



# Land Compensation Act 1973

## 1973 CHAPTER 26

An Act to confer a new right to compensation for depreciation of the value of interests in land caused by the use of highways, aerodromes and other public works; to confer powers for mitigating the injurious effect of such works on their surroundings; to make new provision for the benefit of persons displaced from land by public authorities; to amend the law relating to compulsory purchase and planning blight; to amend section 35 of the Roads (Scotland) Act 1970; and for purposes connected with those matters. [23rd May 1973]

### Modifications etc. (not altering text)

- C1** Act applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 23(3), Sch. 4 paras. 1, 2 (with art. 73)
- Act applied (with modifications) (18.12.1996) by 1996 c. 61, s. 4, Sch. 4 Pt. III paras. 8(2)(a), **9(9)(10)**
- Act applied (with modifications) (10.2.1997) by S.I. 1997/264, art. 19(3), Sch. 7 paras. 1, 2
- Act applied (with modifications) (21.5.1997) by S.I. 1997/1266, art. 26(3), Sch. 8 paras. 1, 2 (with art. 41)
- Act applied (with modifications) (3.6.1999) by S.I. 1999/1555, art. 5(4), Sch. 1 paras. 1, 2
- Act: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
- Act applied (with modifications) (20.1.1999) by S.I. 1999/2336, art. 14, Sch. 4 paras. 1, 2
- Act applied (with modifications) (23.8.1999) by S.I. 1999/2981, art. 17(3), Sch. 7 paras. 1, 2
- Act applied (with modifications) (2.3.2001) by S.I. 2001/1367, art. 9(3), Sch. 2 paras. 1, 2
- Act applied (with modifications) (2.3.2001) by S.I. 2001/1368, art. 9(3), Sch. 3 paras. 1, 2
- Act applied (with modifications) (2.3.2001) by S.I. 2001/1369, art. 6(3), Sch. 1 paras. 1, 2
- Act applied (with modifications) (29.3.2001) by S.I. 2001/1347, art. 26(3), Sch. 7 paras. 1, 2
- Act applied (with modifications) (29.3.2001) by S.I. 2001/1348, art. 6(3), Sch. 2 paras. 1, 2
- Act applied (with modifications) (18.7.2001) by S.I. 2001/2870, art. 15(7), Sch. 2 paras. 1, 2
- Act applied (with modifications) (9.11.2001) by S.I. 2001/3682, art. 21(3), Sch. 7 paras. 1, 2
- Act applied (with modifications) (30.4.2002) by S.I. 2002/1064, art. 11, **Sch. 2 para. 2**
- Act applied (with modifications) (30.4.2002) by S.I. 2002/1065, art. 11, **Sch. 3 para. 2**
- Act applied (with modifications) (14.3.2002) by S.I. 2002/412, art. 18, **Sch. 4 para. 2**
- Act applied (with modifications) (31.5.2002) by S.I. 2002/1327, art. 21, **Sch. 4 para. 2**
- Act applied (with modifications) (30.4.2002) by S.I. 2002/1066, art. 23, **Sch. 7 para. 2**

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- C2 Act modified (28.4.2003) by Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), art. 1, **Sch. 9 para. 2** (with art. 40)
- C3 Act applied (with modifications) (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), **Sch. 9 paras. 1, 2** (with art. 38)
- C4 Act applied (with modifications) (2.4.2004) by Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), **Sch. 8 paras. 1, 2**
- C5 Act applied (with modifications) (19.11.2004) by Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), **Sch. 3 para. 2** (with art. 38)
- C6 Act applied (with modifications) (28.1.2005) by East Midlands Parkway Station (Land Acquisition) Order 2005 (S.I. 2005/8), **Sch. 1 para. 2**
- C7 Act applied (with modifications) (11.2.2005) by Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), **Sch. 7 para. 2** (with arts. 65, 66)
- C8 Act modified (22.3.2005) by Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), **Sch. 7 para. 2** (with art. 51)
- C9 Act modified (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), **Sch. 6 para. 2**
- C10 Act applied (with modifications) (3.8.2005) by The Greater Manchester (Leigh Busway) Order 2005 (S.I. 2005/1918), **Sch. 7 para. 2**
- C11 Act applied (with modifications) (25.11.2005) by Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), **Sch. 7 paras. 1, 2** (with arts. 3(5), 15(3))
- C12 Act applied (with modifications) (E.W.S.) (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), **Sch. 7 paras. 1, 2** (with art. 52)
- C13 Act modified (14.9.2006) by The Borough of Poole (Poole Harbour Opening Bridges) Order 2006 (S.I. 2006/2310), **Sch. 3 para. 2** (with art. 40, **Sch. 7 para. 12**)
- C14 Act applied (with modifications) (22.11.2006) by Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), **Sch. 8 paras. 1, 2** (with art. 43)
- C15 Act modified (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), **Sch. 7 para. 2** (with arts. 34, 35(2))
- C16 Act modified (13.12.2006) by Luton Dunstable Translink Order 2006 (S.I. 2006/3118), **Sch. 7 para. 2**
- C17 Act modified (19.3.2007) by Ouseburn Barrage Order 2007 (S.I. 2007/608), **Sch. 4 para. 2** (with arts. 46-48, **Sch. 6 para. 23**)
- C18 Act modified (23.8.2007) by Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), **Sch. 6 para. 2** (with arts. 3(6), 12(3))
- C19 Act modified (17.12.2007) by Felixstowe Dock and Railway Company (Land Acquisition) Order 2007 (S.I. 2007/3345), **Sch. 1 para. 2**
- C20 Act applied (with modifications) (21.5.2008) by Teesport (Land Acquisition) Order 2008 (S.I. 2008/1238), **Sch. 1 para. 2**
- C21 Act applied (with modifications) (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 6 paras. 6(2), 7**
- C22 Act modified (14.10.2008) by Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), **Sch. 6 para. 2** (with art. 36(3))
- C23 Act modified (9.6.2009) by Nottingham Express Transit System Order 2009 (S.I. 2009/1300), **Sch. 7 para. 2** (with **Sch. 13 para. 14(2)**, **14 para. 19**)
- C24 Act modified (18.9.2009) by London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), **Sch. 5 para. 2**
- C25 Act modified (28.10.2009) by Network Rail (Reading) (Land Acquisition) Order 2009 (S.I. 2009/2728), **Sch. 2 para. 2**
- C26 Act modified (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), **Sch. 6 para. 2**
- C27 Act modified (1.2.2011) by The River Mersey (Mersey Gateway Bridge) Order 2011 (S.I. 2011/41), **Sch. 6 para. 2** (with art. 51, **Sch. 10 paras. 68, 85**)
- C28 Act modified (21.4.2011) by The Network Rail (Hitchin (Cambridge Junction)) Order 2011 (S.I. 2011/1072), **Sch. 8 para. 2**

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- C29** Act modified (7.8.2012) by The Ipswich Barrier Order 2012 (S.I. 2012/1867), **Sch. 3 para. 2** (with arts. 46-48, Sch. 8 para. 18)
- C30** Act modified (12.8.2012) by The Hinkley Point (Temporary Jetty) (Land Acquisition) Order 2012 (S.I. 2012/1924), **Sch. 1 para. 2**
- C31** Act modified (26.9.2012) by The Network Rail (Ipswich Chord) Order 2012 (S.I. 2012/2284), **Sch. 5 para. 2** (with art. 26(2))
- C32** Act modified (6.11.2012) by The Network Rail (North Doncaster Chord) Order 2012 (S.I. 2012/2635), **Sch. 9 para. 2(1)** (with art. 35(2))
- C33** Act modified (13.11.2012) by The Chiltern Railways (Bicester to Oxford Improvements) Order 2012 (S.I. 2012/2679), **Sch. 10 para. 2** (with art. 42(2))
- C34** Act applied (with modifications) (9.4.2013) by The Hinkley Point C (Nuclear Generating Station) Order 2013 (S.I. 2013/648), **Sch. 11 para. 2** (with arts. 48, 68, 79, 83)
- C35** Act applied (with modifications) (16.4.2013) by The Network Rail (Pont Briwet) (Land Acquisition) Order 2013 (S.I. 2013/767), **Sch. 1 para. 2(2)** (with arts. 20, 21)
- C36** Act applied (with modifications) (21.8.2013) by The Croxley Rail Link Order 2013 (S.I. 2013/1967), **Sch. 5 para. 2**
- C37** Act modified (22.8.2013) by The Leeds Railway Station (Southern Entrance) Order 2013 (S.I. 2013/1933), **Sch. 8 para. 2**
- C38** Act modified (6.11.2013) by The Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013 (S.I. 2013/2587), **Sch. 5 para. 2** (with arts. 42, 43)
- C39** Act modified (20.11.2013) by The M1 Junction 10a (Grade Separation) Order 2013 (S.I. 2013/2808), **Sch. 9 para. 2**
- C40** Act modified (21.11.2013) by The Network Rail (Redditch Branch Enhancement) Order 2013 (S.I. 2013/2809), **Sch. 7 para. 2** (with arts. 27(2), 39, Sch. 10 para. 4)
- C41** Act modified (9.1.2014) by The National Grid (King's Lynn B Power Station Connection) Order 2013 (S.I. 2013/3200), **Sch. 3 para. 2**
- C42** Act modified (9.1.2014) by The Ashton Vale to Temple Meads and Bristol City Centre Rapid Transit Order 2013 (S.I. 2013/3244), **Sch. 6 para. 2** (with arts. 57, 58, Sch. 11 para. 19)
- C43** Act modified (11.3.2014) by The Crossrail (Paddington Station Bakerloo Line Connection) Order 2014 (S.I. 2014/310), **Sch. 3 para. 2**
- C44** Act modified (21.4.2014) by The Network Rail (Norton Bridge Area Improvements) Order 2014 (S.I. 2014/909), **Sch. 8 para. 2** (with art. 34(2))
- C45** Act modified (7.5.2014) by The National Grid (North London Reinforcement Project) Order 2014 (S.I. 2014/1052), **Sch. 10 para. 2**
- C46** Act applied (with modifications) (7.7.2014) by The East Anglia ONE Offshore Wind Farm Order 2014 (S.I. 2014/1599), art. 17(4), **Sch. 7 para. 2** (with arts. 37, 38, Sch. 9 para. 19)
- C47** Act applied (with modifications) (6.8.2014) by The Rampion Offshore Wind Farm Order 2014 (S.I. 2014/1873), **Sch. 8 para. 2** (with arts. 12, 13, Pt. 2 para. 6, 3 para. 5, 4 para. 4, 5 para. 4, Sch. 12 para. 19)
- C48** Act applied (with modifications) (19.8.2014) by The Network Rail (Huyton) Order 2014 (S.I. 2014/2027), **Sch. 5 para. 2** (with art. 31(2))
- C49** Act applied (with modifications) (E.W.) (18.9.2014) by The A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014 (S.I. 2014/2269), **Sch. 6 para. 2**
- C50** Act modified (28.11.2014) (E.W.) by The Walney Extension Offshore Wind Farm Order 2014 (S.I. 2014/2950), **Sch. 7 para. 2** (with arts. 38, 39)
- C51** Act modified (15.12.2014) by The London Underground (Northern Line Extension) Order 2014 (S.I. 2014/3102), **Sch. 3 para. 2** (with Sch. 8 para. 45)
- C52** Act modified (31.12.2014) by The Hornsea One Offshore Wind Farm Order 2014 (S.I. 2014/3331), **Sch. 6 para. 2** (with arts. 37, 38)
- C53** Act applied (with modifications) (7.1.2015) by The Willington C Gas Pipeline Order 2014 (S.I. 2014/3328), **Sch. 7 para. 2**

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- C54** Act modified (2.2.2015) by The Northumberland County Council (A1 – South East Northumberland Link Road (Morpeth Northern Bypass)) Development Consent Order 2015 (S.I. 2015/23), **Sch. 11 para. 2**
- C55** Act modified (25.2.2015) by The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 (S.I. 2015/129), **Sch. 6 para. 2**
- C56** Act modified (11.3.2015) by The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 (S.I. 2015/318), **Sch. 6 para. 2(1)** (with arts. 40, 41, Pt. 2 para. 4(2), (3), 19, 4 para. 3, 4, 16, Sch. 12 paras. 4, 9(2), 10)
- C57** Act modified (1.4.2015) by The Knottingley Power Plant Order 2015 (S.I. 2015/680), **Sch. 6 para. 2** (with Sch. 8 para. 10)
- C58** Act applied (with modifications) (21.4.2015) by The Network Rail (Ordsall Chord) Order 2015 (S.I. 2015/780), **Sch. 9 para. 2** (with art. 36(2))
- C59** Act applied (with modifications) (21.4.2015) by The Crossrail (Plumstead Sidings) Order 2015 (S.I. 2015/781), **Sch. 2 para. 2**
- C60** Act applied (with modifications) (23.6.2015) by The Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015 (S.I. 2015/1347), **Sch. 11 para. 2**
- C61** Act applied (with modifications) (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), **Sch. 5 para. 2** (with arts. 51, 53)
- C62** Act applied (with modifications) (14.8.2015) by The Progress Power (Gas Fired Power Station) Order 2015 (S.I. 2015/1570), **Sch. 7 para. 2**
- C63** Act applied (with modifications) (14.8.2015) by The Hirwaun Generating Station Order 2015 (S.I. 2015/1574), **Sch. 5 para. 2** (with arts. 20(6), 30)
- C64** Act modified (26.8.2015) by The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 (S.I. 2015/1592), **Sch. 6 para. 2** (with arts. 40, 41)
- C65** Act applied (30.9.2015) by The Network Rail (Blackthorn and Piddington) (Land Acquisition) Order 2015 (S.I. 2015/1684), **Sch. 1 para. 2**

#### Commencement Information

- II** Act partly in force at Royal Assent, Act wholly in force at 23.6.1973 see s. 89(2)

## PART I

### COMPENSATION FOR DEPRECIATION CAUSED BY USE OF PUBLIC WORKS

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

- C66** Pt. I (ss. 1–19) modified by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, Sch. 2 Pt. III para. 27(1), **Sch. 7 Pt. VI para. 2**
- C67** Pt. 1 amended by Local Government, Planning and Land Act 1980 (c. 65), **s. 113**
- C68** Pt. I applied (with modifications) (1.3.2010) by Planning Act 2008 (c. 29), **ss. 152(7), 241(8)** (with s. 226); S.I. 2010/101, art. 3(h) (with art. 6)

## 1 Right to compensation.

- (1) Where the value of an interest in land is depreciated by physical factors caused by the use of public works, then, if—
- (a) the interest qualifies for compensation under this Part of this Act; and
  - (b) the person entitled to the interest makes a claim [<sup>F1</sup>after the time provided] by and otherwise in accordance with this Part of this Act,

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- compensation for that depreciation shall, subject to the provisions of this Part of this Act, be payable by the responsible authority to the person making the claim (hereafter referred to as “the claimant”).
- (2) The physical factors mentioned in subsection (1) above are noise, vibration, smell, fumes, smoke and artificial lighting and the discharge on to the land in respect of which the claim is made of any solid or liquid substance.
  - (3) The public works mentioned in subsection (1) above are—
    - (a) any highway;
    - (b) any aerodrome; and
    - (c) any works or land (not being a highway or aerodrome) provided or used in the exercise of statutory powers.
  - (4) The responsible authority mentioned in subsection (1) above is, in relation to a highway, the appropriate highway authority and, in relation to other public works, the person managing those works.
  - (5) Physical factors caused by an aircraft arriving at or departing from an aerodrome shall be treated as caused by the use of the aerodrome whether or not the aircraft is within the boundaries of the aerodrome; but, save as aforesaid, the source of the physical factors must be situated on or in the public works the use of which is alleged to be their cause.
  - (6) Compensation shall not be payable under this Part of this Act in respect of the physical factors caused by the use of any public works other than a highway unless immunity from actions for nuisance in respect of that use is conferred (whether expressly or by implication) by an enactment relating to those works or, in the case of an aerodrome and physical factors caused by aircraft, the aerodrome is one to which [<sup>F2</sup>section 77(2) of the Civil Aviation Act 1982](immunity from actions for nuisance) for the time being applies.
  - (7) Compensation shall not be payable under this Part of this Act in respect of physical factors caused by accidents involving vehicles on a highway or accidents involving aircraft.
  - (8) Compensation shall not be payable under this Part of this Act on any claim unless the relevant date in relation to the claim falls on or after 17th October 1969.
  - (9) Subject to section 9 below, “the relevant date” in this Part of this Act means—
    - (a) in relation to a claim in respect of a highway, the date on which it was first open to public traffic;
    - (b) in relation to a claim in respect of other public works, the date on which they were first used after completion.

#### Textual Amendments

- F1** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 112\(3\)\(9\)](#) except in cases where the relevant date was more than 3 years before 13.11.1980
- F2** Words substituted by [Civil Aviation Act 1982 \(c. 16, SIF 9\), Sch. 15 para. 12\(1\)](#)



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## 2 Interests qualifying for compensation.

- (1) An interest qualifies for compensation under this Part of this Act if it was acquired by the claimant before the relevant date in relation to the claim and the requirements of subsection (2) or, as the case may be, subsection (3) below are satisfied on the date on which notice of the claim for compensation in respect of that interest is served.
- (2) If and so far as the interest is in land which is a dwelling, the said requirements are—
  - (a) that the interest is an owner’s interest; and
  - (b) where the interest carries the right to occupy the land, that the land is occupied by the claimant in right of that interest as his residence.
- (3) If and so far as the interest is not in such land as aforesaid, the said requirements are—
  - (a) that the interest is that of an owner-occupier; and
  - (b) that the land is or forms part of either—
    - (i) a hereditament the annual value of which does not exceed the prescribed amount; or
    - (ii) an agricultural unit.
- (4) In this section “owner’s interest” in relation to any land, means the legal fee simple therein or a tenancy thereof granted or extended for a term of years certain of which, on the date of service of the notice of claim in respect thereof, not less than three years remain unexpired.
- (5) In this section “owner-occupier”, in relation to land in a hereditament, means a person who occupies the whole or a substantial part of the land in right of an owner’s interest therein and, in relation to land in an agricultural unit, means a person who occupies the whole of that unit and is entitled, while so occupying it, to an owner’s interest in the whole or any part of that land.
- (6) In this section “the prescribed amount” means the amount for the time being prescribed for the purposes of [F3section 149(3)(a) of the Town and Country Planning Act 1990](interests qualifying for protection under planning blight provisions) and “annual value” and “hereditament” have the meanings given in [F4section 171] of that Act taking references to the date of service of a notice under [F5section 150] of that Act as references to the date on which notice of the claim is served.
- (7) This section has effect subject to sections 10(4), 11 and 12 below.
- (8) . . . . . F6

### Textual Amendments

- F3** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 29(1)(a)**
- F4** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 29(1)(b)**
- F5** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 29(1)(c)**
- F6** Ss. 2(8), 4(6), 5(6), 6(7), 8(8), 10(5), 11(6) repealed by Land Compensation (Scotland) Act 1973 (c. 56), **Sch. 2 Pt. I**

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### 3 Claims.

- (1) A claim under this Part of this Act shall be made by serving on the responsible authority a notice containing particulars of—
  - (a) the land in respect of which the claim is made;
  - (b) the claimant's interest and the date on which, and the manner in which, it was acquired;
  - (c) the claimant's occupation of the land (except where the interest qualifies for compensation without occupation);
  - (d) any other interests in the land so far as known to the claimant;
  - (e) the public works to which the claim relates;
  - (f) the amount of compensation claimed;
  - (g) any land contiguous or adjacent to the land in respect of which the claim is made, being land to which the claimant was entitled in the same capacity (within the meaning of section 6 below) on the relevant date.
- (2) Subject to the provisions of this section and of sections 12 and 14 below, no claim shall be made [<sup>F7</sup>before the expiration of twelve months from the relevant date; and the day next following the expiration of the said twelve months is in this Part of this Act referred to as "the first claim day".]
- (3) Subsection (2) above shall not preclude the making of a claim in respect of an interest in land before [<sup>F8</sup>the first claim day] if—
  - (a) the claimant has during the said twelve months made a contract for disposing of that interest or (in so far as the interest is in land which is not a dwelling) for the grant of a tenancy of that land; and
  - (b) the claim is made before the interest is disposed of or the tenancy is granted; but compensation shall not be payable before [<sup>F8</sup>the first claim day] on any claim made by virtue of this subsection.
- (4) Where notice of a claim has been served on a responsible authority, any person authorised by that authority may, on giving reasonable notice, enter the land to which the claim relates for the purpose of surveying it and ascertaining its value in connection with the claim; and any person who wilfully obstructs a person in the exercise of the powers conferred by this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F9</sup>level 1 on the standard scale].
- (5) Where compensation is payable by a responsible authority on a claim there shall be payable by the authority, in addition to the compensation, any reasonable valuation or legal expenses incurred by the claimant for the purposes of the preparation and prosecution of the claim; but this subsection is without prejudice to the powers of the [<sup>F10</sup>Upper Tribunal in respect of the costs of and incidental to proceedings in the Upper Tribunal by virtue of section 29 of the Tribunals, Courts and Enforcement Act 2007].

#### Textual Amendments

- F7** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 112\(2\)\(9\)](#) except in cases where the relevant date was more than 3 years before 13.11.1980
- F8** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 112\(4\)\(9\)](#) except in cases where the relevant date was more than 3 years before 13.11.1980
- F9** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#)

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**F10** Words in s. 3(5) 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. 102](#) (with Sch. 5)

**4 Assessment of compensation: general provisions.**

- (1) The compensations payable on any claim shall be assessed by reference to prices current on <sup>[F11]</sup>the first claim day].
- (2) In assessing depreciation due to the physical factors caused by the use of any public works, account shall be taken of the use of those works as it exists on <sup>[F11]</sup>the first claim day] and of any intensification that may then be reasonably expected of the use of those works in the state in which they are on that date.
- (3) In assessing the extent of the depreciation there shall be taken into account the benefit of any relevant works—
  - (a) which have been carried out, or in respect of which a grant has been paid, under section 20 below, section 15 of the Airports Authority Act 1965 <sup>[F12]</sup>, section 29A of the Civil Aviation Act 1971<sup>[F13]</sup>, section 79 of the Civil Aviation Act 1982]or any corresponding local enactment <sup>[F14]</sup>or under any provision of a scheme operated by a person managing an aerodrome which provides for the payment of sound-proofing grants in respect of buildings near the aerodrome];
  - (b) which have been carried out under section 23 or 27 below;
 and it shall be assumed that any relevant works which could be or could have been carried out, or in respect of which a grant could be or could have been paid, under any of the provisions mentioned in paragraph (a) above have been carried out but, in a case where the authority having functions under that provision have a discretion whether or not to carry out the works or pay the grant, only if they have undertaken to do so. <sup>[F15]</sup>In paragraph (a) above “sound-proofing grants”, in relation to any buildings, means grants towards the cost of insulating those buildings or parts of those buildings against noise.]
- (4) The value of the interest in respect of which the claim is made shall be assessed—
  - (a) subject to subsection (5) below, by reference to the nature of the interest and the condition of the land as it subsisted on the date of service of notice of the claim;
  - (b) subject to section 5 below, in accordance with rules (2) to (4) of the rules set out in section 5 of the Land Compensation Act 1961;
  - (c) if the interest is subject to a mortgage or to a contract of sale or to a contract made after the relevant date for the grant of a tenancy, as if it were not subject to the mortgage or contract.
- (5) In assessing the value of the interest in respect of which the claim is made there shall be left out of account any part of that value which is attributable to—
  - (a) any building, or improvement or extension of a building, on the land if the building or, as the case may be, the building as improved or extended, was first occupied after the relevant date; and
  - (b) any change in the use of the land made after that date.
- (6) . . . . . <sup>F16</sup>



*Status: Point in time view as at 30/09/2015.*

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### Textual Amendments

- F11** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 112\(4\)\(9\)](#) except in cases where the relevant date was more than 3 years before 13.11.1980
- F12** Words inserted by [Airports Authority Act 1975 \(c. 78\), Sch. 5 Pt. II para. 5](#)
- F13** Words inserted by [Civil Aviation Act 1982 \(c. 16, SIF 9\), Sch. 15 para. 12\(2\)](#)
- F14** Words inserted by [Civil Aviation Act 1980 \(c. 60\), s. 20\(1\)\(a\)](#)
- F15** Para. added by [Civil Aviation Act 1980 \(c. 60\), s. 20\(1\)\(b\)](#)
- F16** [Ss. 2\(8\), 4\(6\), 5\(6\), 6\(7\), 8\(8\), 10\(5\), 11\(6\)](#) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), Sch. 2 Pt. I](#)

## 5 Assessment of compensation: assumptions as to planning permission.

(1) The following assumptions shall be made in assessing the value of the interest in respect of which the claim is made.

[<sup>F17</sup>(2) Subject to subsection (3) below, it shall be assumed that, in respect of the land in which the interest subsists (“the relevant land”) or any part of it, planning permission would be granted—

- (a) subject to the condition set out in Schedule 10 to the Town and Country Planning Act 1990, for any development of a class specified in paragraph 1 of Schedule 3 to that Act; and
- (b) for any development of a class specified in paragraph 2 of Schedule 3 to that Act.]

