



# Land Compensation Act 1961

## 1961 CHAPTER 33 9 and 10 Eliz 2

### PART V

#### MISCELLANEOUS AND GENERAL

30 .....<sup>F1</sup>

#### Textual Amendments

<sup>F1</sup> S. 30 repealed by [Land Compensation Act 1973 \(c. 26\), Sch. 3](#)

#### 31 **Withdrawal of notices to treat.**

- (1) Where a claimant has delivered such a notice as is mentioned in paragraph (b) of subsection (1) of section four of this Act, the acquiring authority may, at any time within six weeks after the delivery thereof, withdraw any notice to treat which has been served on him or on any other person interested in the land authorised to be acquired.
- (2) Where a claimant has failed to deliver a notice as required by the said paragraph (b), the acquiring authority may, at any time after the decision of the [<sup>F2</sup>Upper Tribunal] on his claim but not later than six weeks after the claim has been finally determined, withdraw any notice to treat which has been served on him or on any other person interested in the land authorised to be acquired, unless the authority have entered into possession of the land by virtue of the notice.
- (3) Where the acquiring authority withdraw a notice to treat under this section, the authority shall be liable to pay compensation to the person to whom it was given for any loss or expenses occasioned to him by the giving and withdrawal of the notice, but if the notice is withdrawn under subsection (2) of this section not for any loss or expenses incurred by the claimant mentioned therein after the time when, in the opinion of the [<sup>F3</sup>Upper Tribunal], a proper notice of claim should have been delivered by him.

*Status: Point in time view as at 22/09/2017.*

*Changes to legislation: Land Compensation Act 1961, Part V is up to date with all changes known to be in force on or before 12 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) The amount of any compensation payable under subsection (3) of this section shall, in default of agreement, be determined by the [<sup>F4</sup>Upper Tribunal].
- (5) So long as the acquiring authority are entitled to withdraw a notice to treat under subsection (2) of this section, the authority shall not be compellable to take the land to which the notice relates or to pay any compensation awarded in respect of the taking.
- (6) For the purposes of this section, a claim shall not be deemed to be finally determined so long as the time for requiring the [<sup>F5</sup>Upper Tribunal] to state a case with respect thereto, or for appealing from any decision on the points raised by a case so stated, has not expired.

#### Textual Amendments

- F2** Words in s. 31(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 43** (with Sch. 5)
- F3** Words in s. 31(3) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 43** (with Sch. 5)
- F4** Words in s. 31(4) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 43** (with Sch. 5)
- F5** Words in s. 31(6) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 43** (with Sch. 5)

#### Modifications etc. (not altering text)

- C1** S. 31 excluded by [Forestry Act 1967 \(c. 10\)](#), **s. 22(5)**, [Agriculture Act 1967 \(c. 22\)](#), **s. 49(7)(ii)**, [Town and Country Planning Act 1971 \(c. 78\)](#), **s. 208**, [Land Compensation Act 1973 \(c. 26\)](#), **s. 54(4)**, [Compulsory Purchase \(Vesting Declarations\) Act 1981 \(c. 66, SIF 28:1\)](#), **s. 7(3)** and [Town and Country Planning Act 1990 \(c. 8, SIF 123:1\)](#), **ss. 139(5)**, 143(8), 146(6), 147, 167
- C2** S. 31 restricted by [Housing Act 1985 \(c. 68, SIF 61\)](#), **s. 227(2)**
- C3** S. 31 excluded (21.11.2013) by [The Network Rail \(Redditch Branch Enhancement\) Order 2013 \(S.I. 2013/2809\)](#), arts. 1, **9(6)** (with arts. 27(2), 39, Sch. 10 para. 4)

## 32 Rate of interest after entry on land.

- (1) The rate of interest on any compensation in respect of the compulsory acquisition of an interest in any land on which entry has been made before the payment of the compensation shall (instead of being the rate of five per cent. specified under section eighty-five of the <sup>M1</sup>Lands Clauses Consolidation Act 1845) be such rate as may from time to time be prescribed by regulations made by the Treasury.
- (2) Any such regulations shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Subordinate Legislation Made

- P1** [S. 32](#): for previous exercises of this power, see Index to Government Orders.
- P2** [S. 32\(1\)](#): power exercised (3.12.1991) by [S.I.1991/2732](#).

