



# Land Compensation Act 1961

## 1961 CHAPTER 33 9 and 10 Eliz 2

### PART I

#### DETERMINATION OF QUESTIONS OF DISPUTED COMPENSATION

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

- C1** Pt. 1 (ss. 1-4) applied (with modifications) by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), s. 13(3), Sch. 3 paras. 4, 5; applied by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 35, Sch. 2 paras. 4(3), 7(3), 13(9), 14(8), 16(8), Sch. 4 para 4(5), **Sch. 5 Pt. III para. 6(2)**; applied by Dartford-Thurrock Crossing Act 1988 (c. 20, SIF 59), ss. 2(5), 3, Sch. 2 Pt. II para. 5(2), Sch. 3 paras 1(9), **2(5)**; applied (13.2.1992) by Severn Bridges Act 1992 (c. 3), ss. 2(6), 3, Sch. 2 Pt. II para. 4(2), Pt. III para. 7(7)(8), **Sch. 3 para. 1(6)**.
- Pt. 1 (ss. 1-4) applied (21.7.1994) by 1994 c. xi, **ss. 19(3)**, 20(4), 23(7), 29(3), 34(6), 41(3) (with s. 39)
- Pt. 1 (ss. 1-4) applied (21.7.1994) by 1994 c. xv, **ss. 10(2)(b)**, 22(g), 27(3), 34(7), 61(2)(3) (with s. 47)
- Pt. 1 (ss. 1-4) applied (11.11.1996) by S.I. 1996/2714, **arts. 10(4)**, 18(6), 21(5), 28(3), 29(6), 32(4), 40(4)
- Pt. 1 (ss. 1-4) applied (18.12.1996) by 1996 c. 61, s. 2, **Sch. 2 para. 8(2)(3)**
- Pt. 1 (ss. 1-4) applied (18.12.1996) by 1996 c. 61, s. 2, **Sch. 2 para. 10(8)**
- Pt. 1 (ss. 1-4) applied (18.12.1996) by 1996 c. 61, s. 3, **Sch. 3 para. 3(3)**
- Pt. 1 (ss. 1-4) applied (18.12.1996) by 1996 c. 61, s. 6, **Sch. 5 para. 1(5)(6)**
- Pt. 1 (ss. 1-4) applied (18.12.1996) by 1996 c. 61, s. 6, **Sch. 5 para. 4(7)(8)**
- Pt. 1 (ss. 1-4) applied (18.12.1996) by 1996 c.61, s. 6, **Sch. 5 para. 5(3)**
- Pt. 1 (ss. 1-4) applied (18.12.1996) by 1996 c. 61, s. 7(4)(5)
- Pt. 1 (ss. 1-4) applied (18.12.1996) by 1996 c. 61, s. 44, **Sch. 12 Pt. II**, para. 3(6)
- Pt. 1 (ss. 1-4) applied (10.2.1997) by S.I. 1997/264, **arts. 7(4)**, 14(10), 15(5), 16(6), 20(3), 24(3)
- Pt. 1 (ss. 1-4) applied (21.5.1997) by S.I. 1997/1266, **arts. 11(5)**, 19(6), 21(5), 30(6), 33(4) (with art. 41)
- Pt. 1 (ss. 1-4) applied (27.8.1998) by S.I. 1998/1936, **art. 11(6)**, 19(6), 21(1), 32(6), 33(7), 36(4) (with art. 45)
- Pt. 1 (ss. 1-4) applied (13.1.1999) by S.I. 1998/3269, **art. 9(5)**, 16(7), 18(4), 27(3)
- Pt. 1 (ss. 1-4) applied (19.2.1999) by S.I. 1999/537, **art. 10(6)**
- Pt. 1 (ss. 1-4) applied (30.4.1999) by S.I. 1999/1306, **arts. 1**, 12(5), 14(6), 15(7), 21(3)
- Pt. 1 (ss. 1-4) applied (18.5.1999) by S.I. 1999/1664, **arts. 8(4)**, 9(6), 10(7) (with art. 18)