(3) Notwithstanding subsection (2) above—

- <sup>F18</sup>(a) .....
- <sup>F18</sup>(b) .....
- (c) where an order has been made under [<sup>F19</sup>section 102 of or paragraph 1 of Schedule 9 to the said Act of 1990], in respect of the relevant land or any part thereof, requiring the removal of any building or the discontinuance of any use, and compensation has become payable in respect of that order under [<sup>F19</sup>section 115]of that Act, it shall not by virtue of the said subsection (2) be assumed that planning permission would be granted, in respect of the relevant land or any part thereof, as the case may be, for the rebuilding of that building or the resumption of that use.

(4) It shall be assumed that planning permission would not be granted in respect of the relevant land or any part thereof for any development other than such development as is mentioned in subsection (2) above; and, if planning permission has been granted in respect of the relevant land or any part thereof for such other development, it shall be assumed that the planning permission has not been granted in so far as it relates to development that has not been carried out.

(5) In this section any expression which is also used in [<sup>F20</sup>the said Act of 1990]has the same meaning as in that Act and references to any provision of that Act include references to any corresponding provision previously in force.

(6) ..... <sup>F21</sup>

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### Textual Amendments

- F17** S. 5(2) substituted (25.7.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1, 123:1\)](#), s. 31(4), [Sch. 6 para. 5\(1\)\(a\)](#) (as applied retrospectively by para. 5(2)) (with s. 84(5))
- F18** S. 5(3)(a)(b) repealed (25.7.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1, 123:1\)](#), ss. 31(4), 84(6), [Sch. 6 para. 5\(1\)\(b\)](#), [Sch. 19 Pt. II](#) (as applied retrospectively by para. 5(2)) (with s. 84(5))
- F19** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 29\(2\)\(b\)\(iii\)](#)
- F20** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 29\(2\)\(c\)](#)
- F21** S. 5(6) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)

### Modifications etc. (not altering text)

- C69** S. 5(2)(3)(4) applied by [Town and Country Planning Act 1990 \(c. 8, SIF 123:1\)](#), [ss. 146\(7\)](#), 147, 157(3)
- C70** S. 5(2)-(5) applied (5.11.1993) by [1993 c. 42](#), s. 21, [Sch. 7 para. 16\(2\)\(e\)](#) (with s. 30(1), [Sch. 2 para. 9](#)).

## 6 Reduction of compensation where land is benefited.

- (1) The compensation payable on a claim shall be reduced by an amount equal to any increase in the value of—
- (a) the claimant's interest in the land in respect of which the claim is made; and
  - (b) any interest in other land contiguous or adjacent to the land mentioned in paragraph (a) above to which the claimant was entitled in the same capacity on the relevant date,
- which is attributable to the existence of or the use or prospective use of the public works to which the claim relates.
- (2) Sections 4 and 5 above shall not apply to the assessment, for the purposes of subsection (1) above, of the value of the interest mentioned in paragraph (a) of that subsection.
- (3) Where, for the purpose of assessing compensation on a claim in respect of any interest in land, an increase in the value of an interest in other land has been taken into account under subsection (1) above, then, in connection with any subsequent acquisition to which this subsection applies, that increase shall not be left out of account by virtue of section 6 of the <sup>M1</sup>Land Compensation Act 1961 or taken into account by virtue of section 7 of that Act or any corresponding enactment, in so far as it was taken into account in connection with that claim.
- (4) Subsection (3) above applies to any subsequent acquisition, not being an acquisition of the land in respect of which the claim is made, where either—
- (a) the interest acquired by the subsequent acquisition is the same as the interest previously taken into account (whether the acquisition extends to the whole of the land in which that interest previously subsisted or only to part of that land); or
  - (b) the person entitled to the interest acquired is, or directly or indirectly derives title to that interest from, the person who at the time of the claim mentioned in that subsection was entitled to the interest previously taken into account;

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and in this subsection “the interest previously taken into account” means the interest the increased value of which was taken into account as mentioned in the said subsection (3).

(5) For the purposes of this section 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;

and in this section references to a person deriving title from another person include references to any successor in title of that other person.

(6) In subsection (3) above “corresponding enactment” has the same meaning as in section 8 of the said Act of 1961.

(7) ..... F22

**Textual Amendments**

**F22** Ss. 2(8), 4(6), 5(6), 6(7), 8(8), 10(5), 11(6) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**Marginal Citations**

**M1** 1961 c. 33.

**7 Exclusion of minimal compensation.**

Compensation shall not be payable on any claim unless the amount of the compensation exceeds £50.

**8 Other restrictions on compensation.**

(1) Where a claim has been made in respect of depreciation of the value of an interest in land caused by the use of any public works and compensation has been paid or is payable on that claim, compensation shall not be payable on any subsequent claim in relation to the same works and the same land or any part thereof (whether in respect of the same or a different interest) except that, in the case of land which is a dwelling, this subsection shall not preclude the payment of compensation both on a claim in respect of the fee simple and on a claim in respect of a tenancy.

(2) Where a person is entitled to compensation in respect of the acquisition of an interest in land by an authority possessing compulsory purchase powers, or would be so entitled if the acquisition were compulsory, and—

- (a) the land is acquired for the purposes of any public works; and
- (b) that person retains land which, in relation to the land acquired, constitutes other land or lands within the meaning of section 63 of the <sup>M2</sup>Lands Clauses Consolidation Act 1845 or section 7 of the <sup>M3</sup>Compulsory Purchase Act 1965 (compensation for acquisition to include compensation for injurious affection of other land retained).

then, whether or not any sum is paid or payable in respect of injurious affection of the land retained, compensation shall not be payable under this Part of this Act on any

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claim in relation to those works made after the date of service of the notice to treat (or, if the acquisition is by agreement, the date of the agreement) in respect of any interest in the land retained.

- (3) Subsection (2) above applies whether the acquisition is before, on or after the date on which this Part of this Act comes into force (hereafter referred to as “the commencement date”) and, where it is on or after that date, the public works for the purposes of which the land is acquired shall be taken to be those specified in the relevant particulars registered under subsection (4) below.
- (4) Where on or after the commencement date an authority possessing compulsory purchase powers acquires land for the purposes of any public works and the person from whom the land is acquired retains land which, in relation to the land acquired, constitutes other land or lands within the meaning of the sections mentioned in subsection (2) above, the authority shall deposit particulars of the land retained and the nature and extent of those works with the council of the district or London borough [F23 or Welsh county or county borough] in which the land retained is situated; . . . F24
- [F25(4A) Any particulars deposited pursuant to subsection (4) above shall be a local land charge and for the purpose of the M4 Local Land Charges Act 1975 the council with whom any such particulars are deposited shall be treated as the originating authority as respects the charge thereby constituted.]
- (5) In a case in which compensation for injurious affection fell or falls to be assessed otherwise than in accordance with section 44 below, subsection (2) above shall not preclude the payment of compensation under this Part of this Act in respect of depreciation by public works so far as situated elsewhere than on the land acquired.
- (6) Where after a claim has been made in respect of any interest in land the whole or part of the land in which that interest subsists is compulsorily acquired, then, if—
- (a) the value of that land has been diminished by the public works to which the claim relates; but
  - (b) the compensation in respect of the compulsory acquisition falls to be assessed without regard to the diminution,
- the compensation in respect of the acquisition shall be reduced by an amount equal to the compensation paid or payable on the claim or, if the acquisition extends only to part of the land, to so much of the last-mentioned compensation as is attributable to that part.
- (7) Without prejudice to the foregoing provisions of this section, compensation shall not be payable in respect of the same depreciation both under this Part of this Act and under any other enactment.
- (8) . . . . . F26

#### Textual Amendments

- F23** Words in s. 8(4) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 40(1)** (with ss. 54(5)(7), 55(5), 66(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F24** Words repealed by Local Land Charges Act 1975 (c. 76), s. 19, **Sch. 1**
- F25** S. 8(4A) inserted by Local Land Charges Act 1975 (c. 76), s. 19, **Sch.1**
- F26** Ss. 2(8), 4(6), 5(6), 6(7), 8(8), 10(5), 11(6) repealed by Land Compensation (Scotland) Act 1973 (c. 56), **Sch. 2 Pt. I**

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

**C71** S. 8(1) modified by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 113\(8\)](#)

**Marginal Citations**

**M2** 1845 c. 18.

**M3** 1965 c. 56.

**M4** 1975 c. 76.

**9 Alterations to public works and changes of use.**

- (1) This section has effect where, whether before, on or after the commencement date—
  - (a) the carriageway of a highway has been altered after the highway has been open to public traffic;
  - (b) any public works other than a highway have been reconstructed, extended or otherwise altered after they have been first used; or
  - (c) there has been a change of use in respect of any public works other than a highway or aerodrome.
- (2) If and so far as a claim in respect of the highway or other public works relates to depreciation that would not have been caused but for the alterations or change of use, this Part of this Act shall, subject to subsection (3) below, have effect in relation to the claim as if the relevant date (instead of being the date specified in section 1(9) above) were—
  - (a) the date on which the highway was first open to public traffic after completion of the alterations to the carriageway;
  - (b) the date on which the other public works were first used after completion of the alterations; or
  - (c) the date of the change of use,as the case may be.
- (3) Subsection (2) above shall not by virtue of any alterations to an aerodrome apply to a claim in respect of physical factors caused by aircraft unless the alterations are runway or apron alterations.
- (4) Where a claim relates to such depreciation as is mentioned in subsection (2) above the notice of claim shall specify, in addition to the matters mentioned in section 3 above, the alterations or change of use alleged to give rise to the depreciation; and if and so far as the claim relates to such depreciation—
  - (a) section 6 above shall have effect as if the increase in value to be taken into account were any increase that would not have been caused but for the alterations or change of use in question;
  - (b) subsection (1) of section 8 above shall not preclude the payment of compensation unless the previous claim was in respect of depreciation that would not have been caused but for the same alterations or change of use, and subsection (2) of that section shall not preclude the payment of compensation unless the works for which the land was acquired were works resulting from the alterations, or works used for the purpose, to which the claim relates.
- (5) For the purposes of this section the carriageway of a highway is altered if, and only if—
  - (a) the location, width or level of the carriageway is altered (otherwise than by re-surfacing); or



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- (b) an additional carriageway is provided for the highway beside, above or below an existing one;

and the reference in subsection (2) above to depreciation that would not have been caused but for alterations to the carriageway of a highway is a reference to such depreciation by physical factors which are caused by the use of, and the source of which is situated on, the length of carriageway which has been altered as mentioned in paragraph (a) above or, as the case may be, the additional carriageway and the corresponding length of the existing one mentioned in paragraph (b) above.

- (6) In this section “runway or apron alterations” means—
- (a) the construction of a new runway, the major re-alignment of an existing runway or the extension or strengthening of an existing runway; or
  - (b) a substantial addition to, or alteration of, a taxiway or apron, being an addition or alteration whose purpose or main purpose is the provision of facilities for a greater number of aircraft.
- (7) For the avoidance of doubt it is hereby declared that references in this section to a change of use do not include references to the intensification of an existing use.

## 10 Mortgages, [<sup>F27</sup>trusts of land] and settlements.

- (1) Where an interest is subject to a mortgage—
- (a) a claim may be made by any mortgagee of the interest as if he were the person entitled to that interest but without prejudice to the making of a claim by that person;
  - (b) no compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage);
  - (c) any compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall in either case be applied by him as if it were proceeds of sale.
- (2) Where the interest is [<sup>F27</sup>subject to a trust of land] the compensation shall be dealt with as if it were proceeds of sale arising under the trust.
- (3) Where the interest is settled land for the purposes of the <sup>M5</sup>Settled Land Act 1925 the compensation shall be treated as capital money arising under that Act.
- (4) Where an interest in land is vested in trustees (other than a sole tenant for life within the meaning of the <sup>M6</sup>Settled Land Act 1925) and a person beneficially entitled (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the land, section 2 above shall have effect as if occupation by that person were occupation by the trustees in right of the interest vested in them.

<sup>F28</sup>(5) .....

### Textual Amendments

**F27** Words in s. 10(2) and sidenote substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 13** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

**F28** Ss. 2(8), 4(6), 5(6), 6(7), 8(8), 10(5), 11(6) repealed by Land Compensation (Scotland) Act 1973 (c. 56), **Sch. 2 Pt. I**

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

- C72** S. 10 applied (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2), **28(5)** (with reg. 125)
- C73** S. 10 applied (30.10.1994) by [S.I. 1994/2716](#), reg. **91(4)**
- C74** S. 10(1)(b)(c)(2)(3) applied (5.11.1993) by [1993 c. 42](#), s. 21, **Sch. 7 para. 16(3)** (with s. 30(1), Sch. 2 para. 9).

**Marginal Citations**

- M5** 1925 c. 18.  
**M6** 1925 c. 18.

**11 Interests acquired by inheritance.**

- (1) So much of section 2(1) above as requires an interest qualifying for compensation under this Part of this Act to have been acquired by the claimant before the relevant date shall not apply to any interest acquired by him by inheritance from a person who acquired that interest, or a greater interest out of which it is derived, before the relevant date.
- (2) For the purposes of this section an interest is acquired by a person by inheritance if it devolves on him by virtue only of testamentary dispositions taking effect on, or the law of intestate succession or the right of survivorship between joint tenants as applied to, the death of another person or the successive deaths of two or more other persons.
- (3) For the purposes of subsection (2) above a person who acquires an interest by appropriation of it in or towards satisfaction of any legacy, share in residue or other share in the estate of a deceased person shall be treated as a person on whom the interest devolves by direct bequest.
- (4) Where an interest is settled land for the purposes of the <sup>M7</sup>Settled Land Act 1925 and on the death of a tenant for life within the meaning of that Act a person becomes entitled to the interest in accordance with the settlement, or by any appropriation by the personal representatives in respect of the settled land, subsection (2) above shall apply as if the interest had belonged to the tenant for life absolutely and the trusts of the settlement taking effect after his death had been trusts of his will.
- (5) Subsection (4) above shall apply, with any necessary modifications, where a person becomes entitled to an interest on the termination of a settlement as it would apply if he had become entitled in accordance with the terms of the settlement.
- (6) ..... <sup>F29</sup>

**Textual Amendments**

- F29** Ss. 2(8), 4(6), 5(6), 6(7), 8(8), 10(5), 11(6) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**Marginal Citations**

- M7** 1925 c. 18.

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## 12 Tenants entitled to enfranchisement or extension under Leasehold Reform Act 1967.

- (1) This section has effect where a person is entitled under Part I of the <sup>M8</sup>Leasehold Reform Act 1967 to acquire the freehold or an extended lease of a house by virtue of any tenancy (“the qualifying tenancy”) and—
  - (a) has on or before the relevant date given notice under that Act to the landlord of his desire to have the freehold or an extended lease; and
  - (b) has not acquired the freehold or an extended lease before that date.
- (2) The qualifying tenancy shall be treated as an owner’s interest as defined in section 2(4) above whether or not the unexpired term on the date of service of the notice of claim is of the length there specified.
- (3) If no claim is made in respect of the qualifying tenancy before the claimant has ceased to be entitled to it by reason of his acquisition of the freehold or an extended lease he may make a claim in respect of the qualifying tenancy as if he were still entitled to it.
- (4) No claim shall be made by virtue of subsection (3) above after the claimant has ceased to be entitled to the freehold or extended lease but such a claim may be made before [<sup>F30</sup>the first claim day] if it is made before the claimant has disposed of the freehold or extended lease and after he has made a contract for disposing of it.
- (5) Compensation shall not be payable before [<sup>F30</sup>the first claim day] on any claim made by virtue of subsection (4) above.
- (6) Any notice of a claim made by virtue of this section shall contain, in addition to the matters mentioned in section 3 above, a statement that it is made in respect of a qualifying tenancy as defined in this section and, if made by virtue of subsection (3) or (4) above, sufficient particulars to show that it falls within that subsection.
- (7) In relation to a claim made by virtue of subsection (3) above section 4(4)(a) above shall have effect as if the reference to the date of service of notice of the claim were a reference to the relevant date.

### Textual Amendments

**F30** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 112\(4\)\(9\)](#) except in cases where the relevant date was more than 3 years before 13.11.1980

### Marginal Citations

**M8** [1967 c. 88.](#)

## [<sup>F31</sup>12A Tenants participating in collective enfranchisement, or entitled to individual lease extension, under Part I of Leasehold Reform, Housing and Urban Development Act 1993.

- (1) A tenancy to which subsection (2) or (3) below applies (“a qualifying tenancy”) shall be treated as an owner’s interest as defined in section 2(4) above whether or not the unexpired term on the date of service of the notice of claim is of the length there specified.
- (2) This subsection applies to a tenancy if the tenant, on the relevant date—

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- (a) is in respect of the tenancy a qualifying tenant for the purposes of Chapter I of Part I of the 1993 Act (collective enfranchisement); and
  - (b) by virtue of the tenancy, either—
    - (i) is a participating tenant in relation to a claim to exercise the right to collective enfranchisement under that Chapter; or
    - (ii) is one of the participating tenants on whose behalf the acquisition by the nominee purchaser has been made in pursuance of such a claim.
- (3) This subsection applies to a tenancy if the tenant, on the relevant date and in respect of the tenancy, is a qualifying tenant for the purposes of Chapter II of Part I of the 1993 Act (individual right to acquire new lease) who—
- (a) has on or before that date given notice under section 42 of that Act (notice by qualifying tenant of claim to exercise right); and
  - (b) has not acquired a new lease before that date.
- (4) If no claim is made in respect of a qualifying tenancy before the claimant has ceased to be entitled to it in consequence of a lease being granted to him by the nominee purchaser or, as the case may be, under Chapter II of Part I of the 1993 Act, the claimant may make a claim in respect of the qualifying tenancy as if he were still entitled to it.
- (5) No claim shall be made by virtue of subsection (4) above after the claimant has ceased to be entitled to the lease referred to in that subsection, but such a claim may be made before the first claim day if it is made before the claimant has disposed of that lease and after he has made a contract for disposing of it.
- (6) Compensation shall not be payable before the first claim day on any claim made by virtue of subsection (5) above.
- (7) Any notice of a claim made by virtue of this section shall contain, in addition to the matters mentioned in section 3 above, a statement that it is made in respect of a qualifying tenancy as defined in this section and, if made by virtue of subsection (4) or (5) above, sufficient particulars to show that it falls within that subsection.
- (8) In relation to a claim made by virtue of subsection (4) above, section 4(4)(a) above shall have effect as if the reference to the date of service of notice of the claim were a reference to the relevant date.
- (9) In this section—
- (a) “the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993; and
  - (b) “participating tenant”, “nominee purchaser” and “the acquisition by the nominee purchaser” shall be construed in accordance with sections 14, 15 and 38(2) of that Act respectively.]

#### Textual Amendments

**F31** S. 12A inserted (1.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para.5**; S.I. 1993/2134, **art. 5(b)**.

### 13 Ecclesiastical property.

- (1) Any compensation payable under this Part of this Act in respect of land which is ecclesiastical property shall be paid

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[<sup>F33</sup>to the Diocesan Board of Finance for the diocese in which the land is situated ] and [<sup>F34</sup>(in either case)] shall] be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising, or disposing of the proceeds of, such a sale.

- (2) In this section “ecclesiastical property” means land belonging to an ecclesiastical benefice of the Church of England, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese 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 [<sup>F35</sup>[<sup>F36</sup>or being diocesan glebe land; and “Diocesan Board of Finance” and “diocesan glebe land” have the same meaning as in the <sup>M9</sup>Endowments and Glebe Measure 1976]].

**Textual Amendments**

- F32** Words in s. 13(1) substituted (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, **art. 4**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 70, **Sch. 15 para. 20(a)** (with s. 84(5)); S.I. 1991/2067, **art.3**
- F33** Words in s. 13(1) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 18(1)**; 2006 No. 2, Instrument made by Archbishops
- F34** Words in s. 13(1) omitted (E.) (1.10.2006) by virtue of Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 18(1)**; 2006 No. 2, Instrument made by Archbishops
- F35** Words in s. 13(2) omitted (E.) (1.10.2006) by virtue of Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 18(2)**; 2006 No. 2, Instrument made by Archbishops
- F36** Words in s. 13(2) added (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, **art. 4**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 70, **Sch. 15 para. 20(b)** (with s. 84(5)); S.I. 1991/2067, **art.3**

**Marginal Citations**

- M9** 1976 GSM No. 4

14 ..... <sup>F37</sup>

**Textual Amendments**

- F37** S. 14 repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. XII**

**15 Information for ascertaining relevant date.**

- (1) The responsible authority in relation to a highway or other public works shall keep a record and, on demand, furnish a statement in writing of—
- (a) the date on which the highway was first open to public traffic, or was first open to public traffic after completion of any particular alterations to the carriageway of the highway;
  - (b) the date on which the public works were first used after completion, or were first used after completion of any particular alterations to those works;
  - (c) in the case of public works other than a highway or aerodrome, the date on which there was a change of use in respect of the public works.
- (2) A certificate by the Secretary of State stating that runway or apron alterations have or have not been carried out at an aerodrome and the date on which an aerodrome at



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which any such alterations have been carried out was first used after completion of the alterations shall be conclusive evidence of the facts stated.

- (3) In this section references to alterations to the carriageway of a highway, to runway or apron alterations and to a change of use shall be construed in the same way as in section 9 above; and subsection (1) above shall not apply unless the date in question falls on or after the commencement date.

## 16 Disputes.

- (1) Any question of disputed compensation under this Part of this Act shall be referred to and determined by the [F38Upper Tribunal]<sup>F39</sup>
- (2) No such question arising out of a claim made before [F40the first claim day] shall be referred to [F41The Tribunal] before [F40that day].

### Textual Amendments

- F38** Words in s. 16(1) 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. 103** (with Sch. 5)
- F39** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**
- F40** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), **s. 112(4)(9)** except in cases where the relevant date was more than 3 years before 13.11.1980
- F41** Words substituted by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. II**

## 17 Action for nuisance following unsuccessful claim where responsible authority have disclaimed statutory immunity.

Where, in resisting a claim under this Part of this Act, a responsible authority contend that no enactment relating to the works in question confers immunity from actions for nuisance in respect of the use to which the claim relates, then if—

- (a) compensation is not paid on the claim; and
- (b) an action for nuisance in respect of the matters which were the subject of the claim is subsequently brought by the claimant against the authority,

no enactment relating to those works, being an enactment in force when the contention was made, shall afford a defence to that action in so far as it relates to those matters.

## 18 Interest on compensation.

- (1) Compensation under this Part of this Act shall carry interest, at the rate for the time being prescribed under section 32 of the <sup>M10</sup>Land Compensation Act 1961, from—
- (a) the date of service of the notice of claim; or
- (b) if that date is before [F42the first claim day], from [F42the first claim day], until payment.
- (2) . . . . . F43

### Textual Amendments

- F42** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), **s. 112(4)(9)** except in cases where the relevant date was more than 3 years before 13.11.1980

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**F43** Ss. 18(2), 19(4) repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I

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

**C75** S. 18(1) modified by Local Government, Planning and Land Act 1980 (c. 65), s. 113(9)

**Marginal Citations**

**M10** 1961 c. 33.

## 19 Interpretation of Part I.

(1) In this Part of this Act—

“the appropriate highway authority” means—

- (a) except where paragraph (b) below applies, the highway authority who constructed the highway to which the claim relates [<sup>F44</sup>or any other authority to which the functions of that authority in relation to that highway are transferred by virtue of the Local Government Act 1985][<sup>F45</sup>or the Local Government (Wales) Act 1994];
- (b) if and so far as the claim relates to depreciation that would not have been caused but for alterations to the carriageway of a highway, the highway authority who carried out the alterations [<sup>F46</sup>or any other authority to which the functions of that authority in relation to that highway are transferred by virtue of [<sup>F47</sup>either of those Acts]];

“claim” means a claim under this Part of this Act and “the claimant” means the person making such a claim;

<sup>F48</sup>

...

“commencement date” means the date on which this Part of this Act comes into force;

[<sup>F49</sup>“the first claim day” has the meaning given in section 3(2) above;]

“highway” includes part of a highway and, . . . <sup>F50</sup>, means a highway or part of a highway maintainable at the public expense as defined in [<sup>F51</sup>section 329(1) of the <sup>M11</sup>Highways Act 1980]

<sup>F52</sup>

...

“public works” and “responsible authority” have the meaning given in section 1 above;

“the relevant date” has the meaning given in sections 1(9) and 9(2) above.

(2) For the purposes of sections 2(1), 11(1) and 14(2) above an interest acquired or disposed of, or a tenancy granted, pursuant to a contract shall be treated as acquired, disposed of or granted when the contract was made.

[<sup>F53</sup>(2A) For the purposes of the <sup>M12</sup>Limitation Act 1939, a person’s right of action to recover compensation under this Part of this Act shall be deemed to have accrued on the first claim day.]

