

*Status: Point in time view as at 27/05/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 17. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 17 **S**

Section 79.

#### AMENDMENTS RELATING TO LAND COMPENSATION IN SCOTLAND

##### Commencement Information

**I1** Sch. 17 wholly in force at 25.09.1991 see s. 84(2)(3) and S.I. 1991/2092, art. 3.

### PART I **S**

#### MISCELLANEOUS AMENDMENTS

##### *Compensation for tenants for a year or from year to year*

- 1 In section 114 of the <sup>M1</sup>Lands Clauses Consolidation (Scotland) Act 1845 (compensation to be made to tenants for a year etc.), for “in his tenancy by the severing of the” there is substituted “ by severing ”.

##### Commencement Information

**I2** Sch. 17 para. 1 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

##### Marginal Citations

**M1** 1845 c. 19.

##### *Local authority and statutory undertakers' land*

- 2 In paragraph 10 (protection of land held by statutory undertakers) of Schedule 1 to the <sup>M2</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, before “the compulsory purchase order” there is inserted “ and, if the representation is not withdrawn, ”.

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

**C1** Sch. 17 para. 2 restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt. I para. 4

##### Commencement Information

**I3** Sch. 17 para. 2 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

##### Marginal Citations

**M2** 1947 c. 42.

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- 3 In paragraph 11 of that Schedule (purchase of open space)—
- (a) in sub-paragraph (2), after “shall” there is inserted “ direct the acquiring authority to ”; and
- (b) after that sub-paragraph there is inserted—
- “(3) Notice under sub-paragraph (2) of this paragraph shall be given in such form and manner as the Secretary of State may direct.”.

**Commencement Information**

- I4** Sch. 17 para. 3 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, **art. 3**
- I5** Sch. 17 para. 3 restricted (18.9.1991) by S.I. 1991/2092, art. 4, **Sch. 2 Pt. I para. 4**

*Service of documents*

- 4 In paragraph 19(4) of that Schedule (service of documents where not practicable to ascertain name or address of owner, etc.), for the words from “premises or” to the end there is substituted “ land or, if there is no person on the land to whom it may be delivered, by leaving it or a copy of it on or near the land ”.

**Commencement Information**

- I6** Sch. 17 para. 4 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, **art. 3**

*Rules for the assessment of compensation*

- 5 In section 12 of the <sup>M3</sup>Land Compensation (Scotland) Act 1963 (rules for assessing compensation), in rule (3) (disregard of special suitability of land for any purpose where, in particular, there is no market for that purpose apart from the special needs of a particular purchaser or the requirements of an authority possessing compulsory purchase powers) “the special needs of a particular purchaser or” is omitted.

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

- C2** Sch. 17 para. 5 restricted (18.9.1991) by S.I. 1991/2092, art. 4, **Sch. 2 Pt. I para. 4**

**Commencement Information**

- I7** Sch. 17 para. 5 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, **art. 3**

**Marginal Citations**

- M3** 1963 c. 51.

*Expenses in acquiring replacement land*

- 6 After section 17 of the Land Compensation (Scotland) Act 1963 there is inserted—
- “17A Expenses of owners not in occupation.**
- Where, in consequence of any compulsory acquisition of land—

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- (a) the acquiring authority acquire an interest of a person who is not then in occupation of the land; and
  - (b) that person incurs incidental charges or expenses in acquiring, within the period of one year beginning with the date of entry, an interest in other land in the United Kingdom,
- the charges or expenses shall be taken into account in assessing his compensation as they would be taken into account if he were in occupation of the land.”.

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

**C3** Sch. 17 para. 6 restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt. I para. 4

**Commencement Information**

**I8** Sch. 17 para. 6 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

7 (1) In section 22(1) of the Land Compensation (Scotland) Act 1963 after “shall” there is inserted “ (subject to subsection (3A) of this section) ”.