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- Pt. 1 (ss. 1-4) applied (20.8.1999) by S.I. 1999/2336, **arts. 8(3)**, 9(7), 17(6), 20(3)
- Pt. 1 (ss. 1-4) applied (23.8.1999) by S.I. 1999/2981, **arts. 6(5)**, 13(10), 14(5), 20(6), 21(7), 24(3), 25(2), 27
- Pt. 1 (ss. 1-4) applied (3.6.1999) by S.I. 1999/1555, **art. 7(2)**
- Pt. 1 (ss. 1-4) applied (24.12.1999) by S.I. 2000/428, **art. 8(4)**
- Pt. 1 (ss. 1-4) applied (29.3.2001) by S.I. 2001/1347, **arts. 11(6)**, 19(10), 21(5), 27(3), 28(6), 29(7), 32(3) (with **arts. 15, 37, 38(2)**)
- Pt. 1 (ss. 1-4) applied (2.3.2001) by S.I. 2001/1368, **arts. 10(3)**, 13(4)
- Pt. 1 (ss. 1-4) applied (2.3.2001) by S.I. 2001/1369, **arts. 8(3)**, 11(4)
- Pt. 1 (ss. 1-4) applied (18.7.2001) by S.I. 2001/2870, **art. 10(7)**
- Pt. 1 (ss. 1-4) applied (24.7.2001) by S.I. 2001/3627, **arts. 11(6)**, 27(6), 29(10), 32(5)(6), 40(3), 41(6), 42(7)(8), 45(4), 55(3)(4)
- Pt. 1 (ss. 1-4) applied (9.11.2001) by S.I. 2001/3682, **arts. 7(4)(5)**, 15(10), 16(5), 22(3), 26(3)(4) (with **Sch. 12 para. 2**)
- Pt. 1 (ss. 1-4) applied (30.4.2002) by S.I. 2002/1065, **arts. 7(11)**, 8(4), 14(6), 15(7), 19(3)
- Pt. 1 (ss. 1-4) applied (12.8.2002) by S.I. 2002/1943, **arts. 8(4)**, 9(7) (with **art.9(8)(9)**)
- Pt. 1 (ss. 1-4) applied (31.5.2002) by S.I. 2002/1327, **arts. 10(2)**(subject to **Sch. 2, para. 5**), 15(5), 26(4)
- Pt. 1 (ss. 1-4) applied (14.3.2002) by S.I. 2002/412, **arts. 13(5)**, 19(3), 22(2), 28(3), (with saving in **art. 38**)
- Pt. 1 (ss. 1-4) applied (31.12.2002) by S.I. 2002/3127, **art. 7(3)** (with **arts. 16, 17**)
- C2** Pt. 1 (ss. 1-4) applied (28.4.2003) by Network Rail (West Coast Main Line) Order 2003 (S.I. 2003/1075), **arts. 1, 7(4)**, 9(2), 13(8), 30(6) (with **art. 40**)
- C3** Pt. 1 (ss. 1-4) applied (4.3.2004) by The Network Rail (West Coast Main Line) Order 2004 (S.I. 2004/389), **arts. 1, 7(4)**, 8(5), 9(5), 11(2), 12(8), 20(10), 21(5), 27(3), 28(7), 31(3) (with **art. 38**)
- C4** Pt. 1 (ss. 1-4) applied (2.4.2004) by Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), **arts. 1, 10(6)**, 19(10), 21(5), 29(3), 30(8) (with **arts. 30(9), 31(7), 32(5), 35(4)(5)**, **Sch. 12 para. 2**)
- C5** Pt. 1 (ss. 1-4) applied (19.11.2004) by Scarweather Sands Offshore Wind Farm Order 2004 (S.I. 2004/3054), **arts. 1, 6(6)**, 7(5), 21(5)(6) (with **art. 38**)
- C6** Pt. 1 (ss. 1-4) applied (28.1.2005) by East Midlands Parkway Station (Land Acquisition) Order 2005 (S.I. 2005/8), **arts. 1, 9(3)**
- C7** Pt. 1 (ss. 1-4) applied (11.2.2005) by Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), **arts. 1, 11(6)**, 19(8), 22(10), 25(5), 35(3), 36(6), 37(7), 40(4), 71(8) (with **arts. 65, 66**)
- C8** Pt. 1 (ss. 1-4) applied (22.3.2005) by Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), **arts. 12**, 13(6), 21(6), 23(6), 24(10), 26(5), 28(3), 33(3)(4), 34(6), 35(7), 36(8), 39(3), **Sch. 10 para. 2** (with **arts. 23(7), 24(9)(11), 34(7), 35(8), 39(4)(8), 51**)
- C9** Pt. 1 (ss. 1-4) applied (4.5.2005) by The Telford Railfreight Terminal (Donnington) Order 2005 (S.I. 2005/1163), **arts. 1, 9(5)**, 10(6), 12(8), 18(2)
- C10** Pt. 1 (ss. 1-4) applied (22.7.2005) by Midland Metro (Birmingham City Centre Extension, etc.) Order 2005 (S.I. 2005/1794), **arts. 1, 12(2)**, 20(6), 21(10), 23(5), 29(3), 30(6), 31(7), 32(7), 35(3) (with **arts. 21(11), 29(4), 30(7), 31(8), 35(4), 35(8), 47**)
- C11** Pt. 1 (ss. 1-4) applied (3.8.2005) by The Greater Manchester (Leigh Busway) Order 2005 (S.I. 2005/1918), **arts. 1, 41(4)**
- C12** Pt. 1 (ss. 1-4) applied (26.8.2005) by River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), **arts. 1, 14(10)**, 16(5), 27(6), 28(7), 31(4), 32(3) (with **arts. 45(1), 48, Sch. 10 paras. 21, 29**)
- C13** Pt. 1 (ss. 1-4) applied (8.10.2005) by Leicestershire County Council (Ashby de la Zouch Canal Extension) Order 2005 (S.I. 2005/2786), **arts. 1, 15(4)(5)**, 19(6)(7), 22
- C14** Pt. 1 (ss. 1-4) applied (25.11.2005) by Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), **arts. 1, 12(7)**, 20(10), 22(5), 29, 30(6), 31(7), 34(4), 38(4) (with **arts. 3(5), 15(3)**)
- C15** Pt. 1 (ss. 1-4) applied (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), **arts. 1, 10(4)**, 19(5), 27(3), 28(6), 29(7), 32(4), 43(3) (with **arts. 19(6), 28(7), 52**)
- C16** Pt. 1 (ss. 1-4) applied (3.7.2006) by Port of Blyth (Battleship Wharf Railway) Order 2006 (S.I. 2006/1518), **arts. 1, 9(4)**

