



# Housing Defects Act 1984

## 1984 CHAPTER 50

### *Forms of assistance*

#### **8 Purchase of certain land by authority possessing compulsory purchase powers**

(1) In any case where—

- (a) there was a disposal of an interest in a defective dwelling, being an interest held by a person (in this section referred to as the "owner") who immediately before the time of disposal was eligible for assistance in respect of the dwelling,
- (b) the disposal was made to an authority possessing compulsory purchase powers otherwise than in pursuance of section 6 or 7 of this Act,
- (c) on the disposal, the authority acquired an interest in any affected land, that is to say, the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied with and used for the purposes of the dwelling or any part of it, and
- (d) the amount paid as consideration for the disposal did not include any amount attributable to the owner's right to apply for assistance in respect of the dwelling,

the owner is entitled, subject to the following provisions of this section, to be paid by the housing authority the amount (if any) by which ninety-five per cent, of the defect-free value exceeds the amount of compensation for the disposal.

(2) For the purposes of this section, the amount of compensation for the disposal is—

- (a) the amount that would have been the proper amount of compensation for the disposal (having regard, where any relevant determination has been made by the Lands Tribunal or the Lands Tribunal for Scotland, to that determination), or
- (b) if greater, the amount paid as the consideration for the disposal,

but excluding any amount payable for disturbance or for any other matter not directly based on the value of land ; and in this section the "defect-free value" means the amount that would have been the proper amount of compensation for the disposal

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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(excluding any amount so payable) if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect.

- (3) For the purposes of this section—
- (a) it is to be assumed that the disposal occurred on a compulsory acquisition (in cases where it did not in fact do so),
  - (b) where the compensation for the disposal fell to be assessed by reference to the value of the land as a site cleared of buildings and available for development then, for the purpose of determining the defect-free value, it is to be assumed that the compensation did not fall to be so assessed, and
  - (c) any amount which, apart from this paragraph, would be payable by a housing authority under subsection (1) above shall be reduced by the amount of any payment made in respect of the defective dwelling under section 30 or 60 of the Housing Act 1957 or section 30 of the Housing (Scotland) Act 1974.
- (4) A housing authority are not required to make a payment to any person under this section unless he makes a written application to them for the payment before the end of the period of two years beginning with the time of disposal.
- (5) Where a housing authority refuse an application for a payment under this section on the grounds that the owner was not eligible for assistance in respect of the defective dwelling at the time of the disposal, they shall give to the applicant a notice in writing stating the reasons for their view.
- (6) Any question arising under this section as to the amount of compensation for a disposal or defect-free value shall be determined by the district valuer if the owner or the housing authority so require by notice in writing served on the district valuer.
- (7) Before making a determination in pursuance of subsection (6) above, the district valuer shall consider any representation by the owner or the authority made to him within four weeks from the service of the notice under that subsection.
- (8) A person serving a notice on the district valuer under subsection (6) above shall serve notice in writing of that fact on the authority or, as the case may be, the owner.
- (9) In this section—
- " authority possessing compulsory purchase powers " has the same meaning as in the Land Compensation Act 1961 or the Land Compensation (Scotland) Act 1963 ;
  - " district valuer " has the same meaning as in paragraph 3(1) of Schedule 2 to this Act; and
  - " housing authority ", in relation to a defective dwelling, means the housing authority in whose area the dwelling is situated.
- (10) In this section—
- (a) references to the owner include a reference to his personal representatives; and
  - (b) the reference to appurtenances occupied with and used for the purposes of a dwelling or any part of it is, in Scotland, a reference to pertinents belonging to or usually enjoyed with the dwelling or any part of it.