(3) In the application of this Part of this Act to a highway which has not always since 17th October 1969 been a highway maintainable at the public expense as defined above—

- (a) references to its being open to public traffic shall be construed as references to its being so open whether or not as a highway so maintainable;

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(b) for references to the highway authority who constructed it there shall be substituted references to the highway authority for the highway;  
and no claim shall be made if the relevant date falls at a time when the highway was not so maintainable and the highway does not become so maintainable within three years of that date. . . .<sup>F54</sup>

(4) . . . . .<sup>F55</sup>

**Textual Amendments**

- F44** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 Pt. II para. 51(a)**
- F45** Words in paragraph (a) of the definition of the “appropriate highway authority”  
in s. 19(1) inserted (1.4.1996) by [1994 c. 19, s. 66\(6\)](#), **Sch. 16 para. 40(2)(a)** (with ss. 54(5)(7), 55(5), 66(7), Sch. 17 paras. 22(1), 23(2); [S.I. 1996/396](#), art. 4, **Sch. 2**)
- F46** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 Pt. II para. 51(b)**
- F47** Words in paragraph (b) of the definition of the “appropriate highway authority”  
in s. 19(1) inserted (1.4.1996) by [S.I. 1996/525](#), art. 3, **Sch. Pt. I para. 1**
- F48** Definition repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 112(5)(9), **Sch. 34 Pt. XII** except in cases where the relevant date was more than 3 years before 13.11.1980
- F49** Definition inserted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 112(5)(9) except in cases where the relevant date was more than 3 years before 13.11.1980
- F50** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**
- F51** Words substituted by [Highways Act 1980 \(c. 66\)](#), **Sch. 24 para. 23(a)**
- F52** Definitions repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. II**
- F53** [S. 19\(2A\)](#) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#) s. 112(6)(9) except in cases where the relevant date was more than 3 years before 13.11.1980
- F54** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 112(8)(9), **Sch. 34 Pt. XII** except in cases where the relevant date was more than 3 years before 13.11.1980
- F55** [Ss. 18\(2\), 19\(4\)](#) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**Marginal Citations**

- M11** [1980 c. 66](#).
- M12** [1939 c. 21](#).

**PART II**

**MITIGATION OF INJURIOUS EFFECT OF PUBLIC WORKS**

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

- C76** [Pt. II\(ss. 20–28\)](#) modified by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 6, 45, [Sch. 2 Pt. III para. 27\(1\)](#), **Sch. 7 Pt. VI para. 2**

*Status: Point in time view as at 30/09/2015.*

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### *Insulation against noise*

## **20 Soundproofing of buildings affected by public works.**

- (1) The Secretary of State may make regulations imposing a duty or conferring a power on responsible authorities to insulate buildings against noise caused or expected to be caused by the construction or use of public works or to make grants in respect of the cost of such insulation.
- (2) Regulations under this section may—
  - (a) make provision as to the level of noise giving rise to a duty or power under the regulations and the area in which a building must be situated if a duty or power is to arise in respect of it;
  - (b) specify the classes of public works and of buildings in respect of which a duty or power is to arise, and the classes of persons entitled to make claims, under the regulations;
  - (c) specify the nature and extent of the work which is to be undertaken under the regulations and the expenditure in respect of which and the rate at which grants are to be made under the regulations;
  - (d) make the carrying out of work or the making of grants under the regulations dependent upon compliance with conditions;
  - (e) make provision as to the funds out of which expenses incurred by responsible authorities under the regulations are to be defrayed;
  - (f) make provision for the settlement of disputes arising under the regulations.
- (3) Without prejudice to the generality of paragraph (a) of subsection (2) above, regulations made by virtue of that paragraph may provide for the relevant level of noise or the relevant area in a particular case to be determined by reference to a document published by or on behalf of the Secretary of State or by any other authority or body or in such other manner as may be provided in the regulations.
- (4) If regulations under this section impose a duty or confer a power to carry out, or make a grant in respect of the cost of, work in respect of a building which is subject to a tenancy on a claim in that behalf made by the landlord or the tenant, provision may also be made by the regulations for enabling the work to be carried out notwithstanding the withholding of consent by the other party to the tenancy.
- (5) Regulations under this section may authorise or require local authorities to act as agents for responsible authorities in dealing with claims and in discharging or exercising the duties or powers of responsible authorities under the regulations, and may provide for the making by responsible authorities of payments to local authorities in respect of anything done by them as such agents.
- (6) Regulations under this section may authorise the council of a London borough to contribute towards expenses incurred under the regulations by a responsible authority in respect of the insulation of buildings against noise caused or expected to be caused by the use of any highway in that borough in relation to which an order has been made under section 6 of the <sup>M13</sup>Road Traffic Regulation Act 1967 [<sup>F56</sup>or section 6 of the Road Traffic Regulation Act 1984] (traffic regulation orders in Greater London).
- (7) Regulations under this section may contain such supplementary provisions as appear to the Secretary of State to be necessary or expedient and may make different provision with respect to different areas or different circumstances.

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- (8) The power to make regulations under this section shall be exercisable by statutory instrument.
- (9) A draft of any regulations under this section shall be laid before Parliament and the first regulations shall not be made unless the draft has been approved by a resolution of each House of Parliament.
- (10) ..... F57
- (11) ..... F58
- (12) In this section “public works” and “responsible authority” have the same meaning as in section 1 above except that “public works” does not include an aerodrome and except that “responsible authority”, in relation to a highway, includes any authority having power to make an order in respect of that highway under section 1 or 6 of the <sup>M14</sup>Road Traffic Regulation Act [<sup>F59</sup>1984](traffic regulation orders).

**Textual Amendments**

- F56** Words inserted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), **Sch. 13 para. 29(a)**
- F57** S. 20(10) repealed by Highways Act 1980 (c. 66), **Sch. 25**
- F58** S. 20(11) repealed by Rent Act 1977 (c. 42), s. 155(5), **Sch. 25**
- F59** Words substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), **Sch. 13 para. 29(b)**

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

- C77** S. 20 modified (18.12.1996) by 1996 c. 61, s. 49
- C78** S. 20 applied (26.9.2012) by The Network Rail (Ipswich Chord) Order 2012 (S.I. 2012/2284), arts. 1, **31(1)** (with art. 26(2))

**Marginal Citations**

- M13** 1967 c. 76.
- M14** 1984 c. 27.

[<sup>F60</sup>**20A Power to make payments in respect of caravans and other structures affected by noise of public works.**

- (1) The Secretary of State may make regulations empowering responsible authorities to make a payment, not exceeding an amount specified in the regulations, in respect of any dwelling which—
- (a) is not a building;
  - (b) is occupied by a person as his only or main residence; and
  - (c) is affected or likely to be affected by noise caused by the construction or use of public works.
- (2) Regulations under this section may—
- (a) make provision as to the level of noise giving rise to a power under the regulations and the area in which a dwelling must be situated if a power is to arise in respect of it;
  - (b) specify the classes of public works and of dwellings in respect of which a power is to arise, and the classes of persons entitled to make claims, under the regulations; and



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- (c) make provision as to the funds out of which expenses incurred by responsible authorities under the regulations are to be defrayed.
- (3) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsections (3), (7) and (12) of section 20 above apply for the purposes of this section as they apply for the purposes of that.]

**Textual Amendments**

**F60** S. 20A inserted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70, **Sch. 15 para. 5(1)(2)** (with s. 84(5)); S.I. 1991/2067, **art. 3**.

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

**C79** S. 20A applied (26.9.2012) by [The Network Rail \(Ipswich Chord\) Order 2012 \(S.I. 2012/2284\)](#), arts. 1, **31(1)** (with [art. 26\(2\)](#))

**21** ..... <sup>F61</sup>

**Textual Amendments**

**F61** S. 21 repealed by [Airports Authority Act 1975 \(c. 78\)](#), **Sch. 6**

**22—** ..... <sup>F62</sup>  
**25.**

**Textual Amendments**

**F62** Ss. 22–25 repealed by [Highways Act 1980 \(c. 66\)](#), **Sch. 25**

*Powers of authorities responsible for other public works*

**26 Acquisition of land in connection with public works.**

- (1) Subject to the provisions of this section, a responsible authority may acquire land by agreement for the purpose of mitigating any adverse effect which the existence or use of any public works has or will have on the surroundings of the works.
- (2) Subject to the provisions of this section, a responsible authority may acquire by agreement—
  - (a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or alteration of any public works;
  - (b) land the enjoyment of which is seriously affected by the use of any public works,
 if the interest of the vendor is [<sup>F63</sup>a qualifying interest].

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[<sup>F64</sup>(2A) Where the responsible authority—

- (a) propose to carry out works on blighted land for the construction or alteration of any public works, and
- (b) are, in relation to the land, the appropriate authority,

they may, subject to the provisions of this section, acquire by agreement land the enjoyment of which will in their opinion be seriously affected by the carrying out of the works or the use of the public works if the interest of the vendor is a qualifying interest.

(2B) In this section—

“qualifying interest” has the meaning given in section 149(2) of the <sup>M15</sup>Town and Country Planning Act 1990, taking references to the relevant date as references to the date on which the purchase agreement is made, and “appropriate authority” and “blighted land” have the meanings given respectively in sections 169(1) and 149(1) of that Act.]

(3) The powers conferred by subsection (2)(b) above shall not be exercisable unless the date on which the public works or, as the case may be, the altered public works, are first used falls on or after 17th October 1971 and the powers conferred by subsections (1) and (2)(a) above shall not be exercisable unless that date falls on or after 17th October 1972; and—

- (a) if that date falls not later than one year after the passing of this Act—
  - (i) the powers conferred by subsections (1) and (2)(b) above shall not be exercisable unless the acquisition is begun before the end of one year after the passing of this Act or one year after that date, whichever ends later;
  - (ii) the powers conferred by subsection (2)(a) above shall not be exercisable unless the acquisition is begun before the end of one year after the passing of this Act;
- (b) if that date falls more than one year after the passing of this Act—
  - (i) the powers mentioned in paragraph (a)(i) above shall not be exercisable unless the acquisition is begun before the end of one year after that date;
  - (ii) the powers mentioned in paragraph (a)(ii) above shall not be exercisable unless the acquisition is begun before that date.

(4) For the purposes of subsection (3) above the acquisition of any land shall be treated as begun when the agreement for its acquisition is made.

(5) This section applies only where the responsible authority have statutory powers to acquire land (whether compulsorily or by agreement) for the purposes of their functions but would not, apart from this section, have power to acquire land as mentioned in subsections (1) [<sup>F65</sup>(2) and (2A)] above.

(6) In this section “public works” and “responsible authority” have the same meaning as in section 1 above except that “public works” does not include a highway <sup>F66</sup> or any works forming part of a statutory undertaking as defined in [<sup>F67</sup>section 336(1) of the Town and Country Planning Act 1990].

*Status: Point in time view as at 30/09/2015.*

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#### Textual Amendments

- F63** Words in s. 26(2) substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70, [Sch. 15 para. 21\(a\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#).
- F64** [S. 26\(2A\)\(2B\)](#) inserted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. [62\(1\)](#) (with s. 84(5)); S.I. 1991/2607, art. 3.
- F65** Words in s. 26(5) substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70, [Sch. 15 para. 21\(b\)](#) (with s. 84(5)); S.I. 1991/2607, [art. 3](#).
- F66** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)
- F67** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 29\(3\)](#)

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

- C80** [S. 26](#) extended by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 6, 45, [Sch. 2 Pt. III para. 27\(8\)](#), [Sch. 7 Pt. VI para. 2](#)
- C81** [S. 26](#) extended by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, [Sch. 25 para. 1\(6\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\)](#), 17, 40(4), 57(6), 58)

#### Marginal Citations

- M15** [1990 c. 08](#)

## 27 Execution of works etc. in connection with public works.

- (1) A responsible authority may carry out—
- (a) if they have power to acquire land under section 26 above, on any land acquired by them under that section;
  - (b) on any other land belonging to them,
- works for mitigating any adverse effect which the construction, alteration, existence or use of any public works has or will have on the surroundings of the works.
- (2) Without prejudice to the generality of subsection (1) above, the works that may be carried out under that subsection include the planting of trees, shrubs or plants of any other description and the laying out of any area as grassland.
- (3) A responsible authority may—
- (a) develop or redevelop any land acquired by them under section 26 above, or any other land belonging to them, for the purpose of improving the surroundings of public works in any manner which they think desirable by reason of the construction, alteration, existence or use of the works;
  - (b) dispose of any land acquired by them under section 26 above.
- (4) This section applies only where the responsible authority are a body incorporated by or under any enactment and has effect only for extending the corporate powers of any such authority.
- (5) In this section “public works” and “responsible authority” have the same meaning as in section 1 above except that “public works” does not include a highway <sup>F68</sup>

#### Textual Amendments

- F68** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)

*Status: Point in time view as at 30/09/2015.*

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*Expenses of persons moving temporarily during construction works etc.*

## **28 Power to pay expenses of persons moving temporarily during construction works etc.**

- (1) This section has effect where works are carried out—
- (a) by a highway authority for the construction or improvement of a highway; or
  - (b) by a responsible authority for the construction or alteration of any public works other than a highway,
- and the carrying out of those works affects the enjoyment of a dwelling adjacent to the site on which they are being carried out to such an extent that continued occupation of the dwelling is not reasonably practicable.
- (2) Subject to subsection (3) below, the highway authority or responsible authority, as the case may be, may pay any reasonable expenses incurred by the occupier of the dwelling in providing suitable alternative residential accommodation for himself and members of his household for the whole or any part of the period during which the works are being carried out.
- (3) No payment shall be made to any person under this section in respect of any expenses except in pursuance of an agreement made between that person and the authority concerned before the expenses are incurred; and no payment shall be so made except in respect of the amount by which the expenses exceed those which that person would have incurred if the dwelling had continued to be occupied.
- (4) In this section “public works” and “responsible authority” have the same meaning as in section 1 above.
- (5) . . . . . **F69**

### **Textual Amendments**

**F69** Ss. 28(5), 31 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

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

- C82** S. 28 modified (26.9.2012) by [The Network Rail \(Ipswich Chord\) Order 2012 \(S.I. 2012/2284\)](#), arts. 1, **31(2)** (with art. 26(2))
- C83** S. 28 modified (6.11.2012) by [The Network Rail \(North Doncaster Chord\) Order 2012 \(S.I. 2012/2635\)](#), arts. 1, **41(2)** (with art. 35(2))
- C84** S. 28 modified (21.11.2013) by [The Network Rail \(Redditch Branch Enhancement\) Order 2013 \(S.I. 2013/2809\)](#), arts. 1, **32(2)** (with arts. 27(2), 39, Sch. 10 para. 4)
- C85** S. 28 modified (21.4.2014) by [The Network Rail \(Norton Bridge Area Improvements\) Order 2014 \(S.I. 2014/909\)](#), arts. 1, **40(2)** (with art. 34(2))

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## PART III

### PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

#### *Home loss payments*

#### **29 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;
  - <sup>F70</sup>[(b) the making of a housing order 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>F71</sup>any improvement to the dwelling or of] redevelopment on the land,
  - <sup>F72</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 [<sup>F73</sup>either a private registered provider of social housing or][<sup>F74</sup>a registered social landlord within the meaning of the Housing Act 1985 (see section 5(4) and (5) of that Act)];
  - <sup>F75</sup>(e) the making of an order for possession on ground 10 or 10A in Part II of Schedule 2 to the Housing Act 1985;] he shall, subject to the provisions of this section and section 32 below, be entitled to receive a payment (hereafter referred to as a “home loss payment”) from
    - <sup>F76</sup>(i) where paragraph (a) above applies, the acquiring authority;
    - (ii) where paragraph (b) above applies, the authority who made <sup>F77</sup>[the housing order;]
    - (iii) where paragraph (c) above applies, the authority carrying out the improvement or redevelopment; <sup>F78</sup> . . .
    - (iv) where paragraph (d) above applies, the housing association carrying out the improvement or redevelopment.][<sup>F79</sup>and]
    - <sup>F80</sup>(v) where paragraph ( e ) [<sup>F81</sup> above ] applies, the landlord. ]
- <sup>F82</sup>[( 2 ) A person shall not be entitled to a home loss payment unless the following conditions have been satisfied throughout the period of one year 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 such occupation by virtue of an interest or right to which this section applies,
- but, if those conditions are satisfied on the date of displacement, a payment (referred to in this section and sections 32 and 33 below as a “ discretionary payment ”) may be made to him of an amount not exceeding the amount to which he would have been entitled if he had satisfied those conditions throughout that period. ]
- (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.



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[<sup>F83</sup>(3A) For the purposes of this section a person shall not be treated as displaced from a dwelling in consequence of <sup>F84</sup>[the carrying out of any improvement to the dwelling unless he is permanently displaced from it in consequence of the carrying out of that improvement.]]

[<sup>F85</sup>(3B) For the purposes of this section a person must not be treated as displaced from a dwelling in consequence only of the compulsory acquisition of part of a garden or yard or of an outhouse or appurtenance belonging to or usually enjoyed with the building which is occupied or is intended to be occupied as the dwelling.]

(4) This section applies to the following interests and rights—

(a) any interest in the dwelling;

<sup>F86</sup>[(b) a right to occupy the dwelling—

(i) as a statutory tenant within the meaning of the Rent (Agriculture) Act 1976 or the Rent Act 1977, or

(ii) under a contract to which section 19 of the Rent Act 1977 (restricted contracts) applies or would apply if the contract or dwelling were not excluded by section 19(3) to (5) or 144 of that Act]

(c) .....<sup>F87</sup>

(d) a right to occupy the dwelling under a contract of employment.

<sup>F88</sup>[(e) a right to occupy the dwelling under a licence where—

(i) it is a right to occupy as a protected occupier within the meaning of the Rent (Agriculture) Act 1976,

(ii) Part IV of the Housing Act 1985 (secure tenancies) applies to the licence,<sup>F89</sup> . . .

(iii) the licence is an assured agricultural occupancy within the meaning of Part I of the Housing Act 1988][<sup>F90</sup>, or

(iv) Chapter 1 of Part V of the Housing Act 1996 (introductory tenancies) applies to the licence.]

<sup>F91</sup>(5) .....

(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.

<sup>F92</sup>[(7) In this section “ a housing order ” means—

(a) a prohibition order under section 20 or 21 of the Housing Act 2004, or

(b) a demolition order under section 265 of the Housing Act 1985.]

[<sup>F93</sup>(7A) In this section—

“ improvement ” includes alteration and enlargement; and

“ redevelopment ” includes a change of use. ]

(8) Where an interest in a dwelling is vested in trustees (other than a sole tenant for life within the meaning of the <sup>M16</sup> Settled Land Act 1925) and a person beneficially entitled (whether directly or derivatively) under the trusts 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.

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F94 . . .

(9) This section applies if the date of displacement is on or after 17th October 1972.

#### Textual Amendments

- F70** S. 29(1)(b) substituted (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5) (f), **Sch. 15 para. 3(2)(a)**; S.I. 2006/1060, **art. 2(1)(d)** (with Sch.); S.I. 2006/1535, **art. 2(b)** (with Sch.)
- F71** Words inserted by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 38(1)(b)**
- F72** S. 29(1)(d) substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, **Sch. 2 para. 24(2) (b)**
- F73** Words in s. 29(1)(d) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 4** (with art. 6, Sch. 3)
- F74** Words in s. 29(1)(d) substituted (1.10.1996) by S. I 1996/2325, art. 5(1), Sch. 2 para. 3(2)
- F75** S. 29(1)(e) inserted by Housing and Planning Act 1986 (c. 63, SIF 61), **s. 9(3) (a)**
- F76** Paras. (i) to (iv) substituted for words by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 38(1)(c)**
- F77** Words in s. 29(1)(ii) substituted (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5)(f), **Sch. 15 para. 3(2)(b)**; S.I. 2006/1060, **art. 2(1)(d)** (with Sch.); S.I. 2006/1535, **art. 2(b)** (with Sch.)
- F78** Word following s. 29(1)(iii) repealed (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, **art. 4**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), ss. 70, 84(6), Sch. 15 para. 22(2)(b), **Sch. 19 Pt. III** (with s. 84(5)); S.I. 1991/2067, **art. 3**
- F79** Word in s. 29(1) inserted (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, **art. 4**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 70, **Sch. 15 para. 22(2)(c)** (with s. 84(5)); S.I. 1991/2067, **art. 3**.
- F80** S. 29(1)(v) inserted by Housing and Planning Act 1986 (c. 63, SIF 61), **s. 9(3) (b)**
- F81** Word in s. 29(1)(v) inserted (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, **art. 4**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 70, **Sch. 15 para. 22(2)(d)** (with s. 84(5)); S.I. 1991/2067, **art. 3**.
- F82** S. 29(2) substituted (25.09.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), **s. 68(1)(9)** (with s. 84(5)); S.I. 1991/2067, **art. 3**.
- F83** S. 29(3A) inserted by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 38(2)**
- F84** Words in s. 29(3A) substituted (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5)(f), **Sch. 15 para. 3(3)**; S.I. 2006/1060, **art. 2(1)(d)** (with Sch.); S.I. 2006/1535, **art. 2(b)** (with Sch.)
- F85** S. 29(3B) inserted (31.10.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **Sch. 7 para. 7(2)** (with s. 111, Sch. 7 para. 7(5)); S.I. 2004/2593, art. 2(d)
- F86** S. 29(4)(b) substituted (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, **art. 4**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 70, **Sch. 15 para. 22(4)(a)** (with s. 84(5)); S.I. 1991/2067, **art. 3**.
- F87** S. 29(4)(c) repealed by Land Compensation (Scotland) Act 1973 (c. 56), **Sch. 2 Pt. I**
- F88** S. 29(4)(e) substituted (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, **art. 4**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 70, **Sch. 15 para. 22(4)(b)** (with s. 84(5)); S.I. 1991/2067, **art. 3**.
- F89** Word in s. 29(4)(e) omitted (12.2.1997) by virtue of S.I. 1997/74, art. 2, **Sch. para. 1**
- F90** S. 29(4)(e)(iv) and word immediately preceding it inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 1**
- F91** S. 29(5) repealed (25.09.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), ss. 68(2)(9), 84(6), **Sch. 19 Pt. III** (with s. 84(5)); S.I. 1991/2067, **art. 3**
- F92** S. 29(7) substituted (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5)(f), **Sch. 15 para. 3(4)**; S.I. 2006/1060, **art. 2(1)(d)** (with Sch.); S.I. 2006/1535, **art. 2(b)** (with Sch.)

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- F93** S. 29(7A) inserted by [Housing Act 1974 \(c. 44\)](#) , s. 130 , [Sch. 13 para. 38\(3\)](#)  
**F94** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#) , [Sch. 2 Pt. I](#)

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

- C86** References to Rent Act 1968, ss. 70(3)(a) and 71 of that Act, and to a Part VI contract to be construed respectively as references to [Rent Act 1977 \(c. 42\)](#) , [ss. 19](#) and 144 of that Act, and to a restricted contract: [Rent Act 1977 \(c. 42\)](#) , [Sch. 24 para. 1\(8\)](#) and [Interpretation Act 1978 \(c. 30\)](#) , [s. 17\(2\)\(a\)](#) .

#### Marginal Citations

- M16** [1925 c. 18](#) .

### [<sup>F96</sup>29A Spouses [<sup>F95</sup>and civil partners ]having statutory rights of occupation.

- (1) This section applies where, by reason of the entitlement of [<sup>F97</sup>one spouse or civil partner (“A”)] to occupy a dwelling by virtue of an interest or right to which section 29 above applies, [<sup>F98</sup>the other spouse or civil partner (“B”) acquires home rights][<sup>F99</sup>(within the meaning of Part IV of the Family Law Act 1996)] .
- (2) So long as—
- those [<sup>F100</sup>home rights] continue,
  - B is in occupation of the dwelling and A is not, and
  - 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 30 below).
- (3) References in this section to a dwelling include a reference to a substantial part of it.]