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- C17** Pt. 1 (ss. 1-4) applied (14.9.2006) by [The Borough of Poole \(Poole Harbour Opening Bridges\) Order 2006 \(S.I. 2006/2310\)](#), arts. 1, **5(6)**, **8(4)**, 15(10), 16(5), 23(6), 24(7), 27, 28(2) (with arts. 23(7), 24(8), 28(3), 40, Sch. 7 para. 12)
- C18** Pt. 1 (ss. 1-4) applied (22.11.2006) by [Docklands Light Railway \(Stratford International Extension\) Order 2006 \(S.I. 2006/2905\)](#), arts. 1, **10(6)**, 11(6), 16(10), 18(5), 26(3), 27(6), 28(7), 31(4), 34(4) (with arts. 27(7), 28(8), 31(5), 43)
- C19** Pt. 1 (ss. 1-4) applied (13.12.2006) by [Luton Dunstable Translink Order 2006 \(S.I. 2006/3118\)](#), arts. 1, **9(6)**, **10(7)**, **16(10)**, **17(5)**, **23(3)**, **24(6)**, 27(3), 33(3)
- C20** Pt. 1 (ss. 1-4) applied (13.12.2006) by [The Network Rail \(Thameslink 2000\) Order 2006 \(S.I. 2006/3117\)](#), arts. 1, **15(8)**, 16(8), 22(10), 23(5), 28(3), 29(6), 32(3) (with arts. 34, 35(2))
- C21** Pt. 1 (ss. 1-4) applied (19.3.2007) by [Ouseburn Barrage Order 2007 \(S.I. 2007/608\)](#), arts. 1, **6(3)(4)**, 7(4)(5), 28(7), 31(4) (with arts. 46-48, Sch. 5 para. 2, Sch. 6 para. 23)
- C22** Pt. 1 (ss. 1-4) applied (23.8.2007) by [Docklands Light Railway \(Capacity Enhancement and 2012 Games Preparation\) Order 2007 \(S.I. 2007/2297\)](#), arts. 1, **9(6)**, 10(6), 14(5), 16(10), 18(5), 25(3), 26(6), 27(7), 30(4), 32(4) (with arts. 3(6), 12(3))
- C23** Pt. 1 (ss. 1-4) applied (28.9.2007) by [London Gateway Logistics and Commercial Centre Order 2007 \(S.I. 2007/2657\)](#), arts. 1, **12(3)** (with arts. 19, 28, Sch. 3 para. 13(2))
- C24** Pt. 1 (ss. 1-4) applied (17.12.2007) by [Felixstowe Dock and Railway Company \(Land Acquisition\) Order 2007 \(S.I. 2007/3345\)](#), arts. 1(1), **7(2)**
- C25** Pt. 1 (ss. 1-4) applied (16.5.2008) by [London Gateway Port Harbour Empowerment Order 2008 \(S.I. 2008/1261\)](#), arts. 1, **22(5)**, **32(2)** (with arts. 41(1), 45, 54(2), 55, 56, 57, 58(6))
- C26** Pt. 1 (ss. 1-4) applied (21.5.2008) by [Teesport \(Land Acquisition\) Order 2008 \(S.I. 2008/1238\)](#), arts. 1(1), **6(6)**, 8(4)
- C27** Pt. 1 (ss. 1-4) applied (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), s. **8(8)**, Sch. 2 paras. 7(2), 9(8), 10(6), Sch. 3 para. 3(3), Sch. 5 paras. 1(5), 3(3), 4(7), 5(4)
- C28** Pt. 1 (ss. 1-4) applied (14.10.2008) by [Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 \(S.I. 2008/2512\)](#), arts. 1, **8(6)**, 10(6), 17(6), 18(3), 20(10), 21(5), 26, 27(6), 28(7), 32(4), 35(3) (with arts. 21(6), 32(5), 36(3))
- C29** Pt. 1 (ss. 1-4) applied (29.12.2008) by [Network Rail \(Thameslink\) \(Land Acquisition\) Order 2008 \(S.I. 2008/3163\)](#), arts. 1, **12(3)**
- C30** Pt. 1 (ss. 1-4) applied (9.6.2009) by [Nottingham Express Transit System Order 2009 \(S.I. 2009/1300\)](#), arts. 1, **11(6)**, 12(6), 20(5), 22(10), 25(5), 35(3)(5), 36(6), 37(7), 41(4), 51(3), 76(8) (with arts. 25(6), 37(8), 41(5), 45(2), 51(3), Sch. 13 para. 14(2), Sch. 14 para. 19, Sch. 16)
- C31** Pt. 1 (ss. 1-4) applied (18.9.2009) by [London Underground \(Victoria Station Upgrade\) Order 2009 \(S.I. 2009/2364\)](#), arts. 1, 8(3), 9(8), 14(10), 16(5), 23(3), 24(6), 25(7), 29(4), 35(7)

