



Land Compensation Act 1973

1973 CHAPTER 26

PART III

PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

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;
 - (b) the making, passing or acceptance of a housing order, resolution or undertaking 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 redevelopment on the land,

he shall, subject to the provisions of this section, be entitled to receive a payment (hereafter referred to as a " disturbance payment") from the acquiring authority, the authority who made the order, passed the resolution or accepted the undertaking or the authority carrying out the redevelopment, as the case may be.

- (2) A person shall not be entitled to a 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) he has such an interest as aforesaid but the compensation is subject to a site value provision and he is not (or if the acquisition were

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compulsory would not be) entitled in respect of that acquisition to an owner-occupier's supplement;

- (c) in a case within subsection (1)(b) above, if he is entitled to an owner-occupier's supplement by reference to the order, resolution or undertaking.

In this subsection " site value provision " means section 29(2) or 59(2) of the Housing Act 1957, section 20 of the Housing (Scotland) Act 1966 or section 10 of the Housing (Scotland) Act 1969 and " owner-occupier's supplement" means a payment under Part II of Schedule 2 to the said Act of 1957, Schedule 5 to the Housing Act 1969 or sections 18 to 20 of the Housing (Scotland) Act 1969.

- (3) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of any such acquisition or redevelopment as is mentioned in paragraph (a) or (c) 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 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 any such order, resolution or undertaking as is mentioned in paragraph (b) of that subsection unless he was in lawful possession as aforesaid at the time when the order was made, the resolution was passed or the undertaking was accepted.

- (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 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 Land Compensation Act 1961 or, in Scotland, section 40 of the Land Compensation (Scotland) Act 1963, 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) In section 71(4) of the Housing (Financial Provisions) (Scotland) Act 1972 (financial assistance towards tenants' removal expenses) for the words from " 160 " to the end there shall be substituted the words " 37 of the Land Compensation Act 1973 (disturbance payments for persons without compensatable interests) ".
- (9) In this section " a housing order, resolution or undertaking" 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.

38 Amount of disturbance payment

- (1) The amount of a disturbance payment shall be equal to—
- (a) the reasonable expenses of the person entitled to the payment in removing from the land from which he is displaced; and
 - (b) 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.

- (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 having functions under section 29 of the National Assistance Act 1948, or having duties under section 12 of the Social Work (Scotland) Act 1968, 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 Lands Tribunal or, in Scotland, the Lands Tribunal for Scotland.