#### Textual Amendments

- F95** Words in s. 29A heading inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#) , s. 263(2), [Sch. 9 para. 17\(4\)](#); [S.I. 2005/3175](#) , art. 2(1), [Sch. 1](#)
- F96** S. 29A inserted (25.09.1991 subject to the restrictions referred to in [S.I. 1991/2067](#) , [art. 4](#)) by [Planning and Compensation Act 1991 \(c. 34\)](#) , [SIF 28:1](#) , [s. 69](#) (with s. 84(5)); [S.I. 1991/2067](#) , [art. 3](#).
- F97** Words in s. 29A(1) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#) , s. 263(2), [Sch. 9 para. 17\(2\)\(a\)](#); [S.I. 2005/3175](#) , art. 2(1), [Sch. 1](#)
- F98** Words in s. 29A(1) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#) , s. 263(2), [Sch. 9 para. 17\(2\)\(b\)](#); [S.I. 2005/3175](#) , art. 2(1), [Sch. 1](#)
- F99** Words in s. 29A(2)(a) substituted (1.10.1997) by [1996 c. 27](#) , s. 66(1), [Sch. 8 Pt. III para. 48\(2\)](#) (with [Sch. 9 paras. 8, 9, 10](#)); [S.I. 1997/1892](#) , [art. 3\(1\)\(b\)](#)
- F100** Words in s. 29A(2)(a) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#) , s. 263(2), [Sch. 9 para. 17\(3\)](#); [S.I. 2005/3175](#) , art. 2(1), [Sch. 1](#)

### [<sup>F101</sup>30 Amount of home loss payment in England and Wales.

- (1) In the case of a person who on the date of displacement is occupying, or is treated for the purposes of section 29 above as occupying, the dwelling by virtue of an interest in it which is an owner’s interest, the amount of the home loss payment shall be 10 per cent. of the market value of his interest in the dwelling or, as the case may be, the interest in the dwelling vested in trustees, subject to a maximum of £15,000 and a minimum of £1,500.

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- (2) In any other case, the amount of the home loss payment shall be £1,500.
- (3) For the purposes of this section and section 32 below the market value of an interest in a dwelling—
- (a) in a case where the interest is compulsorily acquired, is the amount assessed for the purposes of the acquisition as the value of the interest; and
  - (b) in any other case, is the amount which, if the interest were being compulsorily acquired in pursuance of a notice to treat served on the date of displacement, would be assessed for the purposes of the acquisition as the value of the interest,
- and any dispute as to the amount referred to in paragraph (b) above shall be determined by the [<sup>F102</sup>Upper Tribunal].
- (4) In determining for the purposes of this section and section 32 below the market value of an interest in a dwelling, the dwelling shall be taken to include any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that dwelling.
- (5) The Secretary of State may from time to time by regulations prescribe a different maximum or minimum for the purposes of subsection (1) above and a different amount for the purposes of subsection (2) above.
- (6) The power to make regulations under subsection (5) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “ owner’s interest ” means the interest of a person who is an owner as defined in section 7 of the <sup>M17</sup> Acquisition of Land Act 1981. ]

#### Textual Amendments

**F101** S. 30 substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. **68(3)(9)** (with s. 84(5)); S.I. 1991/2067, **art. 3**.

**F102** Words in s. 30(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. 104** (with Sch. 5)

#### Marginal Citations

**M17** 1981 c. 67

31 ..... <sup>F103</sup>

#### Textual Amendments

**F103** Ss. 28(5), 31 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

### 32 Supplementary provisions about home loss payments.

- [<sup>F104</sup>(1) No home loss payment or discretionary payment shall be made except on a claim in writing made by the claimant giving such particulars as the authority responsible for making the payment may reasonably require for the purpose of determining whether the payment should be made and, if so, its amount.

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- (2) Where a person is entitled to a home loss payment, the payment shall be made on or before the latest of the following dates—
- (a) the date of displacement;
  - (b) the last day of the period of three months beginning with the making of the claim; and
  - (c) where the amount of the payment is to be determined in accordance with section 30(1) above, the day on which the market value of the interest in question is agreed or finally determined.
- (2A) Where the amount of the payment is to be determined in accordance with section 30(1) above—
- (a) the acquiring authority may at any time make a payment in advance; and
  - (b) if, on the later of the dates referred to in subsection (2)(a) and (b) above, the market value of the interest in question has not been agreed or finally determined, the acquiring authority shall make a payment in advance (where they have not already done so).
- (2B) The amount of the payment in advance shall be the lesser of—
- (a) the maximum amount for the purposes of section 30(1) above,
  - (b) 10 per cent. of the amount agreed to be the market value of the interest in question or, if there is no such agreement, 10 per cent. of the acquiring authority's estimate of that amount.
- (2C) Where the amount of a payment in advance differs from the amount of the home loss payment, the shortfall or excess shall be paid by or, as the case may be, repaid to the acquiring authority when the market value of the interest in question is agreed or finally determined.
- (3) Where the claimant has satisfied, throughout any period, the conditions mentioned in section 29(2) above, that period shall be treated for the purposes of that subsection as including any immediately preceding period throughout which—
- (a) he has resided in the dwelling as his only or main residence but without satisfying those conditions, and
  - (b) another person or other persons have satisfied those conditions,
- and references in this subsection and subsection (3A) below to a dwelling include a reference to a substantial part of it.
- (3A) Where the claimant has satisfied, throughout any period, the conditions mentioned in section 29(2) above, that period (or that period as extended under subsection (3) above) shall be treated for the purposes of section 29(2) above as including any immediately preceding period, or successive periods, throughout which he satisfied the conditions mentioned in section 29(2) above in relation to another dwelling or, as the case may be, other dwellings (applying subsection (3) above to determine the length of any period or periods).]
- (4) [<sup>F105</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 minor, who—
- (a) throughout a period of not less than [<sup>F106</sup>one year] 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

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- (b) is entitled to benefit by virtue of testamentary dispositions taking effect on, or the law of intestate succession or the right of survivorship between joint tenants as applied to, the death of the deceased.
- (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 29(2) above and subsections [F107(3) to (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 [F108 or discretionary payment] which they would be required [F108 or authorised] 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.
- [F109(7A) For the purposes of the M18 Limitation Act 1939 a person's right of action to recover a home loss payment shall be deemed to have accrued on the date of displacement. ]
- [F110( 7B ) Where a landlord obtains possession by agreement of a dwelling subject to a secure tenancy within the meaning of Part IV of the Housing Act 1985 and—
- (a) notice of proceedings for possession of the dwelling has been served, or might have been served, specifying ground 10 or 10A in Part II of Schedule 2 to that Act, or
- (b) the landlord has applied, or could apply, to the Secretary of State or the [F111Regulator of Social Housing] F112 . . . for approval for the purposes of ground 10A of a redevelopment scheme including the dwelling, or part of it, the landlord may make to [F113any person giving up possession or occupation] a payment corresponding to any home loss payment [F108 or discretionary payment] which they would be required [F108 or authorised] to make to him if an order for possession had been made on either of those grounds.]
- (8) . . . . . F114
- (9) . . . . . F115

#### Textual Amendments

- F104** S. 32(1)-(3A) substituted (25.09.1991) for s. 32(1)-(3) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), [s. 68\(4\)\(9\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#).
- F105** 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
- F106** Words in s. 32(4) substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), [s. 68\(5\)\(9\)](#)(with s. 84(5)); S.I. 1991/2067, [art. 3](#)
- F107** Words in s. 32(5) substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), [s. 68\(6\)\(9\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#).
- F108** Words in s. 32(7)(7B) inserted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), [s. 68\(7\)\(9\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#).



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- F109** S. 32(7A) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 114\(4\)\(6\)](#) except in cases where the date of displacement was more than 6 months before 13.11.1980
- F110** S. 32(7B) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 61\), s. 9\(4\)](#)
- F111** Words in s. 32(7B)(b) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\), art. 1\(2\), Sch. 2 para. 5](#) (with art. 6, Sch. 3)
- F112** Words in s. 32(7B)(b) repealed (1.11.1998) by 1998 c. 38, s. 152, [Sch. 18 Pt. VI](#) (with ss. 137(1), 139(2), 143(2)); S.I. 1998/2244, [art. 5](#)
- F113** Words in s. 32(7B) substituted (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, [art. 4](#)) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\), s. 70, Sch. 15 para. 23](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#).
- F114** S. 32(8) repealed by [Local Government, Planning and Land Act 1980 \(c. 65\), Sch. 34 Pt XII](#)
- F115** S. 32(9) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), Sch. 2 Pt. I](#)

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

- C87** S. 32(7B) modified (1.12.2008) by [Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\), arts. 1\(1\), 3, Sch. para. 1](#) (with art. 6)

**Marginal Citations**

- M18** 1939 c. 21.

**33 Home loss payments for certain caravan dwellers.**

- (1) Sections 29 to 32 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 [<sup>F116</sup>or discretionary 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 29 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—
- <sup>F117</sup>“(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 such occupation of the site by virtue of an interest or right to which this section applies.”]
- <sup>F118</sup>[( 4) Section 30 above shall have effect as if the references to a person occupying a dwelling by virtue of an interest in it and to his interest in the dwelling were to a person occupying a caravan site by virtue of an interest in it and to that interest.]
- (5) Section 32 above shall have effect—
- <sup>F119</sup>[( a) as if in subsections (3) and (3A) the references to a dwelling were to a caravan 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—

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- “(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 29(2) above and subsections [<sup>F120</sup>(3) to (4)] above shall have effect as if those sites were the same site.”
- (6) Sections 29 to 32 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.

#### Textual Amendments

- F116** Words in s. 33(2) inserted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), [s. 68\(8\)\(a\)\(9\)](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#)
- F117** Words in s. 33(3) substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), [s. 68\(8\)\(b\)\(9\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#).
- F118** S. 33(4) substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), [s. 68\(8\)\(c\)\(9\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#).
- F119** S. 33(5)(a) substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), [s. 68\(8\)\(d\)\(9\)](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#).
- F120** Words in s. 33(5)(c) substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), [s. 68\(8\)\(d\)\(9\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#).

#### <sup>F121</sup>*Other loss payments*

#### Textual Amendments

- F121** S. 33A and cross-heading inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [s. 106](#) (with s. 106(2)(3)); S.I. 2004/2593, [art. 2\(a\)](#)

### 33A Basic loss payment

- (1) This section applies to a person—
- (a) if he has a qualifying interest in land,
  - (b) if the interest is acquired compulsorily, and
  - (c) to the extent that he is not entitled to a home loss payment in respect of any part of the interest.
- (2) A person to whom this section applies is entitled to payment of whichever is the lower of the following amounts—
- (a) 7.5% of the value of his interest;
  - (b) £75,000.
- (3) A payment under this section must be made by the acquiring authority.

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- (4) An interest in land is a qualifying interest if it is a freehold interest or an interest as tenant and (in either case) it subsists for a period of not less than one year ending with whichever is the earliest of—
- (a) the date on which the acquiring authority takes possession of the land under section 11 of the Compulsory Purchase Act 1965 (entry to take possession of land);
  - (b) the date on which the acquiring authority enters the land if it proceeds under Schedule 3 to that Act;
  - (c) the vesting date (within the meaning of the Compulsory Purchase (Vesting Declarations) Act 1981) if a declaration is made under section 4 of that Act (general vesting declaration);
  - (d) the date on which compensation is agreed between the person and the acquiring authority;
  - (e) the date on which the amount of compensation is determined by the [<sup>F122</sup>Upper Tribunal].
- (5) The compulsory acquisition of an interest in land includes acquisition of the interest in consequence of the service of—
- (a) a purchase notice under section 137 of the Town and Country Planning Act 1990 (right to require purchase of certain interests);
  - (b) a notice under section 150 of that Act (purchase of blighted land).
- (6) The value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition; but this is subject to subsections (7) and (8).
- (7) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.
- (8) If rule (5) of section 5 of the Land Compensation Act 1961 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.]

#### Textual Amendments

**F122** Words in s. 33A(4)(e) 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. 105** (with Sch. 5)

#### [<sup>F123</sup>33B Occupier's loss payment: agricultural land

- (1) This section applies to a person if—
- (a) he has a qualifying interest in land for the purposes of section 33A,
  - (b) the land is agricultural land,
  - (c) the interest is acquired compulsorily, and
  - (d) he occupied the land for the period specified in section 33A(4).
- (2) A person to whom this section applies is entitled to a payment of whichever is the greatest of the following amounts—
- (a) 2.5% of the value of his interest;
  - (b) the land amount;

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- (c) the buildings amount.
- (3) But the maximum amount which may be paid to a person under this section in respect of an interest in land is £25,000.
- (4) A payment under this section must be made by the acquiring authority.
- (5) The value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition; but this is subject to subsections (6) and (7).
- (6) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.
- (7) If rule (5) of section 5 of the Land Compensation Act 1961 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.
- (8) The land amount is the greater of £300 and the amount found in accordance with the following Table—

<i>Area of the land</i>	<i>Amount per hectare</i>
Not exceeding 100 hectares	£100 per hectare or part of a hectare
Exceeding 100 hectares	(a) £100 per hectare for the first 100 hectares; (b) £50 per hectare for the next 300 hectares or part of a hectare.

- (9) The buildings amount is £25 per square metre (or part of a square metre) of the gross floor space of any buildings on the land.
- (10) The gross floor space must be measured externally.

#### **Textual Amendments**

**F123** S. 33B - S. 33C inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 107](#) (with s. 107(2)(3)); S.I. 2004/2593, art. 2(a)

### **33C Occupier's loss payment: other land**

- (1) This section applies to a person if—
- (a) he has a qualifying interest in land for the purposes of section 33A,
  - (b) the land is not agricultural land,
  - (c) the interest is acquired compulsorily, and
  - (d) he occupied the land for the period specified in section 33A(4).
- (2) A person to whom this section applies is entitled to a payment of whichever is the greatest of the following amounts—
- (a) 2.5% of the value of his interest;
  - (b) the land amount;
  - (c) the buildings amount.

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- (3) But the maximum amount which may be paid to a person under this section in respect of an interest in land is £25,000.
- (4) A payment under this section must be made by the acquiring authority.
- (5) The value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition; but this is subject to subsections (6) and (7).
- (6) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.
- (7) If rule (5) of section 5 of the Land Compensation Act 1961 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.
- (8) The land amount is the greater of—
  - (a) £2,500;
  - (b) £2.50 per square metre (or part of a square metre) of the area of the land.
- (9) But if only part of land in which a person has an interest is acquired, for the figure specified in subsection (8)(a) there is substituted £300.
- (10) The buildings amount is £25 per square metre (or part of a square metre) of the gross floor space of any buildings on the land.
- (11) The gross floor space must be measured externally.]

#### Textual Amendments

**F123** S. 33B - S. 33C inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 107](#) (with [s. 107\(2\)\(3\)](#)); [S.I. 2004/2593](#), art. 2(a)

#### [<sup>F124</sup>33D Loss payments: exclusions

- (1) This section applies to a person if—
  - (a) he is a person to whom section 33A, 33B or 33C applies,
  - (b) a notice falling within subsection (4) has been served on him in relation to the land mentioned in that section,
  - (c) at the relevant time the notice has effect or is operative, and
  - (d) he has failed to comply with any requirement of the notice.
- (2) This section also applies to a person if—
  - (a) he is a person to whom section 33A, 33B or 33C applies,
  - (b) a copy of an order falling within subsection (5) has been served on him in relation to the land mentioned in that section, and
  - (c) the order has not been quashed on appeal.
- (3) No payment may be made under section 33A, 33B or 33C to a person to whom this section applies.
- (4) These are the notices—

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- (a) notice under section 215 of the Town and Country Planning Act 1990 (power to require proper maintenance of land);
  - [<sup>F125</sup>(b) notice under section 11 of the Housing Act 2004 (improvement notice relating to category 1 hazard);]
  - [<sup>F125</sup>(c) notice under section 12 of that Act (improvement notice relating to category 2 hazard);]
  - (d) notice under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (repairs notice prior to compulsory notice of acquisition of listed building).
- [<sup>F126</sup>(5) These are the orders—
- (a) an order under section 20 of the Housing Act 2004 (prohibition order relating to category 1 hazard);
  - (b) an order under section 21 of that Act (prohibition order relating to category 2 hazard);
  - (c) an order under section 43 of that Act (emergency prohibition orders);
  - (d) an order under section 265 of the Housing Act 1985 (demolition order relating to category 1 or 2 hazard).]
- (6) The relevant time is the time at which the compulsory purchase order in relation to the person's interest in the land—
- (a) is confirmed, in the case of an order falling within section 2(2) of the Acquisition of Land Act 1981 (procedure for authorisation);
  - (b) is made, in the case of an order falling within section 2(3) of that Act.
- (7) The Secretary of State may by regulations amend subsections (4) and (5).]

#### Textual Amendments

**F124** S. 33D inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 108 (with s. 108(2)); S.I. 2004/2593, art. 2(a)

**F125** S. 33D(4)(b)(c) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 15 para. 4\(2\)](#); S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)

**F126** S. 33D(5) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 15 para. 4\(3\)](#); S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)

#### [<sup>F127</sup>33E Claims

- (1) This section applies for the purposes of sections 33A to 33C.
- (2) A claim for payment must be made in writing to the acquiring authority.
- (3) The claim must give such particulars as the authority may reasonably require for the purpose of deciding—
  - (a) whether a payment is to be made;
  - (b) the amount of any such payment.
- (4) For the purposes of the Limitation Act 1980 a person's right of action to recover a payment must be taken to have accrued—
  - (a) in the case of a claim under section 33A on the last day of the period specified in subsection (4) of that section;



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- (b) in the case of a claim under section 33B or 33C on the date of his displacement from the land.

#### Textual Amendments

**F127** Ss. 33E-33K inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 109](#); S.I. [2004/2593, art. 2\(a\)](#)

### 33F Insolvency

- (1) This section applies if a person is entitled to a payment under section 33A, 33B or 33C but before a claim is made under section 33E insolvency proceedings are started in relation to the person.
- (2) Any of the following may make a claim instead of the person mentioned in subsection (1)—
- (a) a receiver, trustee in bankruptcy or the official receiver in the case of an individual;
  - (b) an administrator, administrative receiver, liquidator or provisional liquidator or the official receiver in the case of a company or a partnership.
- (3) Insolvency proceedings are—
- (a) proceedings in bankruptcy;
  - (b) proceedings under the Insolvency Act 1986 for the winding up of a company or an unregistered company (including voluntary winding up of a company under Part 4 of that Act);
  - (c) proceedings for the winding up of a partnership.

#### Textual Amendments

**F127** Ss. 33E-33K inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 109](#); S.I. [2004/2593, art. 2\(a\)](#)

### 33G Death

- (1) This section applies if a person is entitled to a payment under section 33A, 33B or 33C but before a claim is made under section 33E the person dies (the deceased).
- (2) A claim may be made by a person who—
- (a) occupied the land for a period of not less than one year ending with the date on which the deceased is displaced from the land, and
  - (b) is entitled to benefit on the death of the deceased by virtue of a ground mentioned in subsection (3).
- (3) The grounds are—
- (a) a testamentary disposition;
  - (b) the law of intestate succession;
  - (c) the right of survivorship between joint tenants.

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#### Textual Amendments

**F127** Ss. 33E-33K inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 109](#); S.I. 2004/2593, art. 2(a)

### 33H Agricultural land: dual entitlement

- (1) This section applies if a person is entitled in respect of the same interest in agricultural land to a payment both—
  - (a) under section 33B of this Act, and
  - (b) by virtue of section 12(1) of the Agriculture (Miscellaneous Provisions) Act 1968 (additional payments in consequence of compulsory acquisition of agricultural holding).
- (2) Payment may be made in respect of only one entitlement.
- (3) If the person makes a claim under both provisions he must be paid in respect of the entitlement which produces the greater amount.

#### Textual Amendments

**F127** Ss. 33E-33K inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 109](#); S.I. 2004/2593, art. 2(a)

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

**C88** S. 33H applied by 1968 c. 34, s. 12(4) (as inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), Sch. 7 para. 4](#) (with s. 111); S.I. 2004/2593, art. 2(d))

### 33I Payment

- (1) Any dispute as to the amount of a payment to be made under section 33A, 33B or 33C must be determined by the [<sup>F128</sup>Upper Tribunal].
- (2) The acquiring authority must make any payment required by section 33A not later than whichever is the latest of the following dates—
  - (a) the last day of the period specified in section 33A(4);
  - (b) the last day of the period of three months beginning with the day the claim is made;
  - (c) the day on which the amount of the payment is determined.
- (3) The authority must make any payment required by section 33B or 33C not later than whichever is the latest of the following dates—
  - (a) the date the person is displaced from the land;
  - (b) the last day of the period of three months beginning with the day the claim is made;
  - (c) the day on which the amount of the payment is determined.
- (4) If paragraph (c) of subsection (2) or (3) applies the authority may at any time make a payment in advance to the person entitled to a payment (the claimant).

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- (5) If when the value of the interest is agreed or determined the amount of a payment made under subsection (4) differs from the payment required by section 33A, 33B or 33C—
  - (a) the amount by which the advance payment exceeds the payment required must be repaid by the claimant to the authority;
  - (b) the amount by which the payment required exceeds the advance payment must be paid by the authority to the claimant.
- (6) The acquiring authority must pay interest on the amount required to be paid at the rate prescribed by regulations under section 32 of the Land Compensation Act 1961.
- (7) Interest accrues from the date specified in paragraph (a) of subsection (2) or (3) (as the case may be).
- (8) The authority may, at the request of the person entitled to the payment, make a payment on account of the interest mentioned in subsection (6).

#### Textual Amendments

**F127** Ss. 33E-33K inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 109](#); S.I. 2004/2593, art. 2(a)

**F128** Words in s. 33I(1) 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. 106](#) (with Sch. 5)

### 33J Acquisition by agreement

- (1) This section applies if—
  - (a) an interest in land which is a qualifying interest for the purpose of section 33A is acquired by agreement by an authority which has power to acquire the interest compulsorily, and
  - (b) the interest is acquired from a person who would be entitled to a payment under section 33A, 33B or 33C if the interest is acquired compulsorily.
- (2) The authority may make a payment to the person of an amount equal to the amount they would be required to pay if the interest is acquired compulsorily.

#### Textual Amendments

**F127** Ss. 33E-33K inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 109](#); S.I. 2004/2593, art. 2(a)

### 33K Regulations

- (1) This section applies for the purposes of sections 33A to 33I.
- (2) The Secretary of State may by regulations substitute for any amount or percentage figure specified in these sections such other amount or percentage figure (as the case may be) as he thinks fit.
- (3) Except as provided in the following provisions of this section, a power to make regulations must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

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- (4) This subsection applies to regulations under subsection (2) which substitute—
- (a) a percentage figure, or
  - (b) an amount, in a case where the change in value condition is not satisfied.
- (5) A statutory instrument containing regulations to which subsection (4) applies must not be made unless a draft of the regulations has been laid before and approved by resolution of each House of Parliament.
- (6) The change in value condition is satisfied if the Secretary of State thinks that in the case of the substitution of an amount it is expedient to make the substitution in consequence of changes in the value of money or land.
- (7) Regulations under subsection (2) may make different provision for different purposes.]

**Textual Amendments**

**F127** Ss. 33E-33K inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 109](#); S.I. 2004/2593, art. 2(a)

*Farm loss payments*

**<sup>F129</sup>34 Right to farm loss payment where person displaced from agricultural unit.**

.....

**Textual Amendments**

**F129** Ss. 34-36 repealed (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), Sch. 7 para. 7\(3\), 9](#) (with s. 111, Sch. 7 para. 7(5), 9); S.I. 2004/2593, art. 2(d)(e)

**<sup>F129</sup>35 Amount of farm loss payment.**

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**Textual Amendments**

**F129** Ss. 34-36 repealed (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), Sch. 7 para. 7\(3\), 9](#) (with s. 111, Sch. 7 para. 7(5), 9); S.I. 2004/2593, art. 2(d)(e)

**<sup>F129</sup>36 Supplementary provisions about farm loss payments.**

.....

**Textual Amendments**

**F129** Ss. 34-36 repealed (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), Sch. 7 para. 7\(3\), 9](#) (with s. 111, Sch. 7 para. 7(5), 9); S.I. 2004/2593, art. 2(d)(e)

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### *Disturbance payments*

#### **37 Disturbance payments for persons without compensatable interests.**

- (1) Where a person is displaced from any land in consequence of—
- (a) the acquisition of the land by an authority possessing compulsory purchase powers;
  - [<sup>F130</sup>(b) the making of a housing order in respect of a house or building on the land;]
  - (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>F131</sup>any improvement to a house or building on the land or of] redevelopment on the land,
  - (d) [<sup>F132</sup>the carrying out of any improvement to a house or building on the land or of re-development on the land by a housing association which has previously acquired the land and at the date of the displacement is [<sup>F133</sup>either a private registered provider of social housing or][<sup>F134</sup>a registered social landlord within the meaning of the Housing Act 1985 (see section 5(4) and (5) of that Act)];
- he shall, subject to the provisions of this section, be entitled to receive a payment (hereafter referred to as a “disturbance payment”) from
- [<sup>F135</sup>(i) where paragraph (a) above applies, the acquiring authority;
  - (ii) where paragraph (b) above applies, the authority who made [<sup>F136</sup>the housing order;]
  - (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.]
- (2) A person shall not be entitled to a disturbance payment—
- (a) in any case, unless he is in lawful possession of the land from which he is displaced;
  - (b) in a case within subsection (1)(a) above, unless either—
    - (i) he has no interest in the land for the acquisition or extinguishment of which he is (or if the acquisition or extinguishment were compulsory would be) entitled to compensation under any other enactment; or
    - (ii) . . . . .<sup>F137</sup>
  - (c) in a case within subsection (1)(b) above, if he is entitled to [<sup>F138</sup>a payment under section 584A(1) of the Housing Act 1985 (compensation payable in case of [<sup>F139</sup>prohibition] and demolition orders)].
  - [<sup>F140</sup>(d) in a case within subsection (1)(d) above, unless the <sup>M19</sup> displacement occurred on or after 31st July 1974 (on which date the Housing Act 1974 was passed). ]
  - <sup>F141</sup> . . . . .
- (3) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of any such acquisition [<sup>F142</sup>improvement or redevelopment as is mentioned in paragraph (a), (c) or (d)] of that subsection unless he was in lawful possession of the land—
- (a) in the case of land acquired under a compulsory purchase order, at the time when notice was first published of the making of the compulsory purchase

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order prior to its submission for confirmation or, where the order did not require confirmation, of the preparation of the order in draft;

- (b) in the case of land acquired under an Act specifying the land as subject to compulsory acquisition, at the time when the provisions of the Bill for that Act specifying the land were first published;
- (c) in the case of land acquired by agreement, at the time when the agreement was made;

and a person shall not be treated as displaced in consequence of [<sup>F143</sup>a housing order within paragraph (b) of that subsection unless he was in lawful possession as aforesaid at the time when the order was made.]

