

SCHEDULE 4

Regulation 16

COMPENSATION

Interpretation

1. In this Schedule—

“the Act” means the Land Compensation (Scotland) Act 1963⁽¹⁾;

“the grantor” means the person who grants, or joins in granting, any rights under regulation 16, and

“relevant interest” means an interest in land in respect of which rights are granted in terms of regulation 16.

Period for making an application

2. An application for compensation shall be made before the expiry of a period of 12 months beginning with the date of completion of the measures required to be carried out in respect of which compensation is claimed.

Manner of making an application

3.—(1) An application for compensation must be made in writing to the person to whom the right was granted.

(2) The application must contain—

- (a) a copy of the grant of rights in respect of which the grantor is applying for compensation;
- (b) a description of the exact nature of any interest in land in respect of which compensation is applied for; and
- (c) a statement of the amount of compensation applied for, distinguishing the amounts applied for under each of sub-paragraphs (a) to (c) of paragraph 4 and showing how the amount applied for under each sub-paragraph has been calculated.

Loss and damage for which compensation payable

4. Compensation shall be payable for loss and damage of the following descriptions—

- (a) any depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the right;
- (b) any loss or damage sustained by the grantor which is attributable to the grant of the right or the exercise of it; and
- (c) the amount of any valuation and legal costs reasonably incurred by the grantor in granting the right and in the preparation of the application for and the negotiation of the amount of compensation.

Basis on which compensation assessed

5.—(1) The rules set out in section 12 of the Act (rules for assessing compensation)⁽²⁾ shall, so far as applicable and subject to any necessary modifications, have effect for the purpose of assessing any compensation as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(1) 1963 c. 51.

(2) Section 12 has been amended by Schedules 17 and 19 to the Planning and Compensation Act 1991 (c. 34).

(2) Where the relevant interest in respect of which any compensation is to be assessed is subject to a standard security (within the meaning of section 9 of the Conveyancing and Feudal Reform (Scotland) Act 1970⁽³⁾)—

- (a) the compensation must be assessed as if the interest were not subject to that security; and
- (b) no compensation shall be payable in respect of the interest of the creditor (as distinct from the interest which is subject to the security).

Determination of disputes

6. Any question of disputed compensation shall be referred to and determined by the Lands Tribunal for Scotland.

(3) 1970 c. 35. Section 9 has been amended by paragraph 30(6) of and Schedule 13 to the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5) and by paragraph 4(2) of Schedule 14 to the Title Conditions (Scotland) Act 2003 (asp 9).