



# Roads (Scotland) Act 1984

## 1984 CHAPTER 54

### PART IX

#### ACQUISITION, TRANSFER, VESTING AND COMPENSATION

##### *Compensation*

#### **116 Right to compensation for damage from works.**

- (1) Without prejudice to any right of compensation enjoyed apart from this section, a person who sustains damage by reason of the execution of works authorised by section 24, 28, 30, 31(1) or (2), 50(1), 74(1), 78(1), 94 or 124(1) of this Act, or subject to section 35(6) thereof, by section 35(1) or (3) thereof, shall be entitled to recover compensation for that damage from the person executing the works.
- (2) For the purposes of the application of subsection (1) above—
  - (a) to section 50 of this Act, in that subsection “works” includes such planting as is mentioned in subsection (1) of that section; and
  - (b) to section 124 of this Act, in that subsection “works” includes experiments or trials conducted under that section.

#### **117 Determination of disputes as to compensation.**

- (1) Any question of disputed compensation under section 71, 72, 83(8), 88(2), 106, 116, 121 or 140 or disputed expenditure under section 134(3) or 135(3) of this Act shall be determined in the same manner as compensation for the acquisition of land falls to be determined under the <sup>M1</sup>Land Compensation (Scotland) Act 1963, and sections 8, 9 and 11 of that Act shall have effect accordingly subject to any necessary modifications.
- (2) [<sup>F1</sup>Section 87(1) and (2) of the Town and Country Planning (Scotland) Act 1997] (assessment of compensation for the purposes of [<sup>F1</sup>Part IV of that Act]) shall apply in relation to the assessment of the disputed compensation mentioned in subsection (1) above, being compensation in respect of the depreciation in value of any interest in

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land, as that section applies in relation to the assessment of compensation payable under <sup>F1</sup>the said Part IV].

**Textual Amendments**

**F1** Words in s. 117(2) substituted (27.5.1997) by 1997 c. 11 ss. 4, 6(2), Sch. 2, para. 38(9)

**Marginal Citations**

**M1** 1963 c. 51.

**118 Compensation where interest in land subject to heritable security.**

Subsection (4) of <sup>F2</sup>section 87 of the Town and Country Planning (Scotland) Act 1997] (provisions as to compensation where an interest in land is subject to a heritable security) shall apply in relation to such compensation as is mentioned in section 71(6), 72(1), 83(8) or 88(2), or as may be provided for in an agreement under section 53(2), of this Act as the said subsection (4) applies in relation to compensation to which <sup>F2</sup>the said section 87] applies.

**Textual Amendments**

**F2** Words in s. 118 substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), Sch. 2 para. 38(10)

**119 Compensation for land acquired as service area for special road.**

- (1) Where land is compulsorily acquired—
- (a) under section 104(3)(c) of this Act in a case where the acquisition is authorised by a compulsory purchase order which does not also authorise the acquisition of land required for the provision of the adjacent length of special road;
  - (b) in pursuance of a notice under <sup>F3</sup>section 88 of the Town and Country Planning (Scotland) Act 1997] (protection of owners of land affected by certain planning decisions) in a case where the Lands Tribunal for Scotland is satisfied that there are proposals for using the whole or part of the relevant land for such purposes in connection with a special road as are mentioned in the said section 104(3)(c) and that the amount of the compensation would apart from this section be affected by the provision or proposed provision of the special road; or
  - (c) in pursuance of a notice under <sup>F4</sup>section 101 of the said Act of 1997] or section 73 of the <sup>M2</sup>Land Compensation (Scotland) Act 1973 (protection of owner-occupiers of land affected by planning proposals) in a case where the appropriate enactment for the purposes of [section 105 of the said Act of 1997] is or includes the said section 104(3)(c),

then, for the purpose of assessing compensation in respect of the compulsory acquisition, the value of the relevant interest shall be ascertained—

- (i) so far as it is attributable to any relevant planning permission, on the assumption that traffic carried by the special road will not have direct or indirect access to the relevant land; and
- (ii) so far as it is not attributable to any such planning permission, on the assumption that traffic carried by the special road will not have direct access to the relevant land.

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(2) In this section—

“direct access” means access by means of a special road or private road and “indirect access” means access by means of a public road which is not a special road;

“relevant planning permission” means any planning permission for service area development which is in force on the date of service of the notice to treat, or as to the grant of which any assumption is required to be made by virtue of section 23 or 24 of the <sup>M3</sup>Land Compensation (Scotland) Act 1963, or the possibility of the grant of which is taken into account in assessing the compensation;

“service area development” means development of the relevant land, or of any part thereof, for the purpose of providing such service stations or other buildings or facilities as are mentioned in the said section 104(3)(c) or of providing any other buildings or facilities designed to cater to a significant extent for traffic carried or to be carried by the special road;

and any expression which is also used in the said Act of 1963 has the same meaning as in that Act.

#### Textual Amendments

**F3** Words in s. 119(1)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 38(1)(a)**

**F4** Words in s. 119(c) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 38(1)(b)**

#### Marginal Citations

**M2** 1973 c. 56.

**M3** 1963 c. 51.

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