[<sup>F144</sup>(3A) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of [<sup>F145</sup>the carrying out of any improvement to a house or building unless he is permanently displaced in consequence of the carrying out of that improvement.]

(4) Where a person is displaced from land in circumstances such that, apart from this subsection, he would be entitled to a disturbance payment from any authority and also to compensation from that authority under section 37 of the <sup>M20</sup> Landlord and Tenant Act 1954 (compensation from landlord where order for new tenancy of business premises precluded on certain grounds) he shall be entitled, at his option, to one or the other but not to both.

(5) Where a person is displaced from any land as mentioned in subsection (1) above but is not entitled, as against the authority there mentioned, to a disturbance payment or to compensation for disturbance under any other enactment, the authority may, if they think fit, make a payment to him determined in accordance with section 38(1) to (3) below.

(6) A disturbance payment shall carry interest, at the rate for the time being prescribed under section 32 of the <sup>M21</sup> Land Compensation Act 1961. . . <sup>F146</sup>, from the date of displacement until payment.

(7) This section does not apply to any land which is used for the purposes of agriculture.

(8) . . . . . <sup>F147</sup>

(9) In this section “a housing order. . . <sup>F146F148</sup> . . .” [<sup>F149</sup>“improvement”] and “redevelopment” have the same meaning as in section 29 above.

(10) This section applies if the date of displacement is on or after 17th October 1972.]

#### Textual Amendments

**F130** S. 37(1)(b) substituted (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5) (f), **Sch. 15 para. 5(2)(a)**; S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)

**F131** Words inserted by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 39(1)(b)**

**F132** S. 37(1)(d) substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, **Sch. 2 para. 24(3)(b)**

**F133** Words in s. 37(1)(d) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 6** (with art. 6, Sch. 3)

**F134** Words in s. 37(1)(d) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 3(3)**

**F135** Paras. (i) to (iv) substituted for words by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 39(1)(d)**

**F136** Words in s. 37(1)(ii) substituted (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5)(f), **Sch. 15 para. 5(2)(b)**; S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)



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- F137** S. 37(2)(b)(ii) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), **Sch. 12 Pt. II**
- F138** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), **Sch. 11 para. 31**
- F139** Word in s. 37(2)(c) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), **Sch. 15 para. 5(3)**; S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)
- F140** S. 37(2)(d) added by [Housing Rents and Subsidies Act 1975 \(c. 6\)](#), s. 17(4), **Sch. 5 para. 10(b)** and continued by virtue of [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 24(3)(d)**
- F141** Words repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, **Sch. 1 Pt. I**
- F142** Words substituted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 39(2)**
- F143** Words in s. 37(3) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), **Sch. 15 para. 5(4)**; S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)
- F144** S. 37(3A) inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 39(3)**
- F145** Words in s. 37(3A) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), **Sch. 15 para. 5(5)**; S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)
- F146** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**
- F147** Ss. 32(9), 34(7), 37(8), 41(11), 44(3), 46(8) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**
- F148** Words in s. 37(9) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), **Sch. 15 para. 5(6)**, **16**; S.I. 2006/1060, art. 2(1)(d)(e) (with Sch.); S.I. 2006/1535, art. 2(b) (c) (with Sch.)
- F149** Word inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 39(4)**

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

- C89** S. 37(5) excluded by [Conwy Tunnel \(Supplementary Powers\) Act 1983 \(c. 7, SIF 59\)](#), s. 14(7)  
S. 37(5) modified (5.11.1993) by 1993 c. 42, s. 2, **Sch. 2 para. 5(7)** (with s. 30(1), Sch. 2 para. 9).

#### Marginal Citations

- M19** 1974 c. 44.  
**M20** 1954 c. 56.  
**M21** 1961 c. 33.

## 38 Amount of disturbance payment.

- (1) The amount of a disturbance payment shall be equal to—
- the reasonable expenses of the person entitled to the payment in removing from the land from which he is displaced; and
  - if he was carrying on a trade or business on that land, the loss he will sustain by reason of the disturbance of that trade or business consequent upon his having to quit the land.
- (2) In estimating the loss of any person for the purposes of subsection (1)(b) above, regard shall be had to the period for which the land occupied by him may reasonably have been expected to be available for the purposes of his trade or business and to the availability of other land suitable for that purpose.

This subsection has effect subject to section 46(7) below.

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- (3) Where the displacement is from a dwelling in respect of which structural modifications have been made for meeting the special needs of a disabled person (whether or not the person entitled to the disturbance payment) then, if—
- (a) a local authority [<sup>F150</sup>in England having functions under Part 1 of the Care Act 2014 or a local authority in Wales] having functions under section 29 of the <sup>M22</sup>National Assistance Act 1948, <sup>F151</sup>, provided assistance, or
  - (b) such an authority would, if an application had been made, have provided assistance,
- for making those modifications, the amount of the disturbance payment shall include an amount equal to any reasonable expenses incurred by the person entitled to the payment in making, in respect of a dwelling to which the disabled person removes, comparable modifications which are reasonably required for meeting the disabled person's special needs.
- (4) Any dispute as to the amount of a disturbance payment shall be referred to and determined by the [<sup>F152</sup>Upper Tribunal]<sup>F151</sup>.

#### Textual Amendments

**F150** Words in s. 38(3)(a) inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 24** (with arts. 1(3), 3)

**F151** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**F152** Words in s. 38(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. 107** (with Sch. 5)

#### Marginal Citations

**M22** 1948 c. 29.

### *Rehousing*

#### **39 Duty to rehouse residential occupiers.**

- (1) Where a person is displaced from residential accommodation on any land in consequence of—
- (a) the acquisition of the land by an authority possessing compulsory purchase powers;
  - <sup>F153</sup>[(b) the making of a housing order in respect of a house or building on the land;]
  - (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>F154</sup>any improvement to a house or building on the land or of] redevelopment on the land,
  - <sup>F155</sup>(d) .....
- and suitable alternative residential accommodation on reasonable terms is not otherwise available to that person, then, subject to the provisions of this section, it shall be the duty of the relevant authority to secure that he will be provided with such other accommodation.

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- (2) Subsection (1) above shall not by virtue of paragraph (a) thereof apply to a person if the acquisition is in pursuance of the service by him of a blight notice within the meaning of [F156]section 149 of the Town and Country Planning Act 1990[F157]. . . .
- (3) Subsection (1) above shall not apply to any person who is a trespasser on the land or who has been permitted to reside in any house or building on the land pending its demolition [F158]or improvement[.]
- (4) Subsection (1) above shall not apply to any person to whom money has been advanced—
- (a) under section 41 below;
  - (b) under the Small Dwellings Acquisition Acts 1899 to 1923 or section 43 of the M23Housing (Financial Provisions) Act 1958 [F159]or section 435 of the Housing Act 1985[;];
  - F160(c) . . . . .
  - (d) by a development corporation or the [F161]new towns residuary body] otherwise than under section 41 below,
  - F162(f) . . . . .
- for the purpose of enabling him to obtain accommodation in substitution for that from which he is displaced as mentioned in that subsection.
- F163(5) . . . . .
- (6) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of any such acquisition [F164]improvement] or redevelopment as is mentioned in paragraph (a) or (c) of that subsection unless he was residing in the accommodation in question—
- (a) in the case of land acquired under a compulsory purchase order, at the time when notice was first published of the making of the order prior to its submission for confirmation or, where the order did not require confirmation, of the preparation of the order in draft;
  - (b) in the case of land acquired under an Act specifying the land as subject to compulsory acquisition, at the time when the provisions of the Bill for the Act specifying the land were first published;
  - (c) in the case of land acquired by agreement, at the time when the agreement was made;
- and a person shall not be treated as displaced in consequence of [F165]a housing order within paragraph (b) of that subsection unless he was residing in the accommodation in question at the time when the order was made.]
- [F166](6A) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of [F167]the carrying out of any improvement to a house or building unless he is permanently displaced from the residential accommodation in question in consequence of the carrying out of that improvement.]
- [ Subject to subsection (8) below, the 'relevant authority' for the purpose of this section F168(7) is the local housing authority within the meaning of the Housing Act 1985.]
- (8) Where the land is in an area designated as the site of a new town—
- (a) paragraph (c) of subsection (1) above shall apply if the land on which the redevelopment is carried out has been previously acquired by the development

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- corporation and is for the time being held either by that corporation or by the [<sup>F169</sup>new towns residuary body];
- (b) if the authority by whom the land is acquired or redeveloped is the development corporation, that corporation shall, in a case falling within paragraph (a) or (c) of that subsection, be the relevant authority for the purposes of this section;
- (c) if the authority by whom the land is redeveloped is the [<sup>F170</sup>new towns residuary body, that body] shall, in a case falling within paragraph (c) of that subsection, be the relevant authority for the purposes of this section.
- <sup>F162</sup>(d) .....
- <sup>F171</sup>(8A) .....
- (9) In this section [<sup>F172</sup>—
- (a) “a housing order <sup>F173</sup> . . . <sup>F174</sup> . . .” [<sup>F175</sup>“improvement”] and “redevelopment” have the same meaning as in section 29 above.
- [
- <sup>F176</sup>(b) “new towns residuary body” means—
- (i) in relation to England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008 [<sup>F177</sup> or the Greater London Authority so far as exercising its new towns and urban development functions]; and
- (ii) in relation to Wales, the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981.]

### Textual Amendments

- F153** S. 39(1)(b) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), Sch. 15 para. 6(2); [S.I. 2006/1060](#), art. 2(1)(d) (with Sch.); [S.I. 2006/1535](#), [arts. 1\(2\)\(c\)](#), 2(b) (with [art. 3](#), Sch.)
- F154** Words inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, [Sch. 13 para. 40\(1\)](#)
- F155** S. 39(1)(d) (which was inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, Sch. 13 para. 40(1)) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), [Sch. 12 Pt. II](#)
- F156** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 29\(6\)](#)
- F157** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)
- F158** Words added by [Housing Act 1974 \(c. 44\)](#), s. 130, [Sch. 13 para. 40\(2\)](#)
- F159** Words inserted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, [Sch. 2 para. 24\(4\)\(b\)](#)
- F160** S. 39(4)(c) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)
- F161** Words in s. 39(4)(d) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 17\(2\)](#); [S.I. 2008/3068](#), art. 2(1)(w)(3) (with arts. 6-13)
- F162** S. 39(4)(f) and (8)(d) repealed (1.10.1998) by [1998 c. 38](#), s. 152, [Sch. 18 Pt. IV](#) (with ss. 137(1), 139(2), 143(2)); [S.I. 1998/2244](#), [art. 4](#)
- F163** S. 39(5) repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, [Sch. 1 Pt. I](#)
- F164** Word inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, Sch. 13 para. 40(3)
- F165** Words in s. 39(6) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), Sch. 15 para. 6(3); [S.I. 2006/1060](#), art. 2(1)(d) (with Sch.); [S.I. 2006/1535](#), [arts. 1\(2\)\(c\)](#), 2(b) (with [art. 3](#), Sch.)
- F166** S. 39(6A) inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, [Sch. 13 para. 40\(4\)](#)

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- F167** Words in s. 39(6A) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), Sch. 15 para. 6(4); [S.I. 2006/1060](#), art. 2(1)(d) (with Sch.); [S.I. 2006/1535](#), [arts. 1\(2\)\(c\), 2\(b\)](#) (with art. 3, Sch.)
- F168** S. 39(7) substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, [Sch. 2 para. 29\(4\)\(c\)](#)
- F169** Words in s. 39(8)(a) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 17\(3\)\(a\)](#); [S.I. 2008/3068](#), art. 2(1)(w)(3) (with arts. 6-13)
- F170** Words in s. 39(8)(c) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 17\(3\)\(b\)](#); [S.I. 2008/3068](#), art. 2(1)(w)(3) (with arts. 6-13)
- F171** S. 39(8A) repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, [Sch. 1 Pt. I](#)
- F172** S. 39(9)(a): words in s. 39(9) renumbered as s. 39(9)(a) (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), Sch. 8 para. 17(4)(a); [S.I. 2008/3068](#), art. 2(1)(w)(3) (with arts. 6-13)
- F173** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)
- F174** Words in s. 39(9) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), Sch. 15 para. 6(5), Sch. 16; [S.I. 2006/1060](#), art. 2(1)(d)(e) (with Sch.); [S.I. 2006/1535](#), [arts. 1\(2\)\(c\), 2\(b\)](#) (with art. 3, Sch.)
- F175** Word inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, [Sch. 13 para. 40\(7\)](#)
- F176** S. 39(9)(b) inserted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 17\(4\)\(b\)](#); [S.I. 2008/3068](#), art. 2(1)(w)(3) (with arts. 6-13)
- F177** Words in s. 39(9)(b)(i) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 3](#); [S.I. 2012/57](#), art. 4(1)(aa) (with arts. 6, 7, 9-11)

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

- C90** S. 39: power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 65(2)(c)(4)

#### Marginal Citations

- M23** 1958 c. 42.

## 40 Duty to rehouse certain caravan dwellers.

- (1) Section 39 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 it has effect in relation to a person displaced from residential accommodation on any land but shall so have effect subject to the following modifications.
- (2) Subsection (1) of the said section 39 shall have effect—
  - (a) 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
  - (b) as if for the words following paragraph (c) there were substituted the words “and neither suitable residential accommodation nor a suitable alternative site for stationing a caravan is available to that person on reasonable terms, then, subject to the provisions of this section, it shall be the duty of the relevant authority to secure that he will be provided with suitable residential accommodation”.
- (3) Subsection (6) of the said section 39 shall have effect as if in the words preceding paragraph (a) for the words “unless he was residing in the accommodation in question” there were substituted the words “unless he was residing in a caravan on the caravan site in question”.
- (4) The said section 39 shall have effect as if in any provision not modified as aforesaid for any reference to land there were substituted a reference to a caravan site.

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(5) In this section “caravan site” has the same meaning as in section 33 above.

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

**C91** S. 40: power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 65(2)(c)(4)

**41 Power of relevant authority to make advances repayable on maturity to displaced residential owner-occupiers.**

(1) Where a person displaced from a dwelling in consequence of any of the matters mentioned in subsection (1)(a), (b) or (c) of section 39 above—

- (a) is an owner-occupier of the dwelling; and
- (b) wishes to acquire or construct another dwelling in substitution for that from which he is displaced,

the relevant authority for the purposes of that section may advance money to him for the purpose of enabling him to acquire or construct the other dwelling.

(2) The power conferred by this section shall be exercisable subject to such conditions as may be approved by the Secretary of State and the following provisions shall apply with respect to any advance made in the exercise of that power.

(3) The advance shall be made—

- (a) on terms providing for the payment of the principal—
  - (i) at the end of a fixed period, with or without a provision allowing the authority to extend that period; or
  - (ii) upon notice given by the authority,
 subject, in either case, to a provision for earlier repayment on the happening of a specified event;
- (b) on such other terms as the authority may think fit having regard to all the circumstances.

(4) An advance for the construction of a dwelling may be made by instalments from time to time as the works of construction progress.

(5) The principal of the advance, together with interest thereon, shall be secured by a mortgage of the borrower’s interest in the dwelling, and the amount of the principal shall not exceed the value which, in accordance with a valuation duly made on behalf of the relevant authority, it is estimated that the borrower’s interest will bear or, as the case may be, will bear when the dwelling has been constructed.

(6) Before advancing money under this section the relevant authority shall satisfy themselves that the dwelling to be acquired is or will be made, or that the dwelling to be constructed will on completion be, in all respects fit for human habitation.

(7) While the payment of the principal of an advance made by a local authority under this section is not required in accordance with the terms of the advance, the local authority may suspend, with respect to so much of any sum borrowed by them as is referable to the advance or with respect to any sum paid in respect of the advance out of their Consolidated Loans Fund, any periodical provision for repayment that may be required by any enactment or by any scheme (whether made under section 55 of the <sup>M24</sup>Local Government Act 1958 or under any local enactment) by which the Fund was established.



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- (8) The power conferred by this section on a relevant authority is without prejudice to any power to advance money exercisable by the authority under any other enactment.
- (9) In this section “owner-occupier”, in relation to any dwelling, means a person who occupies it on the date of displacement and either—
  - (a) occupies it on that date in right of a freehold interest therein or a tenancy thereof granted or extended for a term of years certain of which not less than three years remain unexpired; or
  - (b) if the displacement is in consequence of the matters mentioned in paragraph (c) of section 39(1) above, occupied it in right of such an interest or tenancy on the date on which the land was acquired or appropriated as mentioned in that paragraph.
- (10) In this section references to the construction of a dwelling include references to the acquisition of a building and its conversion into a dwelling and to the conversion into a dwelling of a building previously acquired.
- (11) . . . . . <sup>F178</sup>

**Textual Amendments**

**F178** Ss. 32(9), 34(7), 37(8), 41(11), 44(3), 46(8) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)

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

**C92** S. 41: power to apply certain functions conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 65\(2\)\(c\)\(4\)](#)

**Marginal Citations**

**M24** [1958 c. 55](#).

**42 Duty of displacing authority to indemnify rehousing or lending authority for net losses.**

- (1) Where a relevant authority within the meaning of section 39 above provide or secure the provision of accommodation for any person in pursuance of subsection (1)(a) or (c) of that section, then, if—
  - (a) the authority providing the accommodation (“the rehousing authority”) are not the same as the authority by whom the land in question is acquired or redeveloped (“the displacing authority”); and
  - (b) the displacing authority are not an authority having functions under <sup>F179</sup>Part II of the [Housing Act 1985](#) <sup>F180</sup>or (if they are such an authority) the land is acquired or redeveloped by them otherwise than in the discharge of those functions]

the displacing authority shall make to the rehousing authority periodical payments, or if the rehousing authority so require a lump sum payment, by way of indemnity against any net loss in respect of the rehousing authority’s provision of that accommodation which may be incurred by that authority in any year during the period of ten years commencing with the year in which the accommodation is first provided.

- (2) For the purposes of subsection (1) above a local authority incur a net loss in respect of their provision of accommodation for a person whom they are rehousing—

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- (a) if they rehouse him in a dwelling provided by them under [<sup>F181</sup>Part II of the said Act 1985], <sup>F182</sup>, for the purpose of rehousing him; or
  - (b) if—
    - (i) they rehouse him in a Housing Revenue Account dwelling not so provided <sup>F182</sup>, and
    - (ii) provide under [<sup>F183</sup>the said Part III] in the year immediately preceding that in which he first occupies it, or in the period of three years commencing with the year in which he first occupies it, a dwelling <sup>F182</sup> of a similar type or size.
- (3) Where money has been advanced to a person as mentioned in section 39(4) above, then if—
- (a) the authority making the advance (“the lending authority”) are not the same as the displacing authority; and
  - (b) the lending authority incur a net loss in respect of the making of the advance, the displacing authority shall make to the lending authority a lump sum payment by way of indemnity against that loss.
- (4) For the purposes of subsection (3) above, a lending authority incur a net loss in respect of the making of an advance to any person if—
- (a) he does not fully discharge his liability to the authority in respect of principal, interest and costs or expenses in accordance with the terms on which the advance is made; and
  - (b) the deficiency exceeds the net proceeds arising to the authority on a sale of the interest on which the principal and interest is secured.
- (5) The Secretary of State may—
- (a) for the purposes of subsection (1) above from time to time determine a method to be used generally in calculating net losses incurred by rehousing authorities;
  - (b) for the purposes of that subsection or subsection (3) above, determine the net loss incurred by a rehousing authority or lending authority in any particular case;
  - (c) give directions as to the manner in which any payment under this section is to be made.
- (6) [<sup>F184</sup>In subsection (2)—
- ‘Housing Revenue Account dwelling’ means a dwelling which is within the authority’s Housing Revenue Account (within the meaning of [<sup>F185</sup>Part VI of the Local Government and Housing Act 1989])]

#### Textual Amendments

- F179** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 24(5)(a)**
- F180** Words inserted by [Housing Act 1980 \(c. 51\)](#), s. 138
- F181** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 24(5)(b)**
- F182** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**
- F183** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 24(5)(c)**
- F184** S. 42(6) substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 24(5)(d)**

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**F185** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\)](#), s. 194(1), [Sch. 11 para. 32\(1\)\(2\)](#)

#### **43 Power of relevant authority to defray expenses in connection with acquisition of new dwellings.**

- (1) Where a person displaced from a dwelling in consequence of [<sup>F186</sup>any of the events specified in paragraphs (a) to (d) of section 39(1)above]—
  - (a) has no interest in the dwelling or no greater interest therein than as tenant for a year or from year to year; and
  - (b) wishes to acquire another dwelling in substitution for that from which he is displaced,  
[<sup>F186</sup>then, according to the nature of the event in consequence of which he was displaced, the acquiring authority, the authority who made the order, passed the resolution, accepted the undertaking or served the notice or the authority carrying out the improvement or redevelopment] may pay any reasonable expenses incurred by him in connection with the acquisition, other than the purchase price.
- (2) No payment shall be made under this section in respect of expenses incurred by any person in connection with the acquisition of a dwelling unless the dwelling is acquired not later than one year after the displacement and is reasonably comparable with that from which he is displaced.
- (3) For the purposes of subsection (2) above a dwelling acquired pursuant to a contract shall be treated as acquired when the contract is made.
- (4) Subsections (3) [<sup>F187</sup>(6) and (6A)] of section 39 above shall have effect in relation to subsection (1) above and to [<sup>F187</sup>any provision of subsection (1)] of that section as applied thereby.

#### **Textual Amendments**

**F186** Words substituted by [Housing Act 1974 \(c. 44\)](#), s. 130, [Sch. 13 para. 41\(1\)](#)

**F187** Words substituted by [Housing Act 1974 \(c. 44\)](#), s. 130, [Sch. 13 para. 41\(2\)](#)

## **PART IV**

### **COMPULSORY PURCHASE**

#### *Assessment of compensation*

#### **44 Compensation for injurious affection.**

- (1) Where land is acquired or taken from any person for the purpose of works which are to be situated partly on that land and partly elsewhere, compensation for injurious affection of land retained by that person shall be assessed by reference to the whole of the works and not only the part situated on the land acquired or taken from him.
- (2) In this section “compensation for injurious affection” means compensation for injurious affection under section 63 or 121 of the <sup>M25</sup>Lands Clauses Consolidation Act

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1845 or section 7 or 20 of the <sup>M26</sup>Compulsory Purchase Act 1965, and subsection (1) above shall apply with the necessary modifications to such compensation under the said section 7 as substituted by [<sup>F188</sup>paragraph 6 of Schedule 19 to the <sup>M27</sup>Highways Act 1980], [<sup>F189</sup>paragraph 7 of Schedule 3 to the Gas Act 1986][<sup>F190</sup>paragraph 3 of [<sup>F191</sup>Schedule 9 to the Water Industry Act 1991 or of Schedule 18 to the Water Resources Act 1991]](compulsory acquisition of rights over land) or any corresponding enactment, including (except where otherwise provided) an enactment passed after this Act.

