



# Town and Country Planning Act 1954

## 1954 CHAPTER 72

### PART III

#### COMPENSATION FOR COMPULSORY ACQUISITION OF LAND

#### **30 Application of Part III**

- (1) This Part of this Act applies to every compulsory acquisition of an interest in land, in pursuance of a notice to treat served after the commencement of this Act, by a government department or a local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919, or by a person or body of persons to whom the said Act of 1919 applies as it applies to such a department or authority.
- (2) In this Part of this Act, in relation to a compulsory acquisition, the following expressions have the meanings hereby assigned to them respectively, that is to say—
  - " the relevant interest " means the interest acquired ;
  - " the relevant land " means the land in which the relevant interest subsists;
  - " the notice to treat " means the notice to treat in pursuance of which the relevant interest is acquired;
  - " excepted interest " means the interest of any such person as is mentioned in section one hundred and twenty-one of the Lands Clauses Consolidation Act, 1845 (which relates to persons having no greater interest than as tenant for a year or from year to year).

#### **31 Compensation to include unexpended balance of established development value**

- (1) Where, in the case of a compulsory acquisition to which this Part of this Act applies, compensation on the basis of existing use is payable in respect of the acquisition of the relevant interest, and any of the relevant land has an unexpended balance of established development value at the time immediately before the service of the notice to treat, then, subject to section thirty-three of this Act, there shall be added to the compensation payable in respect of the acquisition of the relevant interest apart from the provisions of this section—

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- (a) where the relevant interest is the only interest (other than excepted interests) subsisting at that time in any of the relevant land which has such a balance, an amount equal to that balance at that time less, in a case when the relevant interest is subject to a rentcharge, any rental liability of that interest within the meaning of the Fifth Schedule to this Act; or
- (b) where the relevant interest is one of two or more interests (other than excepted interests) so subsisting, an amount equal to so much of that balance at that time as is ascertained in accordance with the provisions of the said Fifth Schedule to be attributable to the relevant interest:

Provided that no payment shall be made by virtue of this section if the relevant interest is a tenancy granted on such terms that, immediately before the service of the notice to treat, the person entitled to that interest is prohibited from carrying out any new development of the relevant land.

- (2) Regulations made under this section shall provide for requiring persons entitled to interests in the relevant land, other than the relevant interest and any excepted interest, to be notified in cases where it is proposed, by virtue of this section, to pay compensation in excess of compensation on the basis of existing use, and for enabling such persons, in case of dispute as to the application of this section, to require the dispute to be referred to the Lands Tribunal for determination by that Tribunal.

### **32 Additional compensation for works**

- (1) The provisions of this section shall have effect as respects a compulsory acquisition to which this Part of this Act applies where compensation on the basis of existing use is payable in respect of the acquisition of the relevant interest and, on or after the first day of July, nineteen hundred and forty-eight, but before the date of service of the notice to treat, buildings have been erected or works constructed in accordance with planning permission, either on the relevant land, or on other land, or partly in the one way and partly in the other, at the expense of a person who, at a time when the buildings or works were erected or constructed, was entitled to an interest in the relevant land or some part thereof:

Provided that this section shall not apply—

- (a) if the operation of subsection (4) of section fifty-one of the principal Act (which provides, with certain exceptions, for disregarding planning permission granted before the date of the notice to treat) is excluded in respect of that permission by virtue of the exception contained in paragraph (a) of that subsection or by virtue of any provision of this Act; or
- (b) if the compensation on the basis of existing use payable in respect of the acquisition would be the same whether or not the said subsection (4) operated ;

and where, if the notice to treat had extended to a part only of the relevant land, the amount of the compensation on the basis of existing use payable in respect of the relevant interest in so far as it subsisted in that part would have been the same whether or not the said subsection (4) operated, this section shall have effect as respects the acquisition of the relevant interest as if the notice to treat had extended only to the remainder of the relevant land.

- (2) If the value of the relevant interest immediately before the service of the notice to treat, with the benefit of any planning permission having effect at that time, is greater than it would have been at that time with the benefit of such permission if the buildings or works had not been erected or constructed, there shall be added to the compensation

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payable in respect of the acquisition of the relevant interest apart from the provisions of this section a sum equal to the amount of the difference.

- (3) Where the last preceding subsection applies, then, in calculating the compensation on the basis of existing use which is payable in respect of the acquisition, it shall be ascertained whether that compensation is less than it would have been, or greater than it would have been, if the buildings or works had not been erected or constructed, and if so—
- (a) the amount of the deficiency, or of the excess, as the case may be, shall be computed; and
  - (b) the sum referred to in the last preceding subsection shall be increased by the amount of the deficiency, or reduced by the amount of the excess, as the case may be.