## 1 **[<sup>F1</sup>Upper Tribunal to assess] compensation in respect of land compulsorily acquired.**

Where by or under any statute (whether passed before or after the passing of this Act) land is authorised to be acquired compulsorily, any question of disputed compensation and, where any part of the land to be acquired is subject to a lease which comprises land not acquired, any question as to the apportionment of the rent payable under the lease, shall be referred to the [<sup>F2</sup>Upper Tribunal] and shall be determined by the Tribunal in accordance with the following provisions of this Act.

### Textual Amendments

- F1** Words in s. 1 heading substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 37(a)** (with Sch. 5)

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**F2** Words in s. 1 substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 37(b)** (with Sch. 5)

**F3<sup>2</sup> Procedures on references under s. 1.**

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**Textual Amendments**

**F3** S. 2 omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 38** (with Sch. 5)

**F4<sup>3</sup> Consolidation of proceedings on claims in respect of several interests in the same land.**

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**Textual Amendments**

**F4** S. 3 omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 38** (with Sch. 5)

**4 Costs.**

[<sup>F5</sup>(A1) In any proceedings on a question referred to the Upper Tribunal under section 1 of this Act—

- (a) the following subsections apply in addition to section 29 of the Tribunals, Courts and Enforcement Act 2007 (costs or expenses) and provisions in Tribunal Procedure Rules relating to costs; and
- (b) to the extent that the following subsections conflict with that section or those provisions, that section or those provisions do not apply.]

(1) Where either—

- (a) the acquiring authority have made an unconditional offer in writing of any sum as compensation to any claimant and the sum awarded by the [<sup>F6</sup>Upper Tribunal] to that claimant does not exceed the sum offered; or
- (b) the [<sup>F6</sup>Upper Tribunal] is satisfied that a claimant has failed to deliver to the acquiring authority, in time to enable them to make a proper offer, a notice in writing of the amount claimed by him, containing the particulars mentioned in subsection (2) of this section;

the [<sup>F6</sup>Upper Tribunal] shall, unless for special reasons it thinks proper not to do so, order the claimant to bear his own costs and to pay the costs of the acquiring authority so far as they were incurred after the offer was made or, as the case may be, after the time when in the opinion of the [<sup>F6</sup>Upper Tribunal] the notice should have been delivered.

(2) The notice mentioned in subsection (1) of this section must state the exact nature of the interest in respect of which compensation is claimed, and give details of the compensation claimed, distinguishing the amounts under separate heads and showing how the amount claimed under each head is calculated.

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- (3) Where a claimant has delivered a notice as required by paragraph (b) of subsection (1) of this section and has made an unconditional offer in writing to accept any sum as compensation, then, if the sum awarded to him by the [<sup>F7</sup>Upper Tribunal] is equal to or exceeds that sum, the [<sup>F7</sup>Upper Tribunal] shall, unless for special reasons it thinks proper not to do so, order the acquiring authority to bear their own costs and pay the costs of the claimant so far as they were incurred after his offer was made.
- (4) The [<sup>F8</sup>Upper Tribunal] may in any case disallow the cost of counsel.
- (5) Where the [<sup>F9</sup>Upper Tribunal] orders the claimant to pay the costs, or any part of the costs, of the acquiring authority, the acquiring authority may deduct the amount so payable by the claimant from the amount of the compensation payable to him.
- <sup>F10</sup>(6) . . . . .

#### Textual Amendments

- F5** S. 4(A1) inserted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 39(a)** (with Sch. 5)
- F6** Words in s. 4(1) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 39(b)** (with Sch. 5)
- F7** Words in s. 4(3) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 39(b)** (with Sch. 5)
- F8** Words in s. 4(4) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 39(b)** (with Sch. 5)
- F9** Words in s. 4(5) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 39(b)** (with Sch. 5)
- F10** S. 4(6) omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 39(c)** (with Sch. 5)