(3) ..... <sup>F192</sup>

#### Textual Amendments

- F188** Words substituted by [Highways Act 1980 \(c. 66\), Sch. 24 para. 13\(b\)](#)
- F189** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 67\(1\), Sch. 7 para. 14\(1\)](#)
- F190** Words inserted by [Water Act 1989 \(c. 15, SIF 130\), s. 190, Sch. 25 para. 44\(1\)](#) (with ss. 58(7), 101(1), 141(6), 153(1), 155, 160(1)(2)(4), 163, 189(4)–(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F191** Words in s. 44(2) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\), ss. 2, 4\(2\), Sch. 1 para.23](#)
- F192** S. 44(3) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), Sch. 2 Pt. I](#)

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

- C93** S. 44(1) modified (18.6.1992) by [Compulsory Purchase Act 1965 \(c. 56\)](#), as applied (with modifications) by [British Railways \(No. 2\) Act 1992 \(c. xi\), s. 27, Sch. 3 para.1](#).  
S. 44(1) modified (10.11.1993) by [1965 c. 56, s. 7\(2\)](#) (as modified by [1993 c. 28, s. 169, Sch. 20 para.21](#); [S.I. 1993/2762, art.3](#)).  
S. 44(1) modified (27.8.1998) by [S.I. 1998/1936, art. 29\(3\), Sch. 7 para. 2\(1\)\(2\)](#) (with art. 45)  
S. 44(1) modified (25.11.1998 for specified purposes and otherwise 3.7.2000) by [1965 c. 56, s. 7\(2\)](#) (as modified by [1998 c. 45, s. 20, Sch. 5 Pt. II para. 4](#); [S.I. 1998/2952, art. 2\(2\)](#); [S.I. 2000/1173, art. 2\(2\) \(c\)](#))  
S. 44 applied (with modifications) (19.2.1999) by [S.I. 1999/537, art. 7\(2\), Sch. 2 para. 9](#)  
S. 44 applied (with modifications) (21.7.1999) by [S.I. 1999/2129, art. 15\(3\), Sch. 5 para. 2](#)  
S. 44 applied (with modifications) (23.8.1999) by [S.I. 1999/2981, art. 17\(3\), Sch. 7 para. 2](#)
- C94** S. 44(1) modified (12.1.2004) by [The Alconbury Airfield \(Rail Facilities and Connection to East Coast Main Line\) Order 2003 \(S.I. 2003/3364\), art. 1, Sch. 4 para. 2\(2\)](#)
- C95** S. 44(1) applied (with modifications) (8.10.2005) by [Leicestershire County Council \(Ashby de la Zouch Canal Extension\) Order 2005 \(S.I. 2005/2786\), art. 1, Sch. 7 para. 2\(2\)](#)
- C96** S. 44(1) applied (with modifications) (9.4.2013) by [The Lancashire County Council \(Torrisholme to the M6 Link \(A683 Completion of Heysham to M6 Link Road\)\) Order 2013 \(S.I. 2013/675\), art. 1, Sch. 10 para. 2\(2\)](#)
- C97** S. 44(1) modified (2.10.2014) by [The Clocaenog Forest Wind Farm Order 2014 \(S.I. 2014/2441\), art. 1, Sch. 7 para. 2\(2\)](#) (with art. 33)
- C98** S. 44(1) applied (with modifications) (2.10.2014) by [The Clocaenog Forest Wind Farm Order 2014 \(S.I. 2014/2441\), art. 1, Sch. 7 paras. 1, 2\(2\)](#) (with art. 33)
- C99** S. 44(1) modified (21.10.2014) by [The Central Bedfordshire Council \(Woodside Link Houghton Regis\) Development Consent Order 2014 \(S.I. 2014/2637\), art. 1, Sch. 8 para. 2\(2\)](#)

#### Marginal Citations

- M25** 1845 c. 18.  
**M26** 1965 c. 56.  
**M27** 1980 c. 66.

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#### **45 Compensation for acquisition of dwelling specially adapted for disabled person.**

- (1) This section applies to the assessment of compensation in respect of the compulsory acquisition of an interest in a dwelling which—
  - (a) has been constructed or substantially modified to meet the special needs of a disabled person; and
  - (b) is occupied by such a person as his residence immediately before the date when the acquiring authority take possession of the dwelling or was last so occupied before that date.
- (2) The compensation shall, if the person whose interest is acquired so elects, be assessed as if the dwelling were land which is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose.

#### **46 Compensation for disturbance where business carried on by person over sixty.**

- (1) Where a person is carrying on a trade or business on any land and, in consequence of the compulsory acquisition of the whole of that land, is required to give up possession thereof to the acquiring authority, then if—
  - (a) on the date on which he gives up possession as aforesaid he has attained the age of sixty; and
  - (b) on that date the land is or forms part of a hereditament the annual value of which does not exceed the prescribed amount; and
  - (c) that person has not disposed of the goodwill of the whole of the trade or business and gives to the acquiring authority the undertakings mentioned in subsection (3) below,

the compensation payable to that person in respect of the compulsory acquisition of his interest in the land or, as the case may be, under section 121 of the <sup>M28</sup>Lands Clauses Consolidation Act 1845 or section 20 of the <sup>M29</sup>Compulsory Purchase Act 1965 (tenants from year to year etc.) shall, so far as attributable to disturbance, be assessed on the assumption that it is not reasonably practicable for that person to carry on the trade or business or, as the case may be, the part thereof the goodwill of which he has retained, elsewhere than on that land.

- (2) In subsection (1) above “the prescribed amount” means the amount which on the date mentioned in that subsection is the amount prescribed for the purposes of [<sup>F193</sup>section 149(3)(a) of the Town and Country Planning Act 1990] (interests qualifying for protection under planning blight provisions) and “annual value” and “hereditament” have the meanings given in [<sup>F194</sup>section 171] of that Act taking references to the date of service of a notice under [<sup>F195</sup>section 150] of that Act as references to the date mentioned in subsection (1) above.
- (3) The undertakings to be given by the person claiming compensation are—
  - (a) an undertaking that he will not dispose of the goodwill of the trade or business, or, as the case may be, of the part thereof the goodwill of which he has retained; and
  - (b) an undertaking that he will not, within such area and for such time as the acquiring authority may require, directly or indirectly engage in or have any interest in any other trade or business of the same or substantially the same kind as that carried on by him on the land acquired.
- (4) If an undertaking given by a person for the purposes of this section is broken the acquiring authority may recover from him an amount equal to the difference between

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the compensation paid and the compensation that would have been payable if it had been assessed without regard to the provisions of this section.

- (5) This section shall apply to a trade or business carried on by two or more persons in partnership as if references to the person by whom it is carried on were references to all the partners and as if the undertakings mentioned in subsection (3) above were required to be given by all the partners.
- (6) This section shall apply to a trade or business carried on by a company—
- (a) as if subsection (1)(a) above required—
    - (i) each shareholder, other than a minority shareholder, to be an individual who has attained the age of sixty on the date there mentioned; and
    - (ii) each minority shareholder to be an individual who either has attained that age on that date or is the spouse of a shareholder who has attained that age on that date; and
  - (b) as if the undertakings mentioned in subsection (3)(b) above were required to be given both by the company and by each shareholder.

In this subsection “shareholder” means a person who is beneficially entitled to a share or shares in the company carrying voting rights and “minority shareholder” means a person who is so entitled to less than 50 per cent, of those shares.

- (7) This section shall apply in relation to any disturbance payment assessed in accordance with section 38(1)(b) above as it applies in relation to the compensation mentioned in subsection (1) above, and shall so apply subject to the necessary modifications and as if references to the giving up of possession of land to the acquiring authority in consequence of its compulsory acquisition were references to displacement as mentioned in section 37 above.
- (8) ..... F196

#### Textual Amendments

- F193** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 29\(7\)\(a\)](#)
- F194** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 29\(7\)\(b\)](#)
- F195** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 29\(7\)\(c\)](#)
- F196** [Ss. 32\(9\), 34\(7\), 37\(8\), 41\(11\), 44\(3\), 46\(8\)](#) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), Sch. 2 Pt. I](#)

#### Marginal Citations

- M28** 1845 c. 18.  
**M29** 1965 c. 56.

#### 47 Compensation in respect of land subject to business tenancy.

- (1) Where in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority—

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- (a) acquire the interest of the landlord in any land subject to a tenancy to which Part II of the <sup>M30</sup>Landlord and Tenant Act 1954 (security of tenure for business tenants) applies; or
  - (b) acquire the interest of the tenant in, or take possession of, any such land, the right of the tenant to apply under the said Part II for the grant of a new tenancy shall be taken into account in assessing the compensation payable by the acquiring authority (whether to the landlord or the tenant) in connection with the acquisition of the interest or the taking of possession of the land; and in assessing that compensation it shall be assumed that neither the acquiring authority nor any other authority possessing compulsory purchase powers have acquired or propose to acquire any interest in the land.
- (2) Subsection (1) of section 39 of the said Act of 1954 (right of tenant to apply under said Part II for a new tenancy to be disregarded in assessing compensation for compulsory taking of possession of land subject to short tenancy) shall cease to have effect.
- (3) In subsection (2) of the said section 39 for the words “the compensation assessed in accordance with the last foregoing subsection” there shall be substituted the words “the compensation payable under section 121 of the <sup>M31</sup>Lands Clauses Consolidation Act 1845 or section 20 of the <sup>M32</sup>Compulsory Purchase Act 1965 in the case of a tenancy to which this Part of this Act applies”.

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

**C100** The text of Ss. 47(2), (3), 48(4), 86, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M30** 1954 c. 56.

**M31** 1845 c. 19

**M32** 1965 c. 56.

**48 Compensation in respect of agricultural holdings.**

- (1) [<sup>F197</sup>Subject to subsection (1A) below] this section has effect where in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority—
- (a) acquire the interest of the landlord in an agricultural holding or any part of it; or
  - (b) acquire the interest of the tenant in, or take possession of, an agricultural holding or any part of it.
- [<sup>F197</sup>(1A) This section does not have effect where the tenancy of the agricultural holding is a tenancy to which, by virtue of section 4 of the Agricultural Tenancies Act 1995, the Agricultural Holdings Act 1986 does not apply.]
- (2) In assessing the compensation payable by the acquiring authority to the landlord in connection with any such acquisition of an interest as is mentioned in subsection (1) (a) above—



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- (a) there shall be disregarded any right of the landlord to serve a notice to quit, and any notice to quit already served by the landlord, which would not be or would not have been effective if—
- (i) in [F198]Case B in Part I of Schedule 3 to the Agricultural Holdings Act 1986] (land required for non-agricultural use for which planning permission has been granted etc.) the reference to the land being required did not include a reference to its being required by an acquiring authority; and
- (ii) in [F199]section 27(3)(f) of that Act (proposed termination of tenancy for purpose of land's being used for non-agricultural use not falling within [F200]the said Case B] the reference to the land's being used did not include a reference to its being used by an acquiring authority; and
- (b) if the tenant has quitted the holding or any part of it by reason of a notice to quit which is to be so disregarded, it shall be assumed that he has not done so.
- (3) In assessing the compensation payable by the acquiring authority to the tenant in connection with any such acquisition of an interest or taking of possession of land as is mentioned in subsection (1)(b) above (hereafter referred to as “the tenant's compensation”), there shall be disregarded any right of the landlord to serve a notice to quit, and any notice to quit already served by the landlord, which would not be or would not have been effective if the said [F201]Case B and section 27(3)(f)] were construed in accordance with subsection (2)(a)(i) and (ii) above.
- (4) Section 42 of the <sup>M33</sup>Agriculture (Miscellaneous Provisions) Act 1968 (tenant's compensation to be assessed without regard to his prospects of remaining in possession after contractual date) and section 15(1) of that Act (effect on tenant's compensation of provision enabling landlord to resume possession for non-agricultural use) shall cease to have effect.
- (5) The tenant's compensation shall be reduced by an amount equal to any payment which the acquiring authority are liable to make to him, in respect of the acquisition or taking of possession in question, under section 12 of the said Act of 1968 (additional payments by acquiring authority in circumstances described in subsection (1)(b) above).
- (6) If the tenant's compensation as determined in accordance with subsections (3) to (5) above is less than it would have been if those subsections had not been enacted, it shall be increased by the amount of the deficiency.
- [F202](6A) In assessing the tenant's compensation no account shall be taken of any benefit which might accrue to the tenant by virtue of section 60(2)(b) of the Agricultural Holdings Act 1986 (additional payments by landlord for disturbance); and in this subsection the reference to the said section 60(2)(b) does not include a reference to it as applied by section 12 of the Agricultural (Miscellaneous Provisions) Act 1968.]

(7) ..... F203

#### Textual Amendments

**F197** S. 48(1A) and words in s. 48(1) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 24** (with s. 37)

**F198** Words substituted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, s. 100, **Sch. 14 para. 53(2)(a)**

**F199** Words substituted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, s. 100, **Sch. 14 para. 53(2)(b)**

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- F200** Words substituted by [Agricultural Holdings \(Notices to Quit\) Act 1977 \(c. 12\), s. 13, Sch. 1 para. 6\(2\)\(b\)](#) except in relation to notices to quit given before 7.4.1978: and [Agricultural Holdings \(Notices to Quit\) Act 1977 \(c. 12\), s. 14](#) and continued by virtue of [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\), s. 100, Sch. 14 para. 53\(2\)](#)
- F201** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\), s. 100, Sch. 14 para. 53\(3\)](#)
- F202** [S. 48\(6A\)](#) inserted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\), s. 100, Sch. 14 para. 53\(4\)](#)
- F203** [Ss. 48\(7\), 49, 51\(7\), 52\(13\), 54\(9\), 55\(5\), 56\(5\), 57\(4\)–\(6\), 58\(3\), 59\(8\), 60, 61\(6\), 62, 63\(2\), 65–67](#) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), Sch. 2 Pt. I](#)

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

- C101** The text of [Ss. 47\(2\), \(3\), 48\(4\), 86, Sch. 3](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C102** “The said Act of 1968” means the [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34\)](#)

#### Marginal Citations

- M33** [1968 c. 34.](#)

49 ..... F204

#### Textual Amendments

- F204** [Ss. 48\(7\), 49, 51\(7\), 52\(13\), 54\(9\), 55\(5\), 56\(5\), 57\(4\)–\(6\), 58\(3\), 59\(8\), 60, 61\(6\), 62, 63\(2\), 65–67](#) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), Sch. 2 Pt. I](#)

## 50 Compensation where occupier is rehoused.

- (1) The amount of compensation payable in respect of the compulsory acquisition of an interest in land shall not be subject to any reduction on account of the fact that the acquiring authority have provided, or undertake to provide or arrange for the provision of, or another authority will provide, residential accommodation under any enactment for the person entitled to the compensation.
- (2) In assessing the compensation payable in respect of the compulsory acquisition of an interest in land which on the date of service of the notice to treat is subject to a tenancy, there shall be left out of account any part of the value of that interest which is attributable to, or to the prospect of, the tenant giving up possession after that date in consequence of being provided with other accommodation by virtue of section 39(1) (a) above; and for the purpose of determining the date by reference to which that compensation is to be assessed the acquiring authority shall be deemed, where the tenant gives up possession as aforesaid, to have taken possession on the date on which it is given up by the tenant.
- (3) Subsection (1) above shall apply in relation to any payment to which a person is entitled under Part III of this Act as it applies in relation to the compensation mentioned in that subsection taking references to the acquiring authority as references to the authority responsible for making that payment.
- (4) Subsection (2) above shall apply in relation to a case where a notice to treat is deemed to have been served by virtue of <sup>F205</sup>Part III of the Compulsory Purchase (Vesting

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Declarations) Act 1981] (general vesting declarations) as it applies in relation to a case where a notice to treat is actually served.

#### Textual Amendments

**F205** Words substituted by [Compulsory Purchase \(Vesting Declarations\) Act 1981 \(c. 66, SIF 28:1\)](#), [Sch. 3 para. 1](#)

### 51 Compensation where land is in area designated as site of new town for purpose of public development.

- (1) Where the Secretary of State proposes to make an order under section 1 of the <sup>F206</sup>New Towns Act 1981] designating any area as—
  - (a) the site of a new town; or
  - (b) an extension of the site of a new town,
 and the purpose or main purpose, or one of the main purposes, for which the order is proposed to be made is the provision of housing or other facilities required in connection with or in consequence of the carrying out of any public development, he may, before making the order, give a direction specifying that development for the purposes of this section in relation to that area.
- (2) Where the area mentioned in paragraph 3 or 3A in the first column of Schedule 1 to the <sup>M34</sup>Land Compensation Act 1961 (cases where land acquired forms part of site of new town or extension of site of new town) is an area to which a direction under this section relates, then, in the circumstances described in that paragraph—
  - (a) the increase or diminution in value to be left out of account by virtue of section 6 of that Act (compensation to be assessed without regard to development attributable to designation of new town) or any rule of law relating to the assessment of compensation in respect of compulsory acquisition; and
  - (b) the increase in value to be taken into account by virtue of section 7 of that Act (reduction of compensation where other land benefited by such development),
 shall respectively include any increase or diminution in value, and any increase in value, which is attributable to the carrying out or the prospect of the public development specified in the direction.
- (3) No direction shall be given under this section in relation to any area until the Secretary of State has prepared a draft of the order under section 1 of the said <sup>F207</sup>Act of 1981] in respect of that area and has published the notice required by paragraph 2 of Schedule 1 to that Act.
- (4) Any direction under this section shall be given by order; and any order containing such a direction may be varied or revoked by a subsequent order.
- (5) The power to make orders under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “public development” means development (whether or not in the area designated under section 1 of the said <sup>F208</sup>Act of 1981]) in the exercise of statutory powers by—
  - (a) a government department;

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- (b) any statutory undertakers within the meaning of [F209the Town and Country Planning Act 1990]or any body deemed by virtue of any enactment to be statutory undertakers for the purposes of, or of any provision of, that Act; or
- (c) without prejudice to paragraph (b) above, any body having power to borrow money with the consent of a Minister,

and includes such development which has already been carried out when the direction in respect of it is given as well as such development which is then proposed.

(7) ..... F210

#### Textual Amendments

- F206** Words substituted by [New Towns Act 1981](#) (c. 64, SIF 123:3), [Sch. 12 para. 9\(a\)](#)
- F207** Words substituted by [New Towns Act 1981](#) (c. 64, SIF 123:3), [s. 81\(a\)](#), [Sch. 12 para. 9\(b\)](#)
- F208** Words substituted by [New Towns Act 1981](#) (c. 64, SIF 123:3), [s. 81\(a\)](#), [Sch. 12 para. 9\(b\)](#)
- F209** Words substituted by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), [s. 4](#), [Sch. 2 para. 29\(8\)](#)
- F210** [Ss. 48\(7\), 49, 51\(7\), 52\(13\), 54\(9\), 55\(5\), 56\(5\), 57\(4\)–\(6\), 58\(3\), 59\(8\), 60, 61\(6\), 62, 63\(2\), 65–67](#) repealed by [Land Compensation \(Scotland\) Act 1973](#) (c. 56), [Sch. 2 Pt. I](#)

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

- C103** [S. 51](#) extended by [Water Act 1989](#) (c. 15, SIF 130), [s. 190](#), [Sch. 25 para. 1\(2\)\(xviii\)](#) (with [ss. 58\(7\), 101\(1\), 141\(6\), 153\(1\), 155, 160\(1\)\(2\)\(4\), 163, 189\(4\)–\(10\), 190, 193\(1\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#))
- C104** [S. 51](#) extended by [Electricity Act 1989](#) (c. 29, SIF 44:1), [s. 112\(1\)\(3\)](#), [Sch. 16 para. 1\(1\)\(xxv\)](#), [Sch. 17 paras. 33, 35\(1\)](#)
- C105** [S. 51](#) extended by [Gas Act 1986](#) (c. 44, SIF 44:2), [s. 67\(1\)\(3\)](#), [Sch. 7 para. 2\(1\)\(xxvii\)](#), [Sch. 8 para. 33](#)  
[S. 51](#) extended (1.3.1996) by [1995 c. 45, s. 16\(1\)](#), [Sch. 4 para. 2\(1\)\(xx\)](#); [S.I. 1996/218, art. 2](#)

#### Marginal Citations

- M34** [1961 c. 33.](#)

### *Advance payment of compensation*

## 52 Right to advance payment of compensation.

- (1) Where an acquiring authority have taken possession of any land the authority shall, if a request in that behalf is made in accordance with subsection (2) below, make an advance payment on account of any compensation payable by them for the compulsory acquisition of any interest in that land.

[F211(1A) If the acquiring authority have taken possession of part of the land—

- (a) specified in a notice of entry, or
- (b) in respect of which a payment into court has been made,

the compensation mentioned in subsection (1) is the compensation payable for the compulsory acquisition of the interest in the whole of the land.

- (1B) Notice of entry and payment into court must be construed in accordance with section 5A of the Land Compensation Act 1961.]

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- (2) Any request under this section shall be made by the person entitled to the compensation (hereafter referred to as “the claimant”), shall be in writing, shall give particulars of the claimant’s interest in the land (so far as not already given pursuant to a notice to treat) and shall be accompanied or supplemented by such other particulars as the acquiring authority may reasonably require to enable them to estimate the amount of the compensation in respect of which the advance payment is to be made.
- (3) Subject to subsection (6) below, the amount of any advance payment under this section shall be equal to 90 per cent. of the following amount, that is to say—
- (a) if the acquiring authority and the claimant have agreed on the amount of the compensation, the agreed amount;
  - (b) in any other case, an amount equal to the compensation as estimated by the acquiring authority.
- (4) Any advance payment under this section shall be made not later than three months after the date on which a request for the payment is made in accordance with subsection (2) above or, if those three months end before the date on which the acquiring authority take possession of the land to which the compensation relates, on the date on which they take possession as aforesaid.
- <sup>F212</sup>[( 4A ) Where, at any time after an advance payment has been made on the basis of the acquiring authority’s estimate of the compensation, it appears to the acquiring authority that their estimate was too low, they shall, if a request in that behalf is made in accordance with subsection (2) above, pay to the claimant the balance of the amount of the advance payment calculated as at that time.
- (5) Where the amount, or aggregate amount, of any payment under this section made on the basis of the acquiring authority’s estimate of the compensation exceeds the compensation as finally determined or agreed, the excess shall be repaid; and if after any payment under this section has been made to any person it is discovered that he was not entitled to it, the amount of the payment shall be recoverable by the acquiring authority.]
- <sup>F213</sup>(6) If the land is subject to a mortgage sections 52ZA and 52ZB apply.]
- (7) Any advance payment on account of compensation in respect of an interest which is settled land for the purposes of the <sup>M35</sup>Settled Land Act 1925 shall be made to the persons entitled to give a discharge for capital money and shall be treated as capital money arising under that Act.
- (8) [<sup>F214</sup>Before] an acquiring authority make an advance payment under this section on account of compensation in respect of any interest in land they shall deposit with the council of the district or London borough [<sup>F215</sup>or Welsh county or county borough] in which the land is situated particulars of the payment [<sup>F216</sup>to be made], the compensation and the interest in land to which it relates;. . . <sup>F217</sup>
- <sup>F218</sup>(8A) Any particulars deposited pursuant to subsection (8) above shall be a local land charge and for the purposes of the <sup>M36</sup>Local Land Charges Act 1975 the council with whom any such particulars are deposited shall be treated as the originating authority as respects the charge thereby constituted. ]
- (9) [<sup>F219</sup>Where a local land charge is registered in the <sup>F220</sup>... local land charges register pursuant to subsection (8A) above and the advance payment to which the charge relates is made to the claimant, then if thereafter he] disposes of the interest in the land to, or creates an interest in the land in favour of, a person other than the acquiring

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authority, the amount of the advance payment [<sup>F221</sup>together with any amount paid under section 52A] shall be set off against any sum payable by the authority to that other person in respect of the compulsory acquisition of the interest disposed of or the compulsory acquisition or release of the interest created.

(10) Where an advance payment has been made under this section on account of any compensation—

(a) section 76 of the <sup>M37</sup>Lands Clauses Consolidation Act 1845 and section 9 of the <sup>M38</sup>Compulsory Purchase Act 1965 (refusal of owner to convey on tender of compensation) shall have effect as if references to the compensation were references to the balance thereof remaining unpaid <sup>F222</sup> . . .

(11) Where the acquiring authority, instead of taking possession of any land, serve a notice in respect of that land under [<sup>F223</sup>section 583 of the Housing Act 1985](notice authorising existing occupier to continue in occupation where house acquired for housing purposes) this section shall have effect as if they had taken possession of the land on the date on which the notice is served.

(12) This section shall apply to compensation for the compulsory acquisition of a right over land as it applies to compensation for the compulsory acquisition of an interest in land, and shall so apply with the necessary modifications and as if references to taking possession of the land were references to first entering it for the purpose of exercising the right.

(13) . . . . . <sup>F224</sup>

#### Textual Amendments

**F211** S. 52(1A)(1B) inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **s. 104(2)(a)**; [S.I. 2004/2593](#), **art. 2(a)**

**F212** S. 52(4A)(5) substituted for s. 52(5) (25.09.1991 subject to the restrictions referred to in [S.I. 1991/2067](#), **art. 4**) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), **s. 63(1)** (with s. 84(5)); [S.I. 1991/2067](#), **art. 3**.