#### Modifications etc. (not altering text)

- C4** [S. 32](#) applied with modifications by [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34\)](#), s. 13(3), **Sch. 3 paras. 4, 5(a)**

*Status: Point in time view as at 22/09/2017.*

*Changes to legislation: Land Compensation Act 1961, Part V is up to date with all changes known to be in force on or before 12 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- C5** S. 32 applied (25.9.1991, subject to the restrictions referred to in S.I. 1991/2067, art. 4, **Sch. 2 Pt. I**) by Land Compensation Act 1973 (c. 26, SIF 28:1), **s. 52A(8)(a)** (as inserted by Planning and Compensation Act 1991 (c. 34, SIF 28:1), **s. 63(2)**); S.I. 1991/2067, **arts. 3, 4**)  
S. 32 applied (25.9.1995) by S.I. 1995/2248, **art. 5(3)**
- C6** S. 32 applied (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 5 para. 8(1)** (with regs. 1(3), 77-79, Sch. 4)

#### Marginal Citations

- M1** 1845 c. 18.

### 33 Application of Act to Crown.

This Act applies in relation to the acquisition of interests in land (whether compulsorily or by agreement) by government departments, being authorities possessing compulsory purchase powers, as it applies in relation to the acquisition of interests in land by such authorities which are not government departments.

### 34 Special provision as to ecclesiastical property in England.

- (1) [<sup>F6</sup>Where ecclesiastical property in England is vested in the incumbent of a benefice which is vacant it shall be treated for the purposes of this Act as being vested in the Diocesan Board of Finance for the diocese in which the land is situated.]
- (2) In this section “ecclesiastical property” means land belonging to any ecclesiastical benefice [<sup>F7</sup>of the Church of England], or being or forming part of a church subject to the jurisdiction of a bishop of any diocese [<sup>F7</sup>of the Church of England] or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

#### Textual Amendments

- F6** S. 34(1) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 8(a)**; 2006 No. 2, Instrument made by Archbishops
- F7** Words in s. 34(2) inserted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 8(b)**; 2006 No. 2, Instrument made by Archbishops

### 35 Certificates of value.

The [<sup>F8</sup>Upper Tribunal] may on the application of any person certify the value of land being sold by him to an authority possessing compulsory purchase powers, and the sale of the land to that authority at the price so certified shall be deemed to be a sale at the best price that can reasonably be obtained.

#### Textual Amendments

- F8** Words in s. 35 substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 44** (with Sch. 5)

*Status: Point in time view as at 22/09/2017.*

*Changes to legislation: Land Compensation Act 1961, Part V is up to date with all changes known to be in force on or before 12 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### 36 Saving for certain statutory purchases of statutory undertakings.

- (1) Nothing in this Act shall apply to any purchase of the whole or any part of any statutory undertaking under any enactment in that behalf prescribing the terms on which the purchase is to be effected.
- (2) In this section, “statutory undertaking” means an undertaking established by an enactment.

### 37 Local inquiries.

The Minister may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Act; and the provisions of subsections (2) to (5) of [F<sup>9</sup>section 250 of the M<sup>2</sup>Local Government Act 1972] (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall have effect with respect to any such inquiry.

#### Textual Amendments

F9 Words substituted by virtue of [Local Government Act 1972 \(c. 70\), s. 272\(2\)](#)

#### Marginal Citations

M2 [1972 c. 70.](#)

### 38 Services of notices.

- (1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under Part III F<sup>10</sup>... of this Act may be served or given either—
  - (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
  - (b) by leaving it at the usual or last known place of abode of that person, or, in a case in which an address for service has been furnished by that person, at that address; or
  - (c) by sending it in a pre-paid registered letter addressed to that person at his usual or last known place of abode, or, in a case in which an address for service has been furnished by that person, at that address; or
  - (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a pre-paid registered letter addressed to the secretary or clerk of the company or body at that office.
- (2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, the notice shall be deemed to be duly served if—
  - (a) being addressed to him either by name or by the description of “the owner” of the premises (describing them) it is delivered or sent in the manner mentioned in paragraph (a), (b) or (c) of subsection (1) of this section; or
  - (b) being addressed as aforesaid and marked in the manner for the time being prescribed by regulations under [F<sup>11</sup>the M<sup>3</sup>Town and Country Planning Act 1971], for securing that notices thereunder are plainly identifiable as a communication of importance, it is sent in a pre-paid registered letter to the

*Status: Point in time view as at 22/09/2017.*

*Changes to legislation: Land Compensation Act 1961, Part V is up to date with all changes known to be in force on or before 12 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

premises and is not returned to the authority sending it, or is delivered to some person on those premises or is affixed conspicuously to some object on those premises.

#### Textual Amendments

- F10** Words in s. 38(1) omitted (22.9.2017) by virtue of [Neighbourhood Planning Act 2017 \(c. 20\)](#), ss. [33\(2\)](#), [46\(1\)](#); S.I. 2017/936, reg. 3(c)
- F11** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\)](#), [Sch. 24 para. 2](#)

#### Modifications etc. (not altering text)

- C7** References to registered letter to be construed as including references to letter sent by recorded delivery service: [Recorded Delivery Service Act 1962 \(c. 27\)](#), s. 1(1)(2), [Sch. para. 1](#)

#### Marginal Citations

- M3** [1971 c. 78](#).