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

- C32** S. 4 applied (with modifications) by Acts listed in [Chronological Table of the Statutes, Local Government, Planning and Land Act 1980 \(c. 65\)](#), **s. 167(9)**, [National Heritage Act 1983 \(c. 47, SIF 3, 78\)](#), **s. 36(10)** and [Mineral Workings Act 1985 \(c. 12, SIF 86\)](#), **ss. 7(13)**, 8(11); applied by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), **ss. 10(1)**, 112(3), Sch. 4 paras. 7(4), 11(3), **Sch. 17 para. 35(1)**; applied (with modifications) by [Water Act 1989 \(c. 15, SIF 130\)](#), **ss. 153(1)**, 155, Sch. 19 paras. 6(4)(7), 11, **Sch. 20 para. 8(6)**, (with **ss. 58(7)**, 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- C33** S. 4 applied (with modifications) (1.12.1991) by the [Water Industry Act 1991 \(c. 56, SIF 130\)](#), **ss. 167**, 180, 223(2), Sch. 11 para. 8(6), **Sch. 12 para. 3(1)** (with **ss. 82(3)**, 186(1), 222(1), Sch. 14 para. 6)
- S. 4 applied (with modifications) (1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#), **ss. 61 (5)**, 62(5), 168(3), 177, 225(2), Sch. 7 para. 5, Sch. 19 para. 8(6), Sch. 21 para. 3(1) (with **ss. 16(6)**, 179, 222(3), Sch. 22 para. 1, Sch. 23 para. 6)
- S. 4 applied (with modifications) (30.10.1994) by [S.I. 1994/2716](#), **art. 92(4)**
- S. 4 applied (with modifications) (30.10.1994) by [S.I. 1994/2716](#), **reg. 96(3)**
- S. 4 applied (1.6.1997) by [S.I. 1997/1160](#), **reg. 14(6)**
- S. 4 applied (with modifications) (1.10.1998) by [1975 c. 70](#), **Sch. 4 Pt. IV**, para. 15(4) (as inserted by [1998 c.38](#), **s. 127**, **Sch. 13 para. 3** (with **ss. 139(2)**, 143(2)); [S.I. 1998/2244](#), **art. 4**)
- S. 4 applied (with modifications) (1.4.1999) by [S.I. 1999/481](#), **reg. 8(4)**
- S. 4 applied (with modifications) (29.4.1999) by [S.I. 1999/1006](#), **reg. 7**, **Sch. para. 6**
- S. 4 applied (with modifications) (26.3.2001) by [2000 c. 26](#), **s. 95**, **Sch. 6 para. 5(2)**; [S.I. 2000/2957](#), **art. 2(3)**, **Sch. 3**
- S. 4 applied (with modifications) (1.4.2000) by [S.I. 2000/227](#), **reg. 6**, **Sch. 2 para. 6(4)**



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- S. 4 applied (with modifications) (W.) (1.7.2001) by S.I. 2001/2197, reg. 6, **Sch. 2 para. 6(4)**  
 S. 2 applied (22.3.2001) by 2001 c. ii, **s. 7(3)**
- C34** S. 4 applied (with modifications) (W.) (10.12.2006) by **The Contaminated Land (Wales) Regulations 2006 (S.I. 2006/2989)**, reg. 1(1), **Sch. 2 para. 6(4)**
- C35** S. 4 applied (with modifications) (26.11.2008 for specified purposes, 1.3.2010 in so far as not already in force) by **Planning Act 2008 (c. 29)**, **ss. 165(6)**, 241(1), 241(8) (with s. 226); S.I. 2010/101, art. 3(j) (with art. 6)
- C36** S. 4 applied (with modifications) (E.) (1.3.2009) by **Environmental Damage (Prevention and Remediation) Regulations 2009 (S.I. 2009/153)**, reg. 1(1), **Sch. 6 para. 7(2)**
- C37** S. 4(1)(a) applied (with modifications) by 1985 c. 68, s. 584B(6) (as substituted (6.4.2006 for E., 16.6.2006 for W.) by **Housing Act 2004 (c. 34)**, s. 270(4)(5)(f), **Sch. 15 para. 31**; S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.))
- C38** S. 4(4)-(6) applied (with modifications) by 1985 c. 68, s. 584B(6) (as substituted (6.4.2006 for E., 16.6.2006 for W.) by **Housing Act 2004 (c. 34)**, s. 270(4)(5)(f), **Sch. 15 para. 31**; S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.))

## PART II

### PROVISIONS DETERMINING AMOUNT OF COMPENSATION

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

- C39** Pt. II (ss. 5-16) applied (with modifications) (16.1.1995) by 1995 c. i, **s. 9(3)** (with **ss. 34, 35**)

#### *General provisions*

### 5 **Rules for assessing compensation.**

Compensation in respect of any compulsory acquisition shall be assessed in accordance with the following rules:

- (1) No allowance shall be made on account of the acquisition being compulsory:
- (2) The value of land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise:
- (3) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from <sup>F11</sup>. . . the requirements of any authority possessing compulsory purchase powers:
- (4) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the occupants of the premises or to the public health, the amount of that increase shall not be taken into account:
- (5) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the [<sup>F12</sup>Upper Tribunal] is satisfied that

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reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement:

- (6) The provisions of rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land:

and the following provisions of this part of this Act shall have effect with respect to the assessment.