**F213** S. 52(6) substituted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **s. 104(2)(b)**; [S.I. 2004/2593](#), **art. 2(a)**

**F214** Word substituted by [Local Land Charges Act 1975 \(c. 76\)](#), s. 19, **Sch. 1**

**F215** Words in s. 52(8) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 40(3)** (with ss. 54(5)(7), 55(5), 66(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); [S.I. 1996/396](#), **art. 4, Sch. 2**

**F216** Words inserted by [Local Land Charges Act 1975 \(c. 76\)](#), s. 19, **Sch. 1**

**F217** Words repealed by [Local Land Charges Act 1975 \(c. 76\)](#), s. 19, **Sch. 1**

**F218** S. 52(8A) inserted by [Local Land Charges Act 1975 \(c. 76\)](#), s. 19, **Sch. 1**

**F219** Words substituted by [Local Land Charges Act 1975 \(c. 76\)](#), s. 19, **Sch. 1**

**F220** Word in s. 52(9) omitted (12.4.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), s. 57(5)(e), **Sch. 5 para. 33** (with [Sch. 5 Pt. 4](#))

**F221** Words in s. 52(9) inserted (25.09.1991 subject to the restrictions referred to in [S.I. 1991/2067](#), **art. 4**) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70, **Sch. 15 para. 24(a)** (with s. 84(5)); [S.I. 1991/2067](#), **art. 3**.

**F222** Words in s. 52(10) repealed (25.09.1991 subject to the restrictions referred to in [S.I. 1991/2067](#), **art. 4**) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), ss. 70, 84(6), [Sch. 15 para. 24\(b\)](#), **Sch. 19 Pt. III** (with s. 84(5)); [S.I. 1991/2067](#), **art. 3**.

**F223** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 24(6)**

**F224** S. 52(13) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**



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#### Marginal Citations

- M35** 1925 c. 18.  
**M36** 1975 c. 76.  
**M37** 1845 c. 18.  
**M38** 1965 c. 56.

### [<sup>F225</sup>52ZA] **Advance payments: land subject to mortgage**

- (1) This section applies if—
  - (a) an acquiring authority take possession of land,
  - (b) a request is made in accordance with section 52(2) for an advance payment, and
  - (c) the land is subject to a mortgage the principal of which does not exceed 90% of the relevant amount.
- (2) The advance payment made to the claimant must be reduced by the amount the acquiring authority think will be required by them to secure the release of the interest of the mortgagee (or all the mortgagees if there is more than one).
- (3) The acquiring authority must pay to the mortgagee the amount the acquiring authority think will be required by them to secure the release of the mortgagee's interest, if—
  - (a) the claimant so requests, and
  - (b) the mortgagee consents to the making of the payment.
- (4) If there is more than one mortgagee—
  - (a) subsection (3) applies to each mortgagee individually, but
  - (b) payment must not be made to a mortgagee before the interest of each mortgagee whose interest has priority to his interest is released.
- (5) The amount of the advance payment made to the claimant under section 52 and the amount of the payments made to mortgagees under this section must not in aggregate exceed 90% of the relevant amount.
- (6) Subsection (7) applies if—
  - (a) the acquiring authority estimated the compensation,
  - (b) it appears to the acquiring authority that their estimate was too low and they revise the estimate, and
  - (c) a request is made by the claimant in accordance with section 52(2).
- (7) The provisions of subsections (2) to (5) must be re-applied on the basis of the revised estimate.

#### Textual Amendments

- F225** Ss. 52ZA-52ZC inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 104\(3\)](#); [S.I. 2004/2593, art. 2\(a\)](#)

### **52ZB Advance payments: land subject to mortgage exceeding 90% threshold**

- (1) This section applies if—
  - (a) an acquiring authority take possession of land,



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- (b) a request is made in accordance with section 52(2) for an advance payment, and
  - (c) the land is subject to a mortgage the principal of which exceeds 90% of the relevant amount.
- (2) No advance payment is to be made to the claimant.
- (3) But the acquiring authority must pay to the mortgagee the amount found under subsection (4), if—
  - (a) the claimant so requests, and
  - (b) the mortgagee consents to the making of the payment.
- (4) The amount is whichever is the lesser of—
  - (a) 90% of the value of the land;
  - (b) the principal of the mortgagee's mortgage.
- (5) The value of the land is the value—
  - (a) agreed by the claimant and the acquiring authority, or (failing such agreement)
  - (b) estimated by the acquiring authority.
- (6) For the purposes of subsection (5) the value of the land is to be calculated in accordance with rule 2 of section 5 of the Land Compensation Act 1961 (market value), whether or not compensation is or is likely to be assessed in due course in accordance with rule 5 of that section (equivalent re-instatement).
- (7) If there is more than one mortgagee, payment must not be made to a mortgagee until the interest of each mortgagee whose interest has priority to his interest is released.
- (8) But the total payments under subsection (3) must not in any event exceed 90% of the value of the land.
- (9) Subsection (10) applies if—
  - (a) the acquiring authority estimated the compensation,
  - (b) it appears to the acquiring authority that their estimate was too low and they revise the estimate,
  - (c) the condition in section 52ZA(1)(b) would have been satisfied if the revised estimate had been used instead of their estimate, and
  - (d) a request is made by the claimant in accordance with section 52(2).
- (10) The provisions of section 52ZA(2) to (5) must be applied on the basis of the revised estimate.
- (11) If—
  - (a) the acquiring authority estimated the value of the land,
  - (b) it appears to the acquiring authority that their estimate was too low and they revise the estimate, and
  - (c) a request is made by the claimant in writing,any balance found to be due to a mortgagee on the basis of the revised estimate is payable in accordance with this section.

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### Textual Amendments

**F225** Ss. 52ZA-52ZC inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 104(3); S.I. 2004/2593, art. 2(a)

### 52ZC Land subject to mortgage: supplementary

- (1) This section applies for the purposes of sections 52ZA and 52ZB.
- (2) The claimant must provide the acquiring authority with such information as they may require to enable them to give effect to those sections.
- (3) A request under section 52ZA(3) or 52ZB(3) must be made in writing and must be accompanied by the written consent of the mortgagee.
- (4) Subsections (4) and (8) to (9) of section 52 apply to a payment which may be or is made under section 52ZA or 52ZB as they apply to a payment which may be or is made under section 52.
- (5) The relevant amount is the amount of the compensation agreed or estimated as mentioned in section 52(3).
- (6) If the land is subject to more than one mortgage, the reference in sections 52ZA(1)(c) and 52ZB(1)(c) to the principal is to the aggregate of the principals of all of the mortgagees.
- (7) A payment made to a mortgagee under section 52ZA or 52ZB—
  - (a) must be applied by the mortgagee in or towards the discharge of the principal, interest and costs and any other money due under the mortgage;
  - (b) must be taken to be a payment on account of compensation and treated for the purposes of section 52(10) as if it were an advance payment made under section 52;
  - (c) must be taken, with effect from the date of the payment, to reduce by the amount of the payment the amount in respect of which interest accrues for the purposes of section 11(1) of the Compulsory Purchase Act 1965, any bond under Schedule 3 to that Act or section 85 of the Lands Clauses Compensation Act 1845;
  - (d) must be taken into account for the purposes of determining any payments (or payments into court) which may be made for the purposes of sections 14 to 16 of the Compulsory Purchase Act 1965.
- (8) If the amount, or aggregate amount, of any payments under—
  - (a) sections 52 and 52ZA, or
  - (b) section 52ZB,
 on the basis of the acquiring authority's estimate of the compensation exceed the compensation as finally determined or agreed, the excess must be repaid by the claimant.
- (9) No payment must be made to a mortgagee—
  - (a) if any of the circumstances mentioned in subsection (10) applies, or
  - (b) if the compulsory acquisition is only of a right over land.
- (10) The circumstances are—

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- (a) payment has been made under section 14(2) of the Compulsory Purchase Act 1965;
  - (b) a notice under section 14(3) of that Act has been given;
  - (c) there is an agreement under section 15(1) or 16(1) of that Act or the matter has been referred to the [<sup>F226</sup>Upper Tribunal] under that section.
- (11) The claimant in relation to settled land for the purposes of the Settled Land Act 1925 is the persons entitled to give a discharge for capital money.]

#### Textual Amendments

**F225** Ss. 52ZA-52ZC inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. [104\(3\)](#); S.I. 2004/2593, art. 2(a)

**F226** Words in s. 52ZC(10)(c) 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. 108](#) (with Sch. 5)

[<sup>F227</sup>  
52A

#### **Right to interest where advance payment made.**

- (1) This section applies where the compensation to be paid by the acquiring authority for the compulsory acquisition of any interest in land would (apart from this section) carry interest under section 11(1) of the Compulsory Purchase Act 1965 or any bond under Schedule 3 to that Act or section 85 of the Lands Clauses Consolidation Act 1845.

[<sup>F228</sup>(2) If the authority make a payment under section 52(1) to any person on account of the compensation—

- (a) they must at the same time make a payment to that person of accrued interest, for the period beginning with the date of entry, on the amount of the compensation agreed or estimated under section 52(3) (the total amount), and
- (b) the difference between the paid amount and the total amount is an unpaid balance for the purposes of this section.

(2A) The paid amount is—

- (a) the amount of the payment under section 52(1), or
- (b) if the land is subject to a mortgage, the aggregate of that amount and the amount of any payment made under section 52ZA(3).]

(3) If the authority make a payment under section 52(4A) above to any person on account of the compensation, they shall at the same time make a payment to him of accrued interest, for the period beginning with the date of entry, on—

- (a) the amount by reference to which the payment under section 52(4A) above was calculated; less
- (b) the amount by reference to which the preceding payment under section 52(1) or (4A) above was calculated.

(4) Where the authority make a payment under section 52(4A) above on account of the compensation, the difference between—

- (a) the amount of the payment; and
- (b) the amount by reference to which it was calculated less the amount by reference to which the preceding payment under section 52(1) or (4A) above was calculated,

is an unpaid balance for the purposes of this section.

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- (5) If, on an anniversary of the date on which the authority made a payment to any person under section 52(1) above on account of the compensation—
- (a) the amount of accrued interest on the unpaid balance under subsection (2) above or, as the case may be,
  - (b) the aggregate amount of the accrued interest on any unpaid balances,
- exceeds £1,000, the authority shall make a payment to the claimant of the amount or aggregate amount.
- (6) The acquiring authority shall, on paying the outstanding compensation, pay the amount of the accrued interest on the unpaid balance under subsection (2) above or, as the case may be, the aggregate amount of the accrued interest on any unpaid balances.
- (7) For the purposes of subsections (5) and (6) above, interest accrues on any unpaid balance for the period beginning with—
- (a) the making of the payment under section 52(1) or, as the case may be, 52(4A) above; or
  - (b) if any payment has already been made in respect of that balance under subsection (5) above, the date of the preceding payment under that subsection.
- (8) For the purposes of this section—
- (a) interest accrues at the rate prescribed under section 32 of the Land Compensation Act 1961 or, in the case of a bond under section 85 of the Lands Clauses Consolidation Act 1845, at the rate specified in section 85; and
  - (b) the amount by reference to which a payment under section 52(1) or (4A) was calculated is the amount referred to in section 52(3)(a) or (b) for the purposes of that calculation.
- (9) Where any payment has been made under section 52(1) above on account of any compensation, the acquiring authority is not required to pay interest under section 11(1) of the Compulsory Purchase Act 1965 or any bond under Schedule 3 to that Act or under section 85 of the Lands Clauses Consolidation Act 1845.
- (10) Where the amount, or aggregate amount, of any payment under section 52 above made on the basis of the acquiring authority's estimate of the compensation is greater than the compensation as finally determined or agreed and, accordingly, the interest paid under this section is excessive, the excess shall be repaid.
- (11) If after any interest has been paid to any person under this section on any amount it is discovered that he was not entitled to the amount, the interest shall be recoverable by the acquiring authority.
- (12) The Secretary of State may from time to time by order substitute another sum for the sum specified in subsection (5) above; and the power to make orders under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F227** S. 52A inserted (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, art. 4) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 63(2) (with s. 84(5)); S.I. 1991/2067, art. 3.
- F228** S. 52A(2)(2A) substituted for s. 52A(2) (31.10.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), s. 104(4); S.I. 2004/2593, art. 2(a)

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

**C106** S. 52A modified by 1961 c. 33, s. 5A(5)(6) (as inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 103\(2\)](#); S.I. 2004/2593, art. 2(a))

*Severance of land*

**53 Notice to treat in respect of part of agricultural land.**

- (1) Where an acquiring authority serve notice to treat in respect of any agricultural land on a person (whether in occupation or not) having a greater interest in the land than as tenant for a year or from year to year, and that person has such an interest in other agricultural land comprised in the same agricultural unit as that to which the notice relates, the person on whom the notice is served (hereafter referred to as “the claimant”) may, within the period of two months beginning with the date of service of the notice to treat, serve on the acquiring authority a counter-notice—
  - (a) claiming that the other land is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
  - (b) requiring the acquiring authority to purchase his interest in the whole of the other land.
- (2) Where a counter-notice is served under subsection (1) above the claimant shall also, within the period mentioned in that subsection, serve a copy thereof on any other person who has an interest in the land to which the requirement in the counter-notice relates, but failure to comply with this subsection shall not invalidate the counter-notice.
- (3) Subject to subsection (4) below, “other relevant land” in subsection (1) above means—
  - (a) land comprised in the same agricultural unit as the land to which the notice to treat relates, being land in which the claimant does not have such an interest as is mentioned in that subsection; and
  - (b) land comprised in any other agricultural unit occupied by him on the date of service of the notice to treat, being land in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.
- (4) Where an acquiring authority have served a notice to treat in respect of any of the other agricultural land mentioned in subsection (1) above or in respect of other relevant land as defined in subsection (3) above [<sup>F229</sup>or such a notice is deemed to have been served by virtue of sections 137 to 144 of the Town and Country Planning Act 1990], then, unless and until that notice to treat is withdrawn, this section and section 54 below shall have effect as if that land did not form part of that other agricultural land or did not constitute other relevant land, as the case may be.
- (5) This section shall have effect in relation to a case where a notice to treat is deemed to have been served by virtue of any of the provisions of <sup>F230</sup>[<sup>F231</sup>Part III of the Compulsory Purchase (Vesting Declarations) Act 1981] (general vesting declarations) as it has effect in relation to a case where a notice to treat is actually served, and section 54 below shall have effect accordingly.
- (6) This section is without prejudice to the rights conferred by sections 93 and 94 of the <sup>M39</sup>Lands Clauses Consolidation Act 1845, <sup>F232</sup> or section 8(2) and (3) of the <sup>M40</sup>Compulsory Purchase Act 1965 (provisions as to divided land).

*Status: Point in time view as at 30/09/2015.*

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#### Textual Amendments

- F229** Words inserted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 29(9)(a)**
- F230** Words repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), ss. 3, 4, Sch. 1 Pt. I, **Sch. 2 para. 29(9)(b)**
- F231** Words substituted by [Compulsory Purchase \(Vesting Declarations\) Act 1981 \(c. 66, SIF 28:1\)](#), s. 16(1), **Sch. 3 para. 1**
- F232** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

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

- C107** [Ss. 53-56](#) excluded (16.3.1992) by [Aire and Calder Navigation Act 1992 \(c. iv\)](#), s. **25(1)**.

#### Marginal Citations

- M39** 1845 c. 18.  
**M40** 1965 c. 56.

## 54 Effect of counter-notice under section 53.

- (1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 53 above agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the [<sup>F233</sup>Upper Tribunal]; and on any such reference the Tribunal shall determine whether the claim in the counter-notice is justified and declare the counter-notice valid or invalid in accordance with its determination of that question.
- (2) Where a counter-notice is accepted as, or declared to be, valid under subsection (1) above the acquiring authority shall be deemed—
  - (a) to be authorised to acquire compulsorily, under the enactment by virtue of which they are empowered to acquire the land in respect of which the notice to treat was served, the claimant's interest in the land to which the requirement in the counter-notice relates; and
  - (b) to have served a notice to treat in respect of that land on the date on which the first-mentioned notice to treat was served.
- (3) A claimant may withdraw a counter-notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the counter-notice has been determined by the [<sup>F234</sup>Upper Tribunal] or at any time before the end of six weeks beginning with the date on which the compensation is so determined; and where a counter-notice is withdrawn by virtue of this subsection any notice to treat deemed to have been served in consequence thereof shall be deemed to have been withdrawn.
- (4) Without prejudice to subsection (3) above, the power conferred by section 31 of the <sup>M41</sup>Land Compensation Act 1961 to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.
- (5) The compensation payable in respect of the acquisition of an interest in land in pursuance of a notice to treat deemed to have been served by virtue of this section shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) above.

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- (6) Where by virtue of this section the acquiring authority become, or will become, entitled to a lease of any land but not to the interest of the lessor—
- (a) the authority shall offer to surrender the lease to the lessor on such terms as the authority consider reasonable;
  - (b) the question of what terms are reasonable may be referred to the [<sup>F235</sup>Upper Tribunal] by the authority or the lessor and, if at the expiration of three months after the date of the offer mentioned in paragraph (a) above, the authority and the lessor have not agreed on that question and that question has not been referred to the Tribunal by the lessor, it shall be so referred by the authority;
  - (c) if that question is referred to the Tribunal, the lessor shall be deemed to have accepted the surrender of the lease at the expiration of one month after the date of the determination of the Tribunal or on such other date as the Tribunal may direct and to have agreed with the authority on the terms of surrender which the Tribunal has held to be reasonable.

For the purposes of this subsection any terms as to surrender contained in the lease shall be disregarded.

- (7) Where the lessor refuses to accept any sum payable to him by virtue of subsection (6) above, or refuses or fails to make out his title to the satisfaction of the acquiring authority, they may pay into court any sum payable to the lessor by virtue of that subsection; and subsections (2) and (5) of section 9 of the <sup>M42</sup>Compulsory Purchase Act 1965 (deposit of compensation in cases of refusal to convey etc.) shall apply to that sum with the necessary modifications.
- (8) Where an acquiring authority who become entitled to the lease of any land as mentioned in subsection (6) above are a body incorporated by or under any enactment the corporate powers of the authority shall, if they would not otherwise do so, include power to farm that land.
- (9) . . . . . <sup>F236</sup>

**Textual Amendments**

- F233** Words in s. 54(1) 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. 109** (with Sch. 5)
- F234** Words in s. 54(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. 109** (with Sch. 5)
- F235** Words in s. 54(6)(b) 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. 109** (with Sch. 5)
- F236** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by Land Compensation (Scotland) Act 1973 (c. 56), **Sch. 2 Pt. I**

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

- C108** Ss. 53–56 excluded (16.3.1992) by Aire and Calder Navigation Act 1992 (c. iv), **s. 25(1)**.

**Marginal Citations**

- M41** 1961 c. 33.  
**M42** 1965 c. 56.



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## 55 Notice of entry in respect of part of agricultural holding.

- (1) Where an acquiring authority serve notice of entry under section 11(1) of the <sup>M43</sup>Compulsory Purchase Act 1965 on the person in occupation of an agricultural holding, being a person having no greater interest therein than as tenant for a year or from year to year, and the notice relates to part only of that holding, the person on whom the notice is served (hereafter referred to as “the claimant”) may, within the period of two months beginning with the date of service of the notice of entry, serve on the acquiring authority a counter-notice—
- (a) claiming that the remainder of the holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
  - (b) electing to treat the notice of entry as a notice relating to the entire holding.
- (2) Where a counter-notice is served under subsection (1) above the claimant shall also, within the period mentioned in that subsection, serve a copy thereof on the landlord of the holding, but failure to comply with this subsection shall not invalidate the counter-notice.
- (3) Subject to subsection (4) below, “other relevant land” in subsection (1) above means—
- (a) land comprised in the same agricultural unit as the agricultural holding; and
  - (b) land comprised in any other agricultural unit occupied by the claimant on the date of service of the notice of entry, being land in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.
- (4) Where an acquiring authority have served a notice to treat in respect of land in the agricultural holding other than that to which the notice to entry relates or in respect of other relevant land as defined in subsection (3) above, then, unless and until that notice to treat is withdrawn, this section and section 56 below shall have effect as if that land did not form part of the holding or did not constitute other relevant land, as the case may be.
- (5) . . . . . F237

### Textual Amendments

**F237** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

### Modifications etc. (not altering text)

**C109** Ss. 53–56 excluded (16.3.1992) by [Aire and Calder Navigation Act 1992 \(c. iv\)](#), **s. 25(1)**.

### Marginal Citations

**M43** 1965 c. 56.

## 56 Effect of counter-notice under section 55.

- (1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 55 above agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the [<sup>F238</sup>Upper Tribunal]; and on any such reference the Tribunal shall determine whether the claim in the counter-notice is justified and

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declare the counter-notice valid or invalid in accordance with its determination of that question.

- (2) Where a counter-notice is accepted as, or declared to be, valid under subsection (1) above then, if before the end of twelve months after it has been so accepted or declared the claimant has given up possession of every part of the agricultural holding to the acquiring authority—
  - (a) the notice of entry shall be deemed to have extended to the part of the holding to which it did not relate; and
  - (b) the acquiring authority shall be deemed to have taken possession of that part in pursuance of that notice on the day before the expiration of the year of the tenancy which is current when the counter-notice is so accepted or declared.
- (3) Where the claimant gives up possession of an agricultural holding to the acquiring authority as aforesaid but the authority have not been authorised to acquire the landlord's interest in, or in any of, the part of the holding to which the notice of entry did not relate (“the land not subject to compulsory purchase”)—
  - (a) neither the claimant nor the authority shall be under any liability to the landlord by reason of the claimant giving up possession of the land not subject to compulsory purchase or the authority taking or being in possession of it;
  - (b) immediately after the date on which the authority take possession of the land not subject to compulsory purchase they shall give up to the landlord, and he shall take, possession of that land;
  - (c) the tenancy shall be treated as terminated on the date on which the claimant gives up possession of the holding to the acquiring authority or (if he gives up possession of different parts at different times) gives up possession as aforesaid of the last part, but without prejudice to any rights or liabilities of the landlord or the claimant which have accrued before that date;
  - (d) any rights of the claimant against, or liabilities of the claimant to, the landlord which arise on or out of the termination of the tenancy by virtue of paragraph (c) above (whether under the contract of tenancy, under the [<sup>F239</sup>Agricultural Holdings Act 1986] or otherwise) shall be rights and liabilities of the authority, and any question as to the payment to be made in respect of any such right or liability shall be referred to and determined by the [<sup>F240</sup>Upper Tribunal];
  - (e) any increase in the value of the land not subject to compulsory purchase which is attributable to the landlord's taking possession of it under paragraph (b) above shall be deducted from the compensation payable in respect of the acquisition of his interest in the remainder of the holding.
- (4) Where a tenancy is terminated by virtue of subsection (3)(c) above, [<sup>F241</sup>section 72 of the Agricultural Holdings Act 1986] (landlord's right to compensation for deterioration of holding) shall have effect as if [<sup>F241</sup>subsection (4) of that section] required the landlord's notice of intention to claim compensation to be served on the acquiring authority and to be so served within three months after the termination of the tenancy.
- (5) . . . . . [<sup>F242</sup>

**Textual Amendments**

**F238** Words in s. 56(1) 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. 110** (with Sch. 5)

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- F239** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 54(2)**
- F240** Words in s. 56(3)(d) 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. 110** (with Sch. 5)
- F241** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 54(3)**
- F242** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

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

- C110** Ss. 53-56 excluded (16.3.1992) by [Aire and Calder Navigation Act 1992 \(c. iv\)](#), s. 25(1).

**57 Other procedures for taking possession of part of agricultural holding.**

- (1) Before taking possession of part only of an agricultural holding under section 85 of the <sup>M44</sup>Lands Clauses Consolidation Act 1845, under Schedule 3 to the <sup>M45</sup>Compulsory Purchase Act 1965 or under [<sup>F243</sup>Part III of the Compulsory Purchase (Vesting Declarations) Act 1981] (alternative procedures for taking possession of land) the acquiring authority shall serve notice of their intention to do so on the person in occupation of the holding, and sections 55 and 56 above shall have effect, subject to any necessary modifications, as if possession were being obtained pursuant to a notice of entry under section 11(1) of the said Act of 1965.
- (2) Sections 55 and 56 above shall have effect, subject to any necessary modifications, in relation to a notice of entry under paragraph 4 of Schedule 6 to the [<sup>F244</sup>New Towns Act 1981] (provisions applicable to compulsory acquisitions under that Act) as they have effect in relation to a notice of entry under section 11(1) of the said Act of 1965.
- (3) Sections 55 and 56(1) and (2) above shall have effect, subject to any necessary modifications, in relation to a notice under [<sup>F245</sup>section 584 of the Housing Act 1985 (power to enter and determine short tenancies of land acquired or appropriated for certain purposes of that Act)] as they have effect in relation to a notice of entry under section 11(1) of the said Act of 1965.
- (4) ..... <sup>F246</sup>

**Textual Amendments**

- F243** Words substituted by [Compulsory Purchase \(Vesting Declarations\) Act 1981 \(c. 66, SIF 28:1\)](#), s. 16(1), **Sch. 3 para. 1**
- F244** Words substituted by [New Towns Act 1981 \(c. 64, SIF 123:3\)](#), s. 81(a), Sch. 12 para. 10
- F245** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 24(7)**
- F246** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**Marginal Citations**

- M44** 1845 c. 18.  
**M45** 1965 c. 56.

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## 58 Determination of material detriment where part of house etc. proposed for compulsory acquisition.