(2) In section 22(3) of that Act, for the words from “but” to the end there is substituted—

“(3A) In determining—

- (a) for the purpose referred to in subsection (1) of this section whether planning permission for any development could in any particular circumstances reasonably have been expected to be granted in respect of any land; or
- (b) whether any of the assumptions mentioned in section 24 of this Act (but not section 23) are applicable to the relevant land or any part thereof,

regard shall be had to any contrary opinion expressed in relation to that land in any certificate issued under Part IV of this Act.”

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

**C4** Sch. 17 para. 7 restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt. II para. 6(1)

**Commencement Information**

**I9** Sch. 17 para. 7 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

8 In section 25 of that Act—

- (a) for the words from the beginning of subsection (2) to “acquire it” there is substituted “ If the authority proposing to acquire the interest ”, and
- (b) subsection (8) is omitted.

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

**C5** Sch. 17 para. 8 restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt. II para. 6(1)

**Commencement Information**

**I10** Sch. 17 para. 8 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

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9 In section 27(1) of that Act for “in the circumstances mentioned in section 25(1) of this Act” there is substituted “ by an authority possessing compulsory purchase powers ”.

**Modifications etc. (not altering text)**  
 C6 Sch. 17 para. 9 restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt. II para. 6(1)

**Commencement Information**  
 I11 Sch. 17 para. 9 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

10 Section 30(3) of that Act is omitted.

**Modifications etc. (not altering text)**  
 C7 Sch. 17 para. 10 restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt.II para. 6(1)

**Commencement Information**  
 I12 Sch. 17 para. 10 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

*Blighted land*

<sup>F1</sup>11 .....

**Textual Amendments**  
 F1 Sch. 17 para. 11 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt.I (with s. 5, Sch. 3)

*Local authority and statutory undertakers’ land*

<sup>F2</sup>12 .....

**Textual Amendments**  
 F2 Sch. 17 para. 12 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt.I (with s. 5, Sch. 3)

*Caravans etc. affected by noise of public works*

13 (1) After section 18 of the <sup>M4</sup>Land Compensation (Scotland) Act 1973 there is inserted—

**“18A Power to make payments in respect of caravans and other structures affected by noise of public works.**

- (1) The Secretary of State may make regulations empowering responsible authorities to make a payment, not exceeding an amount specified in the regulations, in respect of any dwelling which—
  - (a) is not a building;
  - (b) is occupied by a person as his only or main residence; and

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- (c) is affected or likely to be affected by noise caused by the construction or use of public works.
- (2) Regulations under this section may—
  - (a) make provision as to the level of noise giving rise to a power under the regulations and the area in which a dwelling must be situated if a power is to arise in respect of it;
  - (b) specify the classes of public works and of dwellings in respect of which a power is to arise, and the classes of persons entitled to make claims, under the regulations; and
  - (c) make provision as to the funds out of which expenses incurred by responsible authorities under the regulations are to be defrayed.
- (3) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsections (3), (6) and (11) of section 18 above apply for the purposes of this section as they apply for the purposes of that.”
- (2) This paragraph does not apply in relation to any public works if the relevant date for the purposes of Part I of the <sup>M5</sup>Land Compensation (Scotland) Act 1973 fell more than twelve months before the date on which this paragraph comes into force.

#### Commencement Information

**I13** Sch. 17 para. 13 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

#### Marginal Citations

**M4** 1973 c. 56.

**M5** 1973 c. 56.

#### *Farm loss payments*

- 14 (1) Section 31 of the Land Compensation (Scotland) Act 1973 (right to farm loss payment where person displaced from agricultural unit) is amended as follows.
- (2) For subsection (1)(a) (section applies only if whole of land is acquired) there is substituted—
- “(a) in consequence of the compulsory acquisition of his interest in the whole, or a sufficient part, of that land, he is displaced from the land acquired;”.
- (3) In subsection (2) (interests qualifying for compensation)—
- (a) for the words from “lease” where it first appears to “three years” there is substituted “ where his interest is as a lessee for a year or from year to year or a greater interest, ”; and
  - (b) at the end there is inserted “ , and “sufficient part” means not less than 0.5 hectares or such other area as the Secretary of State may by order specify ”.
- (4) After that subsection there is inserted—

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“(2A) The power to make an order under subsection (2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(5) At the end of subsection (3)(a) (meaning of displacement) there is added “ or on any date after the making or confirmation of the compulsory purchase order but before being required to do so by the acquiring authority ”.