#### Textual Amendments

- F11** Words in s. 5(3) repealed (25.9.1991, subject to the restrictions referred to in S.I. 1991/2067, art. 4, **Sch. 2 Pt. I para. 4**) by **Planning and Compensation Act 1991** (c. 34, SIF 28:1), ss. 70(a), 84(6), Sch. 15 Pt. I para. 1, **Sch. 19 Pt. III** (with s. 84(5)); S.I. 1991/2067, **art. 3**
- F12** Words in s. 5 substituted (1.6.2009) by **The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009** (S.I. 2009/1307), art. 1, **Sch. 1 para. 40** (with Sch. 5)

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

- C40** S. 5 applied (with modifications) by Acts listed in Chronological Table of the Statutes; and s. 5 modified by: **Agriculture Act 1967** (c. 22), s. **50(8)**; **Leasehold Reform Act 1967** (c. 88), ss. 29, 30, **Sch. 4 para. 3(5)**; S.I. 1976/1218, **art. 4**; and **Highways Act 1980** (c. 66), s. **261(6)**
- C41** S. 5 applied (with modifications) by **National Heritage Act 1983** (c. 47, SIF 3, 78), s. **36(10)**, **Water Act 1989** (c. 15, SIF 130), s. 155, **Sch. 20 para 8(7)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58), **Town and Country Planning Act 1990** (c. 8, SIF 123:1), s. **136(1)(a)** and **Aviation and Maritime Security Act 1990** (c. 31, SIF 39:2), s. 43(5), **Sch. 2 para. 4(a)**
- C42** S. 5 applied (with modifications) (1.12.1991) by **Water Industry Act 1991** (c. 56, SIF 130), ss. 167, 180, 223(2), Sch. 11 para. 8(7), **Sch. 12 para. 3(2)** (with ss. 82(3), 186(1), 222(1), Sch. 14 para. 6)  
S. 5 applied (with modifications) (1.12.1991) by **Water Resources Act 1991** (c. 57, SIF 130), ss. 61(6), 177, 225(2), Sch. 7 para. 5, **Sch. 21 para. 3(2)** (with ss. 16(6), 179, 222(3), Sch. 22 para. 1, Sch. 23 para. 6)  
S. 5 applied (with modifications) (30.10.1994) by S.I. 1994/2716, **regs. 91(5)**, 96(4)  
S. 5 applied (with modifications) (1.4.1999) by S.I. 1999/481, **reg. 7(2)**  
S. 5 applied (29.4.1999) by S.I. 1999/1006, **reg. 7**, **Sch. para. 5**  
S. 5 applied (with modifications) (1.8.2000) by S.I. 2000/1973, **reg. 12(13)**, **Sch. 6 para. 6(2)**  
S. 5 applied (1.4.2000) by S.I. 2000/227, **reg. 6**, **Sch. 2 para. 5(2)**  
S. 5 applied (with modifications) (W.) (1.7.2001) by S.I. 2001/2197, **reg. 6**, **Sch. 2 para. 5(2)**
- C43** S. 5 applied by 1985 c. 68, s. 584B(5) (as substituted (6.4.2006 for E., 16.6.2006 for W.) by **Housing Act 2004** (c. 34), s. 270(4)(5)(f), **Sch. 15 para. 31**; S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.))
- C44** S. 5 applied (with modifications) (E.) (4.8.2006) by **Contaminated Land (England) Regulations 2006** (S.I. 2006/1380), **reg. 1(1)**, **Sch. 2 para. 5(2)**
- C45** S. 5 applied (with modifications) (W.) (10.12.2006) by **The Contaminated Land (Wales) Regulations 2006** (S.I. 2006/2989), **reg. 1(1)**, **Sch. 2 para. 5(2)**
- C46** S. 5 applied (with modifications) (E.) (1.3.2009) by **Environmental Damage (Prevention and Remediation) Regulations 2009** (S.I. 2009/153), **reg. 1(1)**, **Sch. 6 para. 6(1)**
- C47** S. 5(2)(4) applied (5.11.1993) by 1993 c. 42, s. 21, **Sch. 7 para. 16(2)(a)**

#### [<sup>F13</sup>5A Relevant valuation date

- (1) If the value of land is to be assessed in accordance with rule (2) in section 5, the valuation must be made as at the relevant valuation date.

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- (2) No adjustment is to be made to the valuation in respect of anything which happens after the relevant valuation date.
- (3) If the land is the subject of a notice to treat, the relevant valuation date is the earlier of—
- (a) the date when the acquiring authority enters on and takes possession of the land, and
  - (b) the date when the assessment is made.
- (4) If the land is the subject of a general vesting declaration, the relevant valuation date is the earlier of—
- (a) the vesting date, and
  - (b) the date when the assessment is made,
- and “ general vesting declaration ” and “ vesting date ” have the meanings given in section 2 of the Compulsory Purchase (Vesting Declarations) Act 1981.
- (5) If the acquiring authority enters on and takes possession of part of the land—
- (a) specified in a notice of entry, or
  - (b) in respect of which a payment into court has been made,
- the authority is deemed, for the purposes of subsection (3)(a), to have entered on and taken possession of the whole of that land on that date.
- (6) Subsection (5) also applies for the purposes of calculating interest under the following enactments—
- (a) section 11(1) of the Compulsory Purchase Act 1965;
  - (b) paragraph 3 of Schedule 3 to that Act;
  - (c) section 85 of the Lands Clauses Consolidation Act 1845;
  - (d) section 52A of the Land Compensation Act 1973,
- and references there to the date or time of entry are to be construed accordingly.
- (7) An assessment by the <sup>[F14]</sup>Upper Tribunal] is treated as being made on the date certified by the Tribunal as—
- (a) the last hearing date before it makes its determination, or
  - (b) in a case to be determined without an oral hearing, the last date for making written submissions before it makes its determination.
- (8) Nothing in this section affects—
- (a) any express provision in any other enactment which requires the valuation of land subject to compulsory acquisition to be made at a particular date;
  - (b) the valuation of land for purposes other than the compulsory acquisition of that land (even if the valuation is to be made in accordance with the rules in section 5).
- (9) In this section—
- (a) a notice of entry is a notice under section 11(1) of the Compulsory Purchase Act 1965;
  - (b) a payment into court is a payment into court under Schedule 3 to that Act or under section 85 of the Lands Clauses Consolidation Act 1845.]



