



# Planning and Compensation Act 1991

## 1991 CHAPTER 34

### PART III

#### LAND COMPENSATION, ETC: ENGLAND AND WALES

##### *Acquisition of land*

#### **62 Powers to acquire land which will be affected by public works.**

- (1) After section 26(2) of the <sup>M1</sup>Land Compensation Act 1973 (responsible authority may acquire land by agreement where enjoyment of land affected by public works) there is inserted—

“(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>M2</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.”

- (2) After section 246(2) of the <sup>M3</sup>Highways Act 1980 (acquisition of land by agreement where enjoyment of land affected by works) there is inserted—

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“(2A) Where the highway authority propose to carry out works on blighted land for the construction or improvement of a highway, they may 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 highway 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 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

“blighted land” has the meaning given in section 149(1) of that Act.”

#### Commencement Information

**II** S. 62 wholly in force at 25.09.1991 see s. 84(2)(3) and S.I. 1991/2067, art. 3.

#### Marginal Citations

**M1** 1973 c. 26.

**M2** 1990 c. 8.

**M3** 1980 c. 66.

### 63 Advance payments of compensation and interest.

(1) In section 52 of the <sup>M4</sup>Land Compensation Act 1973 (right to advance payment of compensation) for subsection (5) there is substituted—

“(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.”

(2) After that section there is inserted—

#### “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 <sup>M5</sup>Compulsory Purchase Act 1965 or any bond under Schedule 3 to that Act or section 85 of the <sup>M6</sup>Lands Clauses Consolidation Act 1845.

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- (2) If the authority make a payment under section 52(1) above to any person on account of the compensation—
  - (a) they shall 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 by reference to which the payment under section 52(1) above was calculated; and
  - (b) the difference between the amount of the payment under section 52(1) above and the amount by reference to which it was calculated is an unpaid balance for the purposes of this section.
- (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.
- (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 <sup>M7</sup>Land Compensation Act 1961 or, in the case of a bond under section 85 of the <sup>M8</sup>Lands Clauses Consolidation Act 1845, at the rate specified in section 85; and

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- (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 <sup>M9</sup>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.”

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

**C1** S. 63 restricted (9.9.1991) by S.I. 1991/2067, art. 4, **Sch. 2 Pt. I para. 1**

**Commencement Information**

**I2** S. 63 wholly in force at 25.09.1991 see s. 84(2)(3) and S.I. 1991/2067, **art. 3**

**Marginal Citations**

**M4** 1973 c. 26.

**M5** 1965 c. 56.

**M6** 1845 c. 18.

**M7** 1961 c. 33.

**M8** 1845 c. 18.

**M9** 1965 c. 56.

**64 Planning assumptions in connection with highway schemes.**

At the end of section 14 of the <sup>M10</sup>Land Compensation Act 1961 (assumptions as to planning permission) there is added—

“(5) If, in a case where—

- (a) the relevant land is to be acquired for use for or in connection with the construction of a highway, or
- (b) the use of the relevant land for or in connection with the construction of a highway is being considered by a highway authority,

a determination mentioned in subsection (7) of this section falls to be made, that determination shall be made on the following assumption.

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- (6) The assumption is that, if the relevant land were not so used, no highway would be constructed to meet the same or substantially the same need as the highway referred to in paragraph (a) or (b) of subsection (5) of this section would have been constructed to meet.
- (7) The determinations referred to in subsection (5) of this section are—
- (a) a determination, for the purpose of assessing compensation in respect of any compulsory acquisition, whether planning permission might reasonably have been expected to be granted for any development if no part of the relevant land were proposed to be acquired by any authority possessing compulsory purchase powers, and
  - (b) a determination under section 17 of this Act as to the development for which, in the opinion of the local planning authority, planning permission would or would not have been granted if no part of the relevant land were proposed to be acquired by any authority possessing compulsory purchase powers.
- (8) The references in subsections (5) and (6) of this section to the construction of a highway include its alteration or improvement.”

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

**C2** S. 64 restricted (9.9.1991) by [S.I. 1991/2067](#), art. 4, [Sch. 2 Pt. I para.2](#)

**Commencement Information**

**I3** S. 64 wholly in force at 25.09.1991 see s. 84(2)(3) and [S.I. 1991/2067](#), [art. 3](#)

**Marginal Citations**

**M10** [1961 c. 33](#).

**65 Certification of appropriate alternative development.**

- (1) For section 17(1) of the <sup>M11</sup>Land Compensation Act 1961 (certificate of appropriate alternative development may be issued only if land is not in an area defined in development plan as an area of comprehensive development or shown in the plan as allocated for residential, commercial or industrial use) there is substituted—

“(1) Where an interest in land is proposed to be acquired by an authority possessing compulsory purchase powers, either of the parties directly concerned may, subject to subsection (2) of this section, apply to the local planning authority for a certificate under this section.”

