

Status: Point in time view as at 28/11/2004.

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SCHEDULES

SCHEDULE 7

PART III

APPLICATION OF ENACTMENTS RELATING TO COMPENSATION ON COMPULSORY PURCHASE, ETC., TO CASES UNDER PART I OR PART II OF THIS SCHEDULE

Compensation

- 13 (1) Where, under Part I or II of this Schedule, a compulsory purchase order is to be treated as made under Part I of this Act or [^{F1}Part VIII of the Town and Country Planning (Scotland) Act 1997], compensation for the compulsory acquisition of the land comprised in the compulsory purchase order is to be assessed in accordance with the provisions applying to a compulsory acquisition under Part I of this Act or, as the case may be, [^{F1}Part VIII of the Act of 1997].
- (2) Where, under Part I or II of this Schedule, land or any interest in land within any area is to be treated as appropriated by a local authority to the purposes of Part I of this Act, compensation for its compulsory acquisition shall (where it increases the amount) be assessed or re-assessed in accordance with the provisions applying to a compulsory acquisition under [^{F2}Part I of this Act].
- (3) Where, under paragraph 2 of Part I of this Schedule, or under Part II, any interest in land acquired by a local authority by agreement (after the declaration of a housing action area which relates to that land) is to be treated as appropriated for the purposes of Part I of this Act—
- (a) compensation shall (where sub-paragraph (2) would have increased the amount) be assessed and paid as if the acquisition were a compulsory acquisition, under [^{F3}Part III of Schedule 8], to which the said sub-paragraph (2) applied; but
- (b) there shall be deducted from the amount of compensation so payable any amount previously paid in respect of the acquisition of that interest by the authority.
- (4) Where sub-paragraph (2) or (3) applies, the local authority shall serve on the person entitled to the compensation a notice in the prescribed form giving particulars of the amount of compensation payable in accordance with the provisions applying to a compulsory acquisition under Part I of this Act, and if the person served does not, within 21 days from service of the notice, accept the particulars, or if he disputes the amount stated, the question of disputed compensation shall be referred to the Lands Tribunal.
- (5) The notice shall be served not later than 6 months after—
- (a) the relevant date, as defined in paragraph 1(4) of this Schedule, or

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- (b) the date on which the rehabilitation order becomes operative for the purposes of Part II of this Schedule,
- (as the case may be), and paragraph 19 of Schedule 1 to the ^{M1}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (service of notices) shall apply to the notice.
- (6) Sub-paragraph (2) shall be left out of account in considering whether, under sections 117 and 118 of the ^{M2}Lands Clauses Consolidation (Scotland) Act 1845, compensation has been properly paid for the land; and accordingly sub-paragraph (2) shall not prevent an acquiring authority from remaining in undisputed possession of the land.
- (7) Where sub-paragraph (2) makes an increase in compensation to be assessed in accordance with sections 56 to 60 and 63 of the said Act of 1845 (absent and untraced owners)—
- (a) a notarial instrument executed under section 76 of that Act before the latest date for service of a notice under sub-paragraph (4) shall not be invalid because the increase in compensation has not been paid, and
- (b) it shall be the duty of the local authority, not later than 6 months after the said date, to proceed under the said sections and pay the proper additional amount into the bank.
- (8) Any sum payable by virtue of this paragraph shall carry interest at the rate prescribed under section 40 of the ^{M3}Land Compensation (Scotland) Act 1963 from the time of entry by the local authority on the land, or from vesting of the land or interest, whichever is the earlier, until payment.
- (9) In this paragraph, references to an increase in compensation shall be read as if any payments under—
- (a) section 49 of the ^{M4}Act of 1966, section 11 of the ^{M5}Act of 1969 or section 30 of the ^{M6}Act of 1974 or section 305 of this Act (payments in respect of well-maintained houses and payments to owner-occupiers),
- (b) section 160 of the Act of 1966 or section 38 of the Land Compensation (Scotland) Act 1963 (allowances to persons displaced),
- (c) sections 18 to 20 of the Act of 1969 or sections 308 to 311 of this Act (payments to owner-occupiers and others in respect of houses not meeting the tolerable standard purchased or demolished), and
- (d) section 34 of the ^{M7}Land Compensation (Scotland) Act 1973 (disturbance payments for persons without compensatable interests),
- were, to the extent that they were made to the person in question, compensation in respect of the compulsory purchase.

Textual Amendments

- F1** Words in [Sch. 7 para. 13\(1\)](#) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), [Sch. 2 para. 40\(8\)](#)
- F2** Words substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 28\(a\)](#)
- F3** Words substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 28\(b\)](#)

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Marginal Citations

- M1** 1947 c. 42.
- M2** 1845 c. 19.
- M3** 1963 c. 51.
- M4** 1966 c. 49.
- M5** 1969 c. 34.
- M6** 1974 c. 45.
- M7** 1973 c. 56.

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