### **33 Protection for purchaser of interest subsequently acquired compulsorily**

- (1) It shall be the duty of the council of a county borough or county district, on application made to them in writing by any person with respect to particular land in the borough or district, to serve on the applicant, within a period of twenty-eight days from the date of the receipt of the application, a notice stating whether or not the council propose to acquire within the next five years (whether compulsorily or otherwise) any interest in that land or in any part thereof, or have been notified by any public authority possessing compulsory purchase powers of a proposal of that authority so to acquire any such interest, specifying in the notice—
- (a) any such public authority by whom the council have been so notified ; and
  - (b) any part of that land to which any such proposal of the council or other authority does not extend.
- (2) If—
- (a) the council of a county borough or county district have, in accordance with the preceding subsection, given notice to a person that the council do not propose, and have not been notified of any proposal of another authority, to acquire within the next five years any interest in any land specified in the notice (in this subsection referred to as " the specified land "), being the whole or part of the land to which the application related; and
  - (b) the person to whom the notice was given has within three months of the service of the notice completed, or entered into a bona fide contract for, the purchase of an interest in the specified land or any part thereof and given notice of the completion or, as the case may be, of the making of the contract to the said council; and
  - (c) that interest, or that interest in so far as it subsists in any part of that land, is subsequently acquired compulsorily, and the first notice required to be published or served in connection with that acquisition, either by an Act or by any Standing Order of either House of Parliament relating to petitions for private bills, is published or served in accordance with that Act or Order before the end of the period of five years beginning with the date of service of the notice referred to in paragraph (a) of this subsection,

then, for the purpose of assessing the compensation payable in respect of the acquisition of that interest, subsection (4) of section fifty-one of the principal Act shall not apply to any planning permission in force at the date of service of the notice referred to in paragraph (a) of this subsection:

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Provided that—

- (i) if at the date of the publication or service of the first notice in connection with the acquisition such as is referred to in paragraph (c) of this subsection, the purchase mentioned in paragraph (b) thereof has not been completed, this subsection shall not have effect unless the contract mentioned in the said paragraph (b) remains in force at that date;
  - (ii) this subsection shall not have effect in relation to a purchase by a company from an associated company within the meaning of section forty-seven of this Act.
- (3) If, in the case of an application under subsection (1) of this section, at the expiration of the period mentioned in that subsection the council have not served the notice required thereby, then, for the purposes of subsection (2) of this section, the council shall be deemed to have duly served on the applicant at the expiration of the said period such a notice as is mentioned in paragraph (a) of the said subsection (2) with respect to the whole of the land to which the application related.
- (4) Without prejudice to the duty imposed by subsection (1) of this section on a council to whom an application under that subsection has been made, the council may require the applicant to pay to them a fee of five shillings.
- (5) Section thirty-one of this Act shall not apply for the purpose of assessing any compensation to the assessment of which subsection (2) of this section applies:

Provided that if the compensation payable in respect of the acquisition of the relevant interest would, apart from this proviso, be less than it would have been if this section had not been enacted, the said subsection (2) shall not apply in the case of that acquisition.

#### **34 Compensation to take account of planning permission in certain other cases**

- (1) For the purposes of a compulsory acquisition to which this Part of this Act applies, subsection (4) of section fifty-one of the principal Act shall not apply to any planning permission granted—
- (a) for any development of land of a class specified in the Sixth Schedule to this Act; or
  - (b) for any development specified in a certificate issued under section eighty of the principal Act (which relates to land ripe for development before the first day of July, nineteen hundred and forty-eight),
- or to any planning permission deemed to be granted by virtue of section seventy-eight of the principal Act (which relates to unfinished buildings).
- (2) Paragraph (b) of subsection (4) of the said section fifty-one (which provides certain exceptions from that subsection by reference to exemptions from development charges), and so much of subsection (1) of section three of the Act of 1953 as relates to the exceptions comprised in that paragraph, shall not apply for the purposes of any compulsory acquisition to which this Part of this Act applies.