(6) Subsection (6) is omitted.

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

**C8** Sch. 17 para. 14 restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt. I para. 4

**Commencement Information**

**I14** Sch. 17 para. 14 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

*Notice to quit agricultural holding; right to opt for notice of entry compensation*

15 At the end of section 55(7) of the Land Compensation (Scotland) Act 1973 (which does not apply where land was Crown land at time of agreement to acquire it) there is inserted “ and the reference in that subsection to an authority possessing compulsory purchase powers includes a person or body of persons who would be an authority possessing compulsory purchase powers if the landlord’s interest were not an interest in Crown land (as defined by section 253(7) of the <sup>M6</sup>Town and Country Planning (Scotland) Act 1972). ”

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

**C9** Sch. 17 para. 15 restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt. I para. 4

**Commencement Information**

**I15** Sch. 17 para. 15 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

**Marginal Citations**

**M6** 1972 c. 52.

## PART II S

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Land Compensation (Scotland) Act 1963 (c.51)*

16 In section 28 (power to prescribe matters relevant to Part IV) of the Land Compensation (Scotland) Act 1963, for the words “The provisions which may be made by a development order shall” there are substituted the words “ Regulations made under section 273(1)(c) of the Town and Country Planning (Scotland) Act 1972 or a development order may ”.

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**Commencement Information**

**I16** Sch. 17 para. 16 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

*The 1972 Act*

<sup>F3</sup>17 .....

**Textual Amendments**

**F3** Sch. 17 para. 17 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt.I (with s. 5, Sch. 3)

<sup>F4</sup>18 .....

**Textual Amendments**

**F4** Sch. 17 para. 18 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt.I (with s. 5, Sch. 3)

*Land Compensation (Scotland) Act 1973 (c.56)*

- 19 In section 24 (acquisition of land in connection with public works) of the Land Compensation (Scotland) Act 1973—
- (a) in subsection (2) for the word “vendor” there shall be substituted the word “seller”, and
  - (b) in subsection (5), for “and (2)” there is substituted “ (2) and (2A) ”.

**Commencement Information**

**I17** Sch. 17 para. 19 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

- 20 (1) Section 27 of that Act is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (ii), “passed the resolution” is omitted;
  - (b) “and” following paragraph (iii) is omitted; and
  - (c) after paragraph (iv) there is inserted “ and ”.
- (3) In subsection (4), for paragraph (b) there is substituted—
- “(b) a right to occupy the dwelling-house—
  - (i) as a statutory tenant within the meaning of the Rent (Scotland) Act 1984; or
  - (ii) under a contract to which Part VII of that Act applies or would apply if the contract or dwelling-house were not excluded by section 63(3) to (5) or under section 64(3) respectively of that Act; and”.

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

**C10** Sch. 17 para. 20 restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt. II para. 6(2)

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**Commencement Information**

**I18** Sch. 17 para. 20 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

- 21 In section 48 (right to advance payment of compensation) of that Act—
- (a) in subsection (8), after “the amount of the advance payment” there is inserted “together with any amount paid under section 48A”, and
  - (b) in subsection (9), the words following “unpaid” are omitted.

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

**C11** Sch. 17 para. 21 restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt. I para. 4

**Commencement Information**

**I19** Sch. 17 para. 21 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3

*Local Government, Planning and Land Act 1980 (c. 65)*

- 22 After section 141(5) of the Local Government, Planning and Land Act 1980 there is inserted—
- “(5B) No compensation is payable, by virtue of an order under this section, under Part V of the Land Compensation (Scotland) Act 1963”.

**Commencement Information**

**I20** Sch. 17 para. 22 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2092, art. 3



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