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#### Textual Amendments

- F13** S. 5A inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 103\(2\)](#); S.I. 2004/2593, art. 2(a)
- F14** Words in s. 5A(7) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\), art. 1, Sch. 1 para. 41](#) (with Sch. 5)

## 6 Disregard of actual or prospective development in certain cases.

- (1) Subject to section eight of this Act, no account shall be taken of any increase or diminution in the value of the relevant interest which, in the circumstances described in any of the paragraphs in the first column of Part I of the First Schedule to this Act, is attributable to the carrying out or the prospect of so much of the development mentioned in relation thereto in the second column of that Part as would not have been likely to be carried out if—
- (where the acquisition is for purposes involving development of any of the land authorised to be acquired) the acquiring authority had not acquired and did not propose to acquire any of the land; and
  - (where the circumstances are those described in one or more of paragraphs 2 to [F154B] in the said first column) the area or areas referred to in that paragraph or those paragraphs had not been defined or designated as therein mentioned.
- (2) The provisions of Part II of the First Schedule to this Act shall have effect with regard to paragraph 3 [F16and so far as applicable paragraph 3A] of Part I of that Schedule [F17and the provisions of Part III of that Schedule shall have effect with regard to paragraph 4A.]
- (3) In this section and in the First Schedule to this Act— “the land authorised to be acquired”—
- in relation to a compulsory acquisition authorised by a compulsory purchase order or a special enactment, means the aggregate of the land comprised in that authorisation, and
  - in relation to a compulsory acquisition not so authorised but effected under powers exercisable by virtue of any enactment for defence purposes, means the aggregate of the land comprised in the notice to treat and of any land contiguous or adjacent thereto which is comprised in any other notice to treat served under the like powers not more than one month before and not more than one month after the date of service of that notice;
- “defence purposes” has the same meaning as in the <sup>M1</sup>Land Powers (Defence) Act 1958;
- and any reference to development of any land shall be construed as including a reference to the clearing of that land.

#### Textual Amendments

- F15** “4B” substituted by virtue of [Housing Act 1988 \(c. 50, SIF 61\), s. 78\(4\)](#)
- F16** Words inserted by [New Towns Act 1966 \(c. 44\), Sch. Pt. I para. 3](#)
- F17** Words added by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 145\(3\)\(b\)](#)

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

- C48** S. 6 excluded by [Land Compensation Act 1973 \(c. 26\), s. 6\(3\)](#); modified *ibid.*, s. 51(2)

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**C49** S. 6 modified (retrospective to 23.11.1994) by [1996 c. 61, s. 46\(2\)\(4\)](#)

**Marginal Citations**

**M1** [1958 c. 30](#)

**7 Effect of certain actual or prospective development of adjacent land in same ownership.**

- (1) Subject to section eight of this Act, where, on the date of service of the notice to treat, the person entitled to the relevant interest is also entitled in the same capacity to an interest in other land contiguous or adjacent to the relevant land, there shall be deducted from the amount of the compensation which would be payable apart from this section the amount (if any) of such an increase in the value of the interest in that other land as is mentioned in subsection (2) of this section.
- (2) The said increase is such as, in the circumstances described in any of the paragraphs in the first column of Part I of the First Schedule to this Act, is attributable to the carrying out or the prospect of so much of the relevant development as would not have been likely to be carried out if the conditions mentioned in paragraphs (a) and (b) of subsection (1) of section six of this Act had been satisfied; and the relevant development for the purposes of this subsection is, in relation to the circumstances described in any of the said paragraphs, that mentioned in relation thereto in the second column of the said Part I, but modified, as respects the prospect of any development, by the omission of the words “other than the relevant land”, wherever they occur.

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

**C50** S. 7 excluded by [Land Compensation Act 1973 \(c. 26\), s. 6\(3\)](#); modified *ibid.*, s. 51(2)

**8 Subsequent acquisition of adjacent land and acquisition governed by enactment corresponding to s. 7.**

- (1) Where, for the purpose of assessing compensation in respect of a compulsory acquisition of an interest in land, an increase in the value of an interest in other land has, in any of the circumstances mentioned in the first column of Part I of the First Schedule to this Act, been taken into account by virtue of section seven of this Act or any corresponding enactment, then, in connection with any subsequent acquisition to which this subsection applies, that increase shall not be left out of account by virtue of section six of this Act, or taken into account by virtue of section seven of this Act or any corresponding enactment, in so far as it was taken into account in connection with the previous acquisition.
- (2) Where, in connection with the compulsory acquisition of an interest in land, a diminution in the value of an interest in other land has, in any of the circumstances mentioned in the first column of the said Part I, been taken into account in assessing compensation for injurious affection, then, in connection with any subsequent acquisition to which this subsection applies, that diminution shall not be left out of account by virtue of section six of this Act in so far as it was taken into account in connection with the previous acquisition.
- (3) Subsections (1) and (2) of this section apply to any subsequent acquisition where either—