#### **35 Additional payments in cases where no claim for development value has been established**

- (1) If, in the case of a compulsory acquisition to which this Part of this Act applies, the appropriate authority is satisfied that the relevant land or some part thereof does not

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constitute or form part of the claim area of any established claim, but that a claim or claims in respect of one or more interests in that land, or, as the case may be, in that part thereof, would have been established if made, there shall be issued by or on behalf of the Treasury a certificate specifying—

- (a) whether or not, in the opinion of the person signing the certificate, section thirty-one of this Act would have applied to the compulsory acquisition if the claim or claims aforesaid had been established; and
  - (b) if so, what in that person's opinion, after giving the person entitled to the relevant interest an opportunity to present his case, would have been the amount of the additional compensation calculated by reference to the unexpended balance of established development value of that land or that part thereof which would have been payable under that section in respect of the acquisition of the relevant interest.
- (2) Where an amount has been specified as aforesaid that amount shall be added to the compensation payable in respect of the acquisition of the relevant interest apart from the provisions of this section:

Provided that if, after taking into account all the circumstances, the appropriate authority is of opinion that it is not just and reasonable that the whole of that amount should be so added or, as the case may be, that any amount should be so added, the said authority may direct that such lesser amount as he may specify shall be so added or, as the case may be, that no addition to the compensation aforesaid shall be made.

- (3) In this section, the expression " the appropriate authority " means—
- (a) where the compulsory acquisition of the relevant interest by the acquiring authority requires authorisation by a single other authority, that other authority; or
  - (b) where the acquiring authority is a government department and the compulsory acquisition does not require the authorisation of any other authority, the acquiring authority; or
  - (c) in any other, case, the Treasury or such other authority as the Treasury may in any case or class of cases direct.

### **36 Compensation for severance, injurious affection and disturbance**

- (1) In connection with a compulsory acquisition to which this Part of this Act applies—
- (a) any compensation in respect of an interest in land for damage sustained by reason that the relevant land is severed from other land held therewith, or that any other land (whether held with the relevant land or not) is injuriously affected, shall be assessed in accordance with subsections (2) to (7) of this section ;
  - (b) any compensation for disturbance shall not be assessed at a greater amount than that at which it would have fallen to be assessed if Part V of the principal Act and the preceding provisions of this Part of this Act had not been enacted.
- (2) In the subsequent provisions of this section, the following expressions have the following meanings respectively—
- " the compensation " means compensation such as is mentioned in paragraph (a) of the preceding subsection;

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" the interest affected " means the interest in respect of which the compensation falls to be assessed, in so far as that interest subsists in land, other than the relevant land, which is affected by the injurious act or event;

" the land affected " means the land in which the interest affected subsists;

" the injurious act or event " means the act or event in consequence of which the compensation falls to be assessed;

" other interest affected " means an interest other than the interest affected which subsists in the whole or part of the land affected and in respect of which compensation such as is mentioned in paragraph (a) of the preceding subsection is payable by virtue of the injurious act or event;

" qualified land " means land which immediately before the injurious act or event has an unexpended balance of established development value;

" the loss of development value " means the amount, if any, by which the value of the interest affected immediately before the injurious act or event, if calculated on the assumption that, until such time as the land affected might reasonably be expected to become ripe for new development, no use whatever could be made of that land, would exceed the value of that interest immediately after that act or event if calculated on the like assumption;

" the loss of immediate value " means the amount, if any, by which the difference in the value of the interest affected immediately before and immediately after the injurious act or event exceeds the loss of development value.

- (3) If neither the land affected taken as a whole nor any part thereof is qualified land, the amount of the compensation shall be the loss of immediate value.
- (4) If the land affected taken as a whole satisfies the following conditions, that is to say—
- (a) that it is qualified land ; and
  - (b) that no other interest affected subsists in a part only thereof,
- the amount of the compensation shall be the aggregate of the loss of immediate value and whichever is the less of the following amounts, that is to say—
- (i) the loss of development value ; or
  - (ii) the amount of the unexpended balance of established development value of the land affected immediately before the injurious act or event:

Provided that if one or more other interests affected subsist in the whole of the land affected, and the aggregate of the loss of development value of the interest affected and of any such other interest or interests exceeds the amount mentioned in paragraph (ii) of this subsection, that amount shall be allocated between the interest affected and any such other interest or interests in proportion to the loss of development value of each of them respectively, and the amount of compensation payable in respect of the interest affected in addition to the loss of immediate value shall be the sum so allocated to that interest.

- (5) If the land affected, taken as a whole, does not satisfy the conditions mentioned in the last preceding subsection, then, for the purpose of assessing the compensation in respect of the interest affected—
- (a) the loss of development value of the interest affected and of any other interest affected shall first be ascertained with reference to the whole of the land affected in which the interest in question subsists;

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- (b) the land affected shall then be treated as divided into as many parts as may be requisite to ensure that each such part consists of land which either satisfies the conditions aforesaid or is not qualified land; and
- (c) the loss of development value of each of the interests aforesaid, ascertained as aforesaid, shall then be apportioned between the said parts according to the nature of those parts and the effect of the injurious act or event in relation to each of them,

and the compensation payable in respect of the interest affected in addition to the loss of immediate value shall be the aggregate of the amounts which would be so payable by virtue of the last preceding subsection if each such part had been the whole of the land affected.

