) where the acquiring authority are a local authority, and acquired the interest for the purposes of any of their functions, development for the purposes of the functions for which they acquired it;
 - (b) where the acquiring authority are not a local authority, development for the purposes of the project in connection with which they acquired the interest;

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- (c) development for which planning permission was in force on the relevant date;
- (d) in the case of compulsory acquisition, development for which it was assumed (in accordance with the provisions of sections 22 to 24 of this Act) for the purpose of assessing compensation that planning permission would be granted; and
- (e) in the case of a sale by agreement, development for which, if the interest (instead of being sold by agreement) had been compulsorily acquired by the acquiring authority in pursuance of a notice to treat served on the relevant date, it would have been so assumed;

“date of completion”, in relation to an acquisition or sale of an interest in land, means the date on which the acquisition or sale is completed by the vesting of that interest in the acquiring authority;

“local authority” means a regional, islands or district council;

“prescribed” means prescribed by regulations under this Part of this Act;

“the relevant date”, in relation to a compulsory acquisition of an interest in land, means the date of service of the notice to treat and, in relation to a sale of such an interest by agreement, means the date of the making of the contract in pursuance of which the sale was effected.

- (2) In this Part of this Act any reference to the granting of permission for the carrying out of development of any land is a reference to the granting of permission (including where applicable outline permission) for that development—
- (a) either unconditionally or subject to conditions; and
 - (b) either in respect of that land taken by itself or in respect of an area including that land.”

Commencement Information

I2 Sch. 16 para. 1 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

Marginal Citations

M1 1963 c. 51.

M2 1980 c. 65.

M3 1968 c. 16.

M4 1972 c. 52.

M5 1972 c. 52.

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“THIRD SCHEDULE

APPLICATION OF PART V TO CERTAIN CASES

Disturbance, severance and injurious affection

- 1 Subject to paragraph 2 of this Schedule, any reference in section 31 of this Act to the principal amount of any compensation shall be construed as including any sum attributable to disturbance, severance or injurious affection.
- 2 If the person entitled to the compensation under section 31 of this Act—
- (a) was, at the time of the compulsory acquisition or sale mentioned in subsection (1) of that section, entitled to an interest in other land contiguous or adjacent to the land acquired or purchased; but
 - (b) is, at the time of the planning decision in question, no longer entitled to that interest, either in respect of the whole or in respect of part of that land;

any reference in section 31 of this Act to the principal amount of any compensation or the amount of the purchase price shall be construed as excluding so much of the compensation or purchase price as was or would have been attributable to severance or injurious affection of that land or, as the case may be, of that part.

Increase in value of contiguous or adjacent land

- 3 In determining for the purposes of section 31 of this Act the difference between the principal amount of the compensation specified in subsection (2) of that section and the principal amount of the compensation or the amount of the purchase price mentioned in subsection (1) of that section, in a case where—
- (a) the compensation or the purchase price was or would have been reduced (whether by virtue of section 14 of this Act or otherwise) by reason of an increase in the value of an interest in contiguous or adjacent land; but
 - (b) at the time of the planning decision the person entitled to the compensation under section 23 of this Act is not entitled to the interest or is entitled to it only as respects part of the contiguous or adjacent land,

the amount specified in section 31(2) and the principal amount or purchase price mentioned in section 31(1) shall be calculated as if the circumstances by reason of which it was or would have been so reduced had not existed or, as the case may be, as if the interest in the contiguous or adjacent land had subsisted only in that part of the land.

Land held subject to heritable security

- 4 Subject to the provisions of this Schedule relating to settled land, where, in a case falling within section 31(1) of this Act, the interest in land which was acquired or sold was subject to a heritable security, any reference (however

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expressed) in section 31 or section 32 of this Act to the person entitled to the compensation or purchase price shall be construed as a reference to the person who, subject to the heritable security, was entitled to that interest, and not as a reference to the heritable creditor.

- 5 For the purposes of the application of section 31 of this Act, and of the provisions of this Schedule other than this paragraph, to a case falling within the preceding paragraph, any reference to the principal amount of the compensation which was or would have been payable in respect of any compulsory acquisition shall be construed as a reference to the principal amount of the compensation which would have been payable if the interest in question had not been subject to a heritable security.
- 6 No compensation shall be payable by virtue of section 31 of this Act in respect of a compulsory acquisition or sale by agreement where the interest acquired or sold was the interest of a heritable creditor (as distinct from an interest subject to a heritable security).

Land held in trust

- 7 (1) Where, in a case falling within section 31(1) of this Act, the interest in land which was acquired or sold was subject to a trust, and accordingly the compensation or purchase price was payable to the trustees of that trust, any reference (however expressed) in section 31 or section 32 of this Act to the person entitled to the compensation or purchase price shall be construed as a reference to the trustees for the time being of the trust.
- (2) Where sub-paragraph (1) of this paragraph applies, section 31(4) of this Act shall not apply.
- (3) Any compensation paid to the trustees of the trust by virtue of section 31 of this Act in respect of a compulsory acquisition or sale by agreement shall be applicable by the trustees as if it were proceeds of the sale of the interest acquired or sold.
- (4) In this paragraph “trust” has the same meaning as in the ^{M6}Trusts (Scotland) Act 1921.

Interpretation

- 8 References in this Schedule to sections 31 and 32 of this Act include references to those sections as applied by section 33 or 34 of this Act, and references to the time of any planning decision shall be construed accordingly.”

Commencement Information

I3 Sch. 16 para. 2 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

Marginal Citations

M6 1921 c. 58.

Changes to legislation:

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