- (1) In determining under section 8(1) or 34(2) of the <sup>M46</sup>Compulsory Purchase Act 1965, <sup>F247</sup>or <sup>F248</sup>[section 166(2) of the Town and Country Planning Act 1990] whether—
- (a) part of a house, building or manufactory can be taken without material detriment or damage to the house, building or manufactory; or
  - (b) part of a park or garden belonging to a house can be taken without seriously affecting the amenity or convenience of the house,
- the <sup>F249</sup>Upper Tribunal] shall take into account not only the effect of the severance but also the use to be made of the part proposed to be acquired and, in a case where the part is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.
- (2) Subsection (1) above shall apply with the necessary modifications to any determination—
- (a) under the said section 8(1) as substituted by <sup>F250</sup>[paragraph 7 of Schedule 19 to the <sup>M47</sup>Highways Act 1980] or <sup>F251</sup>[paragraph 8 of Schedule 3 to the Gas Act 1986] <sup>F252</sup>[paragraph 4 of <sup>F253</sup>Schedule 9 to the Water Industry Act 1991 or of Schedule 18 to the Water Resources Act 1991]](compulsory acquisition of rights over land); or
  - (b) under any provision corresponding to or substituted for the said section 8(1) which is contained in, or in an instrument made under, any other enactment including (except where otherwise provided) an enactment passed after this Act.
- (3) . . . . . <sup>F254</sup>

### Textual Amendments

- F247** Words repealed by [Compulsory Purchase \(Vesting Declarations\) Act 1981 \(c. 66, SIF 28:1\)](#), s. 16(3), [Sch. 5](#)
- F248** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 29\(10\)](#)
- F249** Words in s. 58(1) 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. 111](#) (with [Sch. 5](#))
- F250** Words substituted by [Highways Act 1980 \(c. 66\)](#), [Sch. 24 para. 23\(c\)](#)
- F251** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:1\)](#), s. 67(1), [Sch. 7 para. 14\(2\)](#)
- F252** Words inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, [Sch. 25 para. 44\(2\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#))
- F253** Words in s. 58(2) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 23](#)
- F254** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)

### Modifications etc. (not altering text)

- C111** S. 58(1) modified (18.6.1992) by [Compulsory Purchase Act 1965 \(c. 56\)](#), as applied (with modifications) by [British Railways \(No. 2\) Act 1992 \(c. xi\)](#), s. 27, [Sch. 3 para. 2](#).  
S. 58 modified (10.11.1993) by [1965 c. 56, s. 8\(4\)](#) (as substituted by [1993 c. 28, s. 169, Sch. 20 para. 22](#); [S.I. 1993/2762, art. 3](#)).
- S. 58(1) modified (27.8.1998) by [S.I. 1998/1936, art. 29\(3\)](#), [Sch. 7 para. 2\(1\)\(3\)](#) (with art. 45)
- S. 58 applied (with modifications) (19.2.1999) by [S.I. 1999/537, art. 7\(2\)](#), [Sch. 2 para. 10](#)
- S. 58 applied (with modifications) (21.7.1999) by [S.I. 1999/2129, art. 15\(3\)](#), [Sch. 5 para. 2](#)

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- S. 58 applied (with modifications) (23.8.1999) by S.I. 1999/2981, art. 17(3), Sch. 7 paras. 1, 2
- C112** S. 58(1) modified (12.1.2004) by The Alconbury Airfield (Rail Facilities and Connection to East Coast Main Line) Order 2003 (S.I. 2003/3364), art. 1, **Sch. 4 para. 2(3)**
- C113** S. 58(1) applied (with modifications) (8.10.2005) by Leicestershire County Council (Ashby de la Zouch Canal Extension) Order 2005 (S.I. 2005/2786), art. 1, **Sch. 7 para. 2(3)**
- C114** S. 58(1) applied (with modifications) (9.4.2013) by The Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013 (S.I. 2013/675), art. 1, **Sch. 10 para. 2(3)**
- C115** S. 58(1) applied (with modifications) (2.10.2014) by The Clocaenog Forest Wind Farm Order 2014 (S.I. 2014/2441), art. 1, Sch. 7 paras. 1, 2(3) (with art. 33)
- C116** S. 58(1) modified (2.10.2014) by The Clocaenog Forest Wind Farm Order 2014 (S.I. 2014/2441), art. 1, **Sch. 7 para. 2(3)** (with art. 33)
- C117** S. 58(1) modified (21.10.2014) by The Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014 (S.I. 2014/2637), art. 1, **Sch. 8 para. 2(3)**

#### Marginal Citations

- M46** 1965 c. 56.  
**M47** 1980 c. 66.

#### Miscellaneous

### 59 Notice to quit agricultural holding: right to opt for notice of entry compensation.

- (1) This section has effect where the person in occupation of an agricultural holding, being a person having no greater interest therein than as tenant for a year or from year to year, is served with a notice to quit the holding, and—
- (a) the notice is served after an acquiring authority have served notice to treat on the landlord of the holding or, being an authority possessing compulsory purchase powers, have agreed to acquire his interest in the holding; and
  - (b) either—
    - (i) [<sup>F255</sup>section 26(1) of the Agricultural Holdings Act 1986] does not apply to the notice by virtue of [<sup>F255</sup>Case B in Part I of Schedule 3 to that Act] (land required for non-agricultural use for which planning permission has been granted etc.); or
    - (ii) the [<sup>F256</sup>appropriate tribunal] have consented to the operation of the notice and stated in the reasons for their decision that they are satisfied as to the matter mentioned in [<sup>F257</sup>section 27(3)(f)] of that Act (land required for non-agricultural use not falling within [<sup>F258</sup>the said Case B]).

[<sup>F259</sup>(1A) For the purposes of subsection (1), “appropriate tribunal” means—

- (a) where the holding (or the greater part of the holding) is in England, the First-tier Tribunal; and
  - (b) where the holding (or the greater part of the holding) is in Wales, the Agricultural Land Tribunal.]
- (2) If the person served with the notice to quit elects that this subsection shall apply to the notice and gives up possession of the holding to the acquiring authority on or before the date on which his tenancy terminates in accordance with the notice—
- (a) section 20 of the <sup>M48</sup>Compulsory Purchase Act 1965 (compensation for tenants from year to year etc.) and section 12 of the <sup>M49</sup>Agriculture (Miscellaneous

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- Provisions) Act 1968 shall have effect as if the notice to quit had not been served and the acquiring authority had taken possession of the holding in pursuance of a notice of entry under section 11(1) of the said Act of 1965 on the day before that on which the tenancy terminates in accordance with the notice to quit; and
- (b) the provisions of the [<sup>F260</sup>Agricultural Holdings Act 1986 relating to compensation to a tenant on the termination of his tenancy] shall not have effect in relation to the termination of the tenancy by reason of the notice to quit.
- (3) No election under subsection (2) above shall be made or, if already made, continue to have effect in relation to any land (whether the whole or part of the land to which the notice to quit relates) if, before the expiration of that notice, an acquiring authority take possession of that land in pursuance of an enactment providing for the taking of possession of land compulsorily.
- (4) Any election under subsection (2) above shall be made by notice in writing served on the acquiring authority not later than the date on which possession of the holding is given up.
- (5) This section shall have effect in relation to a notice to quit part of an agricultural holding as it has effect in relation to a notice to quit an entire holding and references to a holding and the termination of the tenancy shall be construed accordingly.
- (6) A person served with a notice to quit part of an agricultural holding shall not be entitled, in relation to that notice, both to make an election under this section and to give a counter-notice under [<sup>F261</sup>section 32 of the Agricultural Holdings Act 1986] (tenant's right to cause notice to quit part of holding to operate as notice to quit entire holding).
- (7) The reference in subsection (1)(a) above to a notice to treat served by an acquiring authority includes a reference to a notice to treat deemed to have been so served under any of the provisions mentioned in section 53(5) above [<sup>F262</sup>and the reference in that subsection to an authority possessing compulsory purchase powers includes a person or body of persons who would be an authority possessing compulsory purchase powers if the landlord's interest were not an interest in Crown land (as defined by section 293 of the Town and Country Planning Act 1990)].
- (8) ..... <sup>F263</sup>

#### Textual Amendments

- F255** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 55(2)(a)**
- F256** Words in s. 59(1)(b)(ii) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 201(a)** (with Sch. 3)
- F257** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 55(2)(b)**
- F258** Words substituted by [Agricultural Holdings \(Notices to Quit\) Act 1977 \(c. 12\)](#), **Sch. 1 para. 6(4)(d)** except in relation to notices to quit given before 7.4.1978; and [Agricultural Holdings \(Notices to Quit\) Act 1977 \(c. 12\)](#), s. 14 and continued by virtue of [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 55(2)**
- F259** S. 59(1A) inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 201(b)** (with Sch. 3)
- F260** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 55(3)**
- F261** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 54(4)**



*Status: Point in time view as at 30/09/2015.*

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**F262** Words in s. 59(7) inserted (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, **art. 4**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 70, **Sch. 15 para.7** (with s. 84(5)); S.I. 1991/2067,art. 3.

**F263** S. 59(8) repealed by Land Compensation (Scotland) Act 1973 (c. 56), **Sch. 2 Pt. I**

#### Marginal Citations

**M48** 1965 c. 56.

**M49** 1968 c. 34.

60

F264

#### Textual Amendments

**F264** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by Land Compensation (Scotland) Act 1973 (c. 56), **Sch. 2 Pt. I**

### 61 Notice to quit part of agricultural holding: right to claim notice of entry compensation for remainder of holding.

- (1) Where a notice to quit in respect of which a person is entitled to make an election under section 59 above relates to part only of an agricultural holding and that person makes such an election within the period of two months beginning with the date of service of that notice, or, if later, the decision of the [<sup>F265</sup>appropriate tribunal referred to in subsection (1)(b)(ii) of that section], he may also within that period serve a notice on the acquiring authority claiming that the remainder of the holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit.
- (2) If the acquiring authority do not within the period of two months beginning with the date of service of a notice under subsection (1) above agree in writing to accept the notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the [<sup>F266</sup>Upper Tribunal], and on any such reference the Tribunal shall determine whether the claim in the notice is justified and declare the notice valid or invalid in accordance with its determination of that question.
- (3) Where a notice under subsection (1) above is accepted as, or declared to be, valid under subsection (2) above then, if before the end of twelve months after it has been so accepted or declared the claimant has given up to the acquiring authority possession of the part of the holding to which the notice relates, section 20 of the <sup>M50</sup>Compulsory Purchase Act 1965 and section 12 of the <sup>M51</sup>Agriculture (Miscellaneous Provisions) Act 1968 shall have effect as if the acquiring authority had taken possession of that part in pursuance of a notice of entry under section 11(1) of the said Act of 1965 on the day before the expiration of the year of the tenancy which is current when the notice is so accepted or declared.
- (4) Subsections (2) to (4) of section 55 and subsection (3) of section 56 above shall apply in relation to subsections (1) to (3) above and to a notice under subsection (1) above as they apply in relation to those sections and a counter-notice under subsection (1) of section 55, and shall so apply with the necessary modifications and as if any reference to the notice of entry were a reference to the notice to quit.



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(5) Where an election under section 59 above ceases to have effect in relation to any land by virtue of subsection (3) of that section any notice served by virtue of this section shall also cease to have effect in relation thereto.

(6) ..... F267

**Textual Amendments**

- F265** Words in s. 61(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 202** (with Sch. 3)
- F266** Words in s. 61(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. 112** (with Sch. 5)
- F267** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**Marginal Citations**

- M50** 1965 c. 56.
- M51** 1968 c. 34.

62 ..... F268

**Textual Amendments**

- F268** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**63 Interest on compensation for injurious affection where no land taken.**

(1) Compensation under section 68 of the <sup>M52</sup>Lands Clauses Consolidation Act 1845 or section 10 of the Compulsory Purchase Act 1965 (compensation for injurious affection where no land taken) shall carry interest, at the rate for the time being prescribed under section 32 of the <sup>M53</sup>Land Compensation Act 1961, from the date of the claim until payment.

(2) ..... F269

**Textual Amendments**

- F269** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**Marginal Citations**

- M52** 1845 c. 18.
- M53** 1961 c. 33.

**64 Extension of grounds for challenging validity of compulsory purchase order.**

..... F270

*Status: Point in time view as at 30/09/2015.*

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**Textual Amendments**

**F270** S. 64 repealed by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), **Sch. 6 Pt. I**

~~65~~ ..... **F271**  
**67.**

**Textual Amendments**

**F271** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**PART V**

PLANNING BLIGHT

*Extension of classes of blighted land*

~~68~~ ..... **F272**  
**72.**

**Textual Amendments**

**F272** Ss. 68–82 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, **Sch. 1 Pt. I, Sch. 3 paras. 1–6**

**73**  
(1) ..... **F273**  
(2) ..... **F274**  
(3) ..... **F273**

**Textual Amendments**

**F273** Ss. 68–82 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, **Sch. 1 Pt. I, Sch. 3 paras. 1–6**  
**F274** S. 73(2) repealed by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 15**

**74** ..... **F275**

**Textual Amendments**

**F275** Ss. 68–82 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, **Sch. 1 Pt. I, Sch. 3 paras. 1–6**

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- 75 (1) ..... F276  
(2) ..... F277

**Textual Amendments**

**F276** Ss. 68–82 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, **Sch. 3 paras. 1–6**

**F277** Ss. 75(2)(3), 77(1)(2), 82(2)(3) repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, **Sch. 1 Pt. I**

- 76 ..... F278

**Textual Amendments**

**F278** Ss. 68–82 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, **Sch. 3 paras. 1–6**

- 77 (1) ..... F279  
(3) ..... F280

**Textual Amendments**

**F279** Ss. 75(2)(3), 77(1)(2), 82(2)(3) repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, **Sch. 1 Pt. I**

**F280** Ss. 68–82 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, **Sch. 3 paras. 1–6**

- 78 (1) ..... F281  
(5) ..... F282

**Textual Amendments**

**F281** Ss. 68–82 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, **Sch. 3 paras. 1–6**

**F282** S. 78(5) repealed by Highways Act 1980 (c. 66), **Sch. 25**

- 79–81 ..... F283

*Status: Point in time view as at 30/09/2015.*

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**Textual Amendments**

**F283** Ss. 68–82 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, Sch. 1 Pt. I, [Sch. 3 paras. 1–6](#)

82

- (1) ..... **F284**
- (2) ..... **F285**
- (4) ..... **F284**

**Textual Amendments**

**F284** Ss. 68–82 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, Sch. 1 Pt. I, [Sch. 3 paras. 1–6](#)

**F285** Ss. 75(2)(3), 77(1)(2), 82(2)(3) repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, [Sch. 1 Pt. I](#)

83

..... **F286**

**Textual Amendments**

**F286** S. 83 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)

**PART VI**

SUPPLEMENTARY PROVISIONS

**84 Application to Crown.**

- (1) Part I of this Act does not apply to any aerodrome in the occupation of a government department but, subject to that, references in that Part and in Part II of this act to public works and responsible authorities include references to any works or authority which, apart from any Crown exemption, would be public works or a responsible authority.
- (2) Parts III and IV of this Act apply in relation to the acquisition of interests in land (whether compulsorily or by agreement) by government departments being authorities possessing compulsory purchase powers, as they apply in relation to the acquisition of interests in land by such authorities who are not government departments.

**85 Financial provisions.**

There shall be paid out of moneys provided by Parliament—

- (a) any expenses incurred under this Act by any government department;
- (b) any increase attributable to this Act in the sums payable out of such moneys under any other Act.

*Status: Point in time view as at 30/09/2015.*

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## 86 Repeals.

The enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

### Modifications etc. (not altering text)

**C118** The text of Ss. 47(2), (3), 48(4), 86, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 87 General interpretation.

(1) In this Act—

“agriculture”, “agricultural” and “agricultural land” have the meaning given in section 109 of the <sup>M54</sup>Agriculture Act 1947. . . <sup>F287</sup>, and references to the farming of land include references to the carrying on in relation to the land of any agricultural activities;

“agricultural holding” has the meaning given in section 1 of the [<sup>F288</sup>Agricultural Holdings Act 1986]. . . <sup>F287</sup> and “landlord”, “tenant” and “notice to quit”, in relation to an agricultural holding, have the same meaning as in [<sup>F289</sup>that Act];

“agricultural unit” has the meaning given in [<sup>F290</sup>section 171(1) of the Town and Country Planning Act 1990]. . . <sup>F287</sup>;

“acquiring authority” and “authority possessing compulsory purchase powers” have the same meaning as in the <sup>M55</sup>Land Compensation Act 1961. . . <sup>F287</sup>;

[<sup>F291</sup>“ aerodrome ”has the same meaning as in the Civil Aviation Act 1982; ]  
<sup>F292</sup>  
. . .

“disabled person” means a person who is substantially and permanently handicapped by illness, injury or congenital infirmity,. . . <sup>F287</sup>;

“dwelling” means a building or part of a building occupied or (if not occupied) last occupied or intended to be occupied as a private dwelling. . . <sup>F287</sup> and <sup>F293</sup>... includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part;

[<sup>F294</sup>“ housing association ”has the same meaning as in the Housing Associations Act 1985 <sup>F295</sup> . . . ; ]  
<sup>F296</sup>  
. . .

“tenancy”,. . . <sup>F287</sup> otherwise than in relation to an agricultural holding, has the same meaning as in the <sup>M56</sup>Landlord and Tenant Act 1954.

(2) In this Act references to the council of a district are, until 1st April 1974, references to the council of a county district or county borough and, thereafter, to the council of a district within the meaning of the <sup>M57</sup>Local Government Act 1972; and references to a London borough and the council of a London borough include references to the City of London and the Common Council.

(3) . . . . . <sup>F297</sup>

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- (4) Except where the context otherwise requires, references in this Act to any enactment are references to that enactment as amended, and include references to that enactment as extended or applied, by any other enactment, including this Act.

#### Textual Amendments

- F287** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)
- F288** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, [Sch. 14 para. 56](#)
- F289** Words substituted by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. II](#)
- F290** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 29\(11\)](#)
- F291** Words substituted by [Civil Aviation Act 1982 \(c. 16, SIF 9\)](#), [Sch. 15 para. 12\(3\)](#)
- F292** Definitions repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. II](#)
- F293** Words in s. 87(1) repealed (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [Sch. 7 para. 7\(4\)](#), [9 \(with s. 111, Sch. 7 para. 7\(5\)\)](#); S.I. 2004/2593, art. 2(d)(e)
- F294** Definition of “housing association” substituted for definitions of “housing association” and “registered” by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, [Sch. 2 para. 24\(9\)](#)
- F295** Definition of “registered” (in relation to a housing association) and the word “and” immediately preceding it in s. 87(1) repealed (with savings) (1.10.1996) by S.I. 1996/2325, art. 4(1)-(3), [Sch. 1 Pt. I](#)
- F296** Definitions repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)
- F297** s. 87(3) repealed by [Highways Act 1980 \(c. 66\)](#), [Sch. 25](#)

#### Marginal Citations

- M54** 1947 c. 48.
- M55** 1961 c. 33.
- M56** 1954 c. 56.
- M57** 1972 c. 70.

## 88 Northern Ireland.

- (1) Her Majesty may by Order in Council—
- (a) extend this Act (other than Part V thereof), with such additions, exceptions and modifications as appear to Her Majesty to be expedient, to—
    - (i) the provision, operation, management or use of public works in Northern Ireland under any enactment relating to a matter in respect of which the Parliament of Northern Ireland does not have power to make laws (in this section referred to as “a reserved enactment”); and
    - (ii) acquisitions of land in Northern Ireland by any department or body exercising powers of acquisition under a reserved enactment;
  - (b) apply, with such additions, exceptions and modifications as appear to Her Majesty to be expedient, the provisions of Schedules 5 and 6 to the <sup>M58</sup>Roads Act (Northern Ireland) 1948 or Schedule 6 to the <sup>M59</sup>Local Government Act (Northern Ireland) 1972 to the acquisition, otherwise than by agreement, of land in Northern Ireland by any department or body exercising powers of acquisition under a reserved enactment.

*Status: Point in time view as at 30/09/2015.*

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- (2) An Order in Council under this section may include such provisions as appear to Her Majesty to be incidental to or consequential on any provision contained in such an Order by virtue of subsection (1) above.
- (3) An Order in Council under this section may be varied or revoked by a further Order in Council made thereunder.

#### Marginal Citations

**M58** 1948 c. 28 (N.I.)

**M59** 1972 c. 9 (N.I.)

### 89 Short title, commencement and extent.

- (1) This Act may be cited as the Land Compensation Act 1973.
- (2) Part I of this Act shall not come into force until the expiration of the period of one month beginning with the date on which this Act is passed.
- (3) Section 48 above does not affect any compensation which fell or falls to be assessed by reference to prices current on a date before the passing of this Act, and the other provisions of Part IV of this Act relating to the assessment of compensation do not affect any compensation which fell or falls to be assessed by reference to prices current on a date before 17th October 1972.
- (4) This Act, except section 88, does not extend to Northern Ireland [<sup>F298</sup>and, except section 86 and Schedule 3, does not extend to Scotland].

#### Textual Amendments

**F298** Words added by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. II](#)



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F299F299 SCHEDULES 1&2

**Textual Amendments**

**F299** Schs. 1, 2 repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I

F299

SCHEDULE 3

Section 86.

REPEALS

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

**C119** The text of Ss. 47(2), (3), 48(4), 86, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
49 & 50 Vict. c. 22.	The Metropolitan Police Act 1886.	Section 5.
12, 13 & 14 Geo. 6 c. 67.	The Civil Aviation Act 1949.	Section 31(3).
2 & 3 Eliz. 2. c. 56.	The Landlord and Tenant Act 1954.	Section 39(1).
5 & 6 Eliz. 2. c. 56.	The Housing Act 1957.	Section 32. Section 42(3). Section 63(1). Section 100. Section 144. Schedule 9.
7 & 8 Eliz. 2. c. 25.	The Highways Act 1959.	In section 82(2) the words "subsection (5), or subsection (6)"; In section 214, subsections (5), (6) and (7) and the proviso to subsection (8). Section 222(5) and (10). Section 225(1) and (2). In section 238(3) the words "(5) and (6)".
9 & 10 Eliz. 2. c. 33.	The Land Compensation Act 1961.	Section 30.
1963 c. 33.	The London Government Act 1963.	In Schedule 6 paragraph 58. In Schedule 8 paragraphs 12 and 13.
1963 c. 51.	The Land Compensation (Scotland) Act 1963.	Section 38 except so far as relating to land used for the purposes of agriculture.
1965 c. 16.	The Airports Authority Act 1965.	In Schedule 4 paragraph 2(3).
1965 c. 56.	The Compulsory Purchase Act 1965.	In Schedule 7 the entry relating to the Landlord and Tenant Act 1954.
1965 c. 59.	The New Towns Act 1965.	Section 11 and paragraph 7 of Schedule 6 except in relation to any notice served under section 11 before the passing of this Act. Section 22(1), (2), (5) and (6). Section 160(1) and (2). Section 168. Schedule 8.
1966 c. 49.	The Housing (Scotland) Act 1966.	Section 22(1), (2), (5) and (6). Section 168. Schedule 8.
1968 c. 16.	The New Towns (Scotland) Act 1968.	Section 11 and paragraph 8 of Schedule 6 except in relation to any notice served under section 11 before the passing of this Act. Section 22(1), (2), (5) and (6).

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Chapter	Short Title	Extent of Repeal
1968 c. 34.	The Agriculture (Miscellaneous Provisions) Act 1968.	Sections 15(1) and 42, except in relation to compensation falling to be assessed by reference to prices current on a date before the passing of this Act and except for the purposes of section 48(6) of this Act.
1969 c. 33. 1969 c. 34.	The Housing Act 1969. The Housing (Scotland) Act 1969.	Section 32(3) and (4). Sections 63 and 64.
1971 c. 78.	The Town and Country Planning Act 1971.	Section 130(1), (2), (4) and (5). In section 193, in subsection (1)(c) the words "since the relevant date" and subsection (3) except in relation to a blight notice served before the passing of this Act. In section 194(6) the words following paragraph (b) as far as the semi-colon. In section 201(1)(b) the words "since the relevant date (within the meaning of section 193 of this Act)" except in relation to a blight notice served before the passing of this Act. In section 207(1) the definition of "highway land acquisition powers". Section 94.
1972 c. 47.	The Housing Finance Act 1972.	Section 94.
1972 c. 52.	The Town and Country Planning (Scotland) Act 1972.	Section 120(5) and (6). In section 182, in subsection (1)(c) the words "since the relevant date" and subsection (3) except in relation to a blight notice served before the passing of this Act. In section 190(1)(b) the words "since the relevant date (within the meaning of section 182 of this Act)" except in relation to a blight notice served before the passing of this Act.

**Status:**

Point in time view as at 30/09/2015.

**Changes to legislation:**

Land Compensation Act 1973 is up to date with all changes known to be in force on or before 30 June 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.