## 39 Interpretation.

(1) In this Act, except where the context otherwise requires,—

“acquiring authority”, in relation to an interest in land, means the person or body of persons by whom the interest is, or is proposed to be, acquired;

“authority possessing compulsory purchase powers”, where it occurs otherwise than in relation to a transaction, means any person or body of persons who could be or have been authorised to acquire an interest in land compulsorily, and, in relation to any transaction, means any person or body of persons who could be or have been so authorised for the purposes for which the transaction is or was effected or a parish council [<sup>F12</sup>community council] or parish meeting on whose behalf [<sup>F12</sup>district council][<sup>F13</sup>, county council or county borough council] could be or have been so authorised;

“building” includes any structure or erection and any part of a building as so defined, but does not include plant or machinery comprised in a building;

“the current development plan”, in relation to any land, means a development plan comprising that land, in the form in which (whether as originally approved or made . . . <sup>F14</sup>or as for the time being amended) that plan is in force on the date of service of the notice to treat;

“development” has the meaning assigned to it by [<sup>F15</sup>section 22 of the <sup>M4</sup>Town and Country Planning Act 1971], and “develop” shall be construed accordingly;

“development order” means an order under subsection (1) of [<sup>F15</sup>section 24 of the Town and Country Planning Act 1971];

“development plan” has the meaning assigned to it by section five of the <sup>M5</sup>Town and Country Planning Act 1947, and includes a plan made under subsection (5) of that section;

“enactment” includes an enactment in any local or private Act of Parliament and an order, rule, regulation, byelaw or scheme made under an Act of Parliament.

“land” means any corporeal hereditament, including a building as defined by this section, and includes any interest or right in or over land and any right to water;

*Status: Point in time view as at 22/09/2017.*

*Changes to legislation: Land Compensation Act 1961, Part V is up to date with all changes known to be in force on or before 12 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“local enactment” means any local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

[<sup>F16</sup>“local planning authority” shall be construed in accordance with Part I of the Town and Country Planning Act 1990;]

“the Minister” means [<sup>F17</sup>the Secretary of State];

“outline application” means an application for planning permission subject to subsequent approval on any matters;

“planning decision” means a decision made on an application under [<sup>F15</sup>Part III of the Town and Country Planning Act 1971];

“planning permission” means permission under [<sup>F15</sup>Part III of the Town and Country Planning Act 1971];

“special enactment” means a local enactment, or a provision contained in an Act other than a local or private Act, being a local enactment or provision authorising the compulsory acquisition of land specifically identified therein;

“tenancy” has the same meaning as in the <sup>M6</sup>Landlord and Tenant Act 1954.

- (2) In this Act, in relation to a compulsory acquisition in pursuance of a notice to treat, “the relevant interest” means the interest acquired in pursuance of that notice, “the relevant land” means the land in which the relevant interest subsists, and “the notice to treat” means the notice to treat in pursuance of which the relevant interest is acquired.
- (3) As respects references in this Act to planning decisions—
- (a) in relation to a decision altered on appeal by the reversal or variation of the whole or any part thereof, such references shall be construed as references to the decision as so altered;
  - (b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the local planning authority and not to the decision of the Minister on the appeal;
  - (c) in relation to a decision given on an appeal made by virtue of [<sup>F15</sup>section 37 of the <sup>M7</sup>Town and Country Planning Act 1971], in default of a decision by the local planning authority, such references shall be construed as references to the decision so given;
  - (d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the local planning authority, whether or not that decision is or was altered as aforesaid on that appeal, or, in the case of such a decision as is mentioned in paragraph (c) of this subsection, the time when by virtue of [<sup>F15</sup>section 37 of the Town and Country Planning Act 1971], the notification of a decision by the local planning authority is deemed to have been given.
- (4) References in this Act to a contract are references to a contract in writing or a contract attested by a memorandum or note thereof in writing, signed by the parties thereto or by some other person or persons authorised by them in that behalf, and, in relation to an interest in land conveyed or assigned without a preliminary contract, are references to the conveyance or assignment; and references to the making of a contract are references to the execution thereof or (if it was not in writing) to the signature of the memorandum or note by which it was attested.
- (5) References in this Act—
- (a) to a person from whom title is derived by another person include references to any predecessor in title of that other person;

*Status: Point in time view as at 22/09/2017.*

*Changes to legislation: Land Compensation Act 1961, Part V is up to date with all changes known to be in force on or before 12 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) to a person deriving title from another person include references to any successor in title of that other person;
  - (c) to deriving title are references to deriving title either directly or indirectly.
- (6) For the purposes of this Act, a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—
- (a) to both of them beneficially, or
  - (b) to both of them as trustee of one particular trust, or
  - (c) to both of them as personal representative of one particular person.
- (7) For the purposes of this Act development of land shall be taken to be initiated—
- (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
  - (b) if the development consists of a change in use, at the time when the new use is instituted;
  - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.
- (8) References in this Act to a notice to treat include references to a notice to treat which, under any enactment, is deemed to have been served, and references to the service of such a notice and to the date of service shall be construed accordingly.
- (9) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment.