- (2) In subsection (4) of that section (certificate stating that permission for development would or would not be granted) for paragraphs (a) and (b) there is substituted—

“(a) that planning permission would have been granted for development of one or more classes specified in the certificate (whether specified in the application or not) and for any development for which the land is to be acquired, but would not have been granted for any other development; or

(b) that planning permission would have been granted for any development for which the land is to be acquired, but would not have been granted for any other development,

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and for the purposes of this subsection development is development for which the land is to be acquired if the land is to be acquired for purposes which involve the carrying out of proposals of the acquiring authority for that development. ”

(3) After subsection (9) of that section there is inserted—

“(9A) In assessing the compensation payable to any person in respect of any compulsory acquisition, there shall be taken into account any expenses reasonably incurred by him in connection with the issue of a certificate under this section (including expenses incurred in connection with an appeal under section 18 of this Act where any of the issues on the appeal are determined in his favour).”

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

**C3** S. 65 restricted (9.9.1991) by [S.I. 1991/2067](#), art. 4, [Sch. 2 Pt.II para. 3](#)

**Commencement Information**

**I4** S. 65 wholly in force at 25.09.1991 see s. 84(2)(3) and [S.I. 1991/2067](#), art. 3

**Marginal Citations**

**M11** 1961 c. 33.

**66 Compensation where permission for additional development granted after acquisition.**

- (1) Schedule 14 to this Act (which revives Part IV of the Land Compensation Act 1961) shall have effect.
- (2) This section applies to an acquisition or sale of an interest in land if the date of completion (within the meaning of that Part) falls on or after the day on which this section comes into force.

**Commencement Information**

**I5** S. 66 wholly in force at 25.09.1991 see s. 84(2)(3) and [S.I. 1991/2067](#), art. 3.

**67 Time limit on validity of notice to treat.**

In section 5 of the <sup>M12</sup>Compulsory Purchase Act 1965 (notice to treat) after subsection (2) there is inserted—

- “(2A) A notice to treat shall cease to have effect at the end of the period of three years beginning with the date on which it is served unless—
- (a) the compensation has been agreed or awarded or has been paid or paid into court,
  - (b) a general vesting declaration has been executed under section 4 of the <sup>M13</sup>Compulsory Purchase (Vesting Declarations) Act 1981,
  - (c) the acquiring authority have entered on and taken possession of the land specified in the notice, or

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- (d) the question of compensation has been referred to the Lands Tribunal.
- (2B) If the person interested in the land, or having power to sell and convey or release it, and the acquiring authority agree to extend the period referred to in subsection (2A) of this section, the notice to treat shall cease to have effect at the end of the period as extended unless—
- (a) any of the events referred to in that subsection have then taken place, or
  - (b) the parties have agreed to a further extension of the period (in which case this subsection shall apply again at the end of the period as further extended, and so on).
- (2C) Where a notice to treat ceases to have effect by virtue of subsection (2A) or (2B) of this section, the acquiring authority—
- (a) shall immediately give notice of that fact to the person on whom the notice was served and any other person who, since it was served, could have made an agreement under subsection (2B) of this section, and
  - (b) shall be liable to pay compensation to any person entitled to such a notice for any loss or expenses occasioned to him by the giving of the notice and its ceasing to have effect.
- (2D) The amount of any compensation payable under subsection (2C) shall, in default of agreement, be determined by the Lands Tribunal.
- (2E) Compensation payable to any person under subsection (2C) shall carry interest at the rate prescribed under section 32 of the <sup>M14</sup>Land Compensation Act 1961 from the date on which he was entitled to to be given notice under that subsection until payment.”

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

**C4** S. 67 restricted (9.9.1991) by S.I. 1991/2067, art. 4, **Sch. 2 Pt. I para. 3**.

**Commencement Information**

**I6** S. 67 wholly in force at 25.09.1991 see s. 84(2)(3) and S.I. 1991/2067, **art. 3**

**Marginal Citations**

**M12** 1965 c. 56.

**M13** 1981 c. 66.

**M14** 1961 c. 33.

**Status:**

Point in time view as at 18/01/2010.

**Changes to legislation:**

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