- (6) If in any case the amount of the compensation attributable to the loss of immediate value is less than the depreciation in restricted value of the interest affected, subsection (3) of the next following section shall have effect with respect to the amount of the difference.

In this subsection, the expression " the depreciation in restricted value " means the amount, if any, by which the value of the interest affected, immediately after the injurious act or event, would be less than the value of that interest immediately before that act or event if both values were calculated on the assumption that planning permission would be granted for development of any class specified in the Third Schedule to the principal Act but would not be granted for any other development.

- (7) In calculating value for any of the purposes of this section in its application to compensation for damage to land not held with the relevant land, being damage sustained by reason of the construction or erection of works on the relevant land, no account shall be taken of the use, or the prospective use, of those works.

### **37 Effect of Part III on unexpended balance of established development value**

- (1) Where, in the case of—
  - (a) a compulsory acquisition to which this Part of this Act applies; or
  - (b) a sale of an interest in land by agreement in pursuance of a contract made after the commencement of this Act to a public authority possessing compulsory purchase powers, being such a department, authority, person or body of persons as is mentioned in subsection (1) of section thirty of this Act,any of the land in which the interest acquired or sold subsisted had an unexpended balance of established development value immediately before the relevant date (in this subsection referred to as " the relevant balance"), then, in determining whether that land or any part thereof has an unexpended balance of established development value at any subsequent time—
  - (i) for the purposes of section thirty-one of this Act and, unless immediately after the acquisition or sale there is outstanding some interest (other than an excepted interest) in that land to which some person other than the acquiring authority is entitled, for all other purposes of this Act, the original unexpended balance of established development value of that land shall be treated as having been extinguished immediately before that subsequent time;
  - (ii) if, immediately after the acquisition or sale, there is outstanding any such interest as aforesaid, then for the purposes of any other Part of this Act there shall be deducted from the said original balance an amount equal to any part of the relevant balance which is not, or which in the appropriate circumstances

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would not have been, attributable for the purposes of the said section thirty-one to any such outstanding interest, and the original balance of that land or that part thereof shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time:

Provided that in the event of a subsequent compulsory acquisition of any such outstanding interest, being a compulsory acquisition to which this Part of this Act applies, the said section thirty-one shall have effect for the purposes of assessing the compensation payable as if this subsection had not been enacted.

(2) Where—

- (a) in connection with a compulsory acquisition to which this Part of this Act applies an amount by way of compensation such as is mentioned in paragraph (a) of subsection (1) of the last preceding section was paid in respect of an interest in any land other than the relevant land ; or
- (b) on such a sale as is mentioned in paragraph (b) of the preceding subsection, the price paid included an amount in respect of damage sustained by an interest in land other than, but held with, the land in which the interest sold subsisted, being damage sustained by reason of the severance of the land or by reason that the interest in that other land was injuriously affected,

and the said amount exceeds what was, or in the appropriate circumstances would have been, the loss of immediate value of that interest as defined in the last preceding section, then, for the purpose of determining whether that other land or any part thereof has an unexpended balance of established development value at any subsequent time, there shall be deducted from the original unexpended balance of established development value of that other land an amount equal to the excess, or so much thereof as was, or in the appropriate circumstances would have been, calculated by reference to that balance, and the original balance of that land or that part thereof shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

- (3) If in a case such as is mentioned in paragraph (a) or (b) of the last preceding subsection so much, if any, of the amount mentioned in that paragraph as was, or in the appropriate circumstances would have been, attributable to the loss of immediate value of the interest in question was or would have been less than the depreciation in restricted value of that interest within the meaning of subsection (6) of the last preceding section, then (whether or not the land in question or any part thereof would apart from the provisions of this subsection have had an original unexpended balance of established development value) for the purpose of determining whether at any time after the acquisition or sale the land in question or any part thereof has such a balance, but for no other purpose, it shall be deemed that immediately after the commencement of this Act a claim holding subsisted with an area consisting of the land in question and a value equal to seven-eighths of the amount of the difference.
- (4) In this section the expression " in the appropriate circumstances " means if the compulsory acquisition or the sale had been a compulsory acquisition in respect of which the said section thirty-one operated, and the expression " the relevant date " means the date of the service of the notice to treat or, as the case may be, the date of the making of the contract.