#### Textual Amendments

- F12** Words inserted by [S.I. 1976/315, art. 4\(4\)](#)
- F13** Words in definition of “authority possessing compulsory purchase powers”  
in s. 39(1) substituted (1.4.1996) by 1994 c. 19, s. 66(6), [Sch. 16 para. 17](#) (with ss. 54(5)(7), 55(5), [Sch. 17 para. 22\(1\), 23\(2\)](#)); [S.I. 1996/396, art. 4, Sch. 2](#)
- F14** Word repealed by [Town and Country Planning Act 1968 \(c. 72\), Sch. 11](#)
- F15** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\), Sch. 24 para. 2](#)
- F16** Definition of “local planning authority”  
in s. 39(1) substituted (23.11.1995) by 1995 c. 25, s. 78, [Sch. 10 para. 4\(2\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); [S.I. 1995/2950, art. 2\(1\)](#)
- F17** Words substituted by virtue of [S.I. 1965/319, art. 2, Sch. 1 Pt. I](#) and 1970/1681, arts. 2, 6(3)

#### Modifications etc. (not altering text)

- C8** Definition of “development plan” explained by [Town and Country Planning Act 1971 \(c. 78\), s. 20](#)
- C9** [S. 39\(2\)](#) modified by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 141, Sch. 27 paras. 9, 13](#) and by [Housing Act 1988 \(c. 50, SIF 61\), s. 76\(5\)\(6\), Sch. 9 Pt. II para. 10](#)  
[S. 39\(2\)](#) modified (10.11.1993) by 1993 c. 28, s. 161(4), [Sch. 19 para. 5](#); [S.I. 1993/2762, art. 3](#)

#### Marginal Citations

- M4** 1971 c. 78
- M5** 1947 c. 51
- M6** 1954 c. 56
- M7** 1971 c. 78



*Status: Point in time view as at 22/09/2017.*

*Changes to legislation: Land Compensation Act 1961, Part V is up to date with all changes known to be in force on or before 12 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**40 †Consequential amendments, repeals, and transitional provisions.**

- (1) Any enactment or document referring to an enactment repealed by this Act shall be construed as referring to the corresponding enactment in this Act.
- (2) Without prejudice to the generality of subsection (1) of this section—
  - (a) any enactment excluding the power conferred by subsection (2) of section five of the <sup>M8</sup>Acquisition of Land (Assessment of Compensation) Act 1919, to withdraw notices to treat shall be construed as excluding any such power conferred by section thirty-one of this Act; and
  - (b) ..... <sup>F18</sup>
- (3) ..... <sup>F19</sup>
- (4) The mention of particular matters in this section shall not be taken to affect the general application to this Act of [<sup>F20</sup>sections 16(1) and 17(2)(a) of the <sup>M9</sup>Interpretation Act 1978] (which relates to the effect of repeals).
- (5) ..... <sup>F21</sup>

**Textual Amendments**

**F18** S. 40(2)(b) provides for amendments of enactments specified in Sch. 4

**F19** S. 40(3) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**

**F20** Words substituted by virtue of Interpretation Act 1978 (c. 30), s. 25(2)

**F21** S. 40(5) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. VII**

---

**Modifications etc. (not altering text)**

**C10** Unreliable marginal note

---

**Marginal Citations**

**M8** 1919 c. 57.

**M9** 1978 c. 30.

**41 Saving for transactions before commencement of Act.**

This Act (including the amendments and repeals made by it) shall not have effect in relation to any compulsory acquisition in pursuance of a notice to treat served before the commencement of this Act . . . <sup>F22</sup>; nor in relation to any sale of an interest in land by agreement in pursuance of a contract made before the commencement of this Act.

**Textual Amendments**

**F22** Words repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. VII**

**42 Short title, commencement and extent.**

- (1) This Act may be cited as the Land Compensation Act 1961.
- (2) This Act shall come into operation on the first day of August, nineteen hundred and sixty-one.
- (3) This Act does not extend to Scotland or Northern Ireland.



**Status:**

Point in time view as at 22/09/2017.

**Changes to legislation:**

Land Compensation Act 1961, Part V is up to date with all changes known to be in force on or before 12 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.