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- (a) the interest acquired by the subsequent acquisition is the same as the interest previously taken into account (whether the acquisition extends to the whole of the land in which that interest previously subsisted or only to part of that land), or
- (b) the person entitled to the interest acquired is, or derives title to that interest from, the person who at the time of the previous acquisition was entitled to the interest previously taken into account;

and in this subsection any reference to the interest previously taken into account is a reference to the interest the increased or diminished value whereof was taken into account as mentioned in subsection (1) or subsection (2) of this section.

- (4) Where, in connection with a sale of an interest in land by agreement, the circumstances were such that, if it had been a compulsory acquisition, an increase or diminution of value would have fallen to be taken into account as mentioned in subsection (1) or subsection (2) of this section, the preceding provisions of this section shall apply, with the necessary modifications, as if that sale had been a compulsory acquisition and that increase or diminution of value had been taken into account accordingly.
- (5) Section seven of this Act shall not apply to any compulsory acquisition in respect of which the compensation payable is subject to the provisions of any corresponding enactment, nor to any compulsory acquisition in respect of which the compensation payable is subject to the provisions of any local enactment which provides (in whatever terms) that, in assessing compensation in respect of a compulsory acquisition thereunder, account shall be taken of any increase in the value of an interest in contiguous or adjacent land which is attributable to any of the works authorised by that enactment.
- (6) Where any such local enactment as is mentioned in subsection (5) of this section includes a provision restricting the assessment of the increase in value thereunder by reference to existing use (that is to say, by providing, in whatever terms, that the increase in value shall be assessed on the assumption that planning permission in respect of the contiguous or adjacent land in question would be granted for development of any class specified in [<sup>F18</sup>Schedule 8 to the <sup>M2</sup>Town and Country Planning Act 1971], but would not be granted for any other development thereof), the enactment shall have effect as if it did not include that provision.
- (7) References in this section to a corresponding enactment are references to any of the following, that is to say,—
  - (a) section thirteen of the <sup>M3</sup>Light Railways Act 1896;
  - (b) .....<sup>F19</sup>
  - [<sup>F20</sup>(c) section 261(1) of the <sup>M4</sup>Highways Act 1980 (or its predecessor, section 222(6) of the <sup>M5</sup>Highways Act 1959);]
  - (d) .....<sup>F21</sup>

and, in subsection (1), includes references to any such local enactment as is mentioned in subsection (5).

#### Textual Amendments

- F18** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\)](#), [Sch. 24 para. 2](#)
- F19** S. 8(7)(b) repealed by [Miscellaneous Financial Provisions Act 1983 \(c. 29, SIF 99:1\)](#), [Sch. 3](#)
- F20** S. 8(7)(c) substituted by [Highways Act 1980 \(c. 66\)](#), [Sch. 24 para. 8](#)
- F21** S. 8(7)(d) repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, [Sch. 1 Pt. I](#)

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

**C51** S. 8 applied (with modifications) (30.10.1994) by [S.I. 1994/2716](#), [reg. 97](#)

**Marginal Citations**

**M2** 1971 c. 78.

**M3** 1896 c. 48.

**M4** 1980 c. 66.

**M5** 1959 c. 25.

**9 Disregard of depreciation due to prospect of acquisition by authority possessing compulsory purchase powers.**

No account shall be taken of any depreciation of the value of the relevant interest which is attributable to the fact that (whether by way of . . . <sup>F22</sup>allocation of other particulars contained in the current development plan, or by any other means) an indication had been given that the relevant land is, or is likely, to be acquired by an authority possessing compulsory purchase powers.

**Textual Amendments**

**F22** Word repealed by [Town and Country Planning Act 1968 \(c. 72\)](#), [Sch. 11](#)

*Special Cases*

**10** ..... <sup>F23</sup>

**Textual Amendments**

**F23** S. 10 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), [Sch. 12 Pt. II](#)

**[10A** <sup>F24</sup>**Expenses of owners not in occupation.**

Where, in consequence of any compulsory acquisition of land—

- (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.]

**Textual Amendments**

**F24** S. 10A inserted (25.9.1991, subject to the restrictions referred to in [S.I. 1991/2067](#), [art. 4](#), [Sch. 2 Pt. I para. 4](#)) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70(a), [Sch. 15 Pt. I para. 2](#) (with s. 84(5)); [S.I. 1991/2067](#), [art.3](#)

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## 11 Land of statutory undertakers.

In relation to compulsory acquisitions of interest in land which has been acquired by statutory undertakers (within the meaning of [F25]the Town and Country Planning Act 1971) for the purposes of their undertaking, the provisions of this Act shall have effect subject to the provisions of subsection (5) of section forty-five of that Act (which makes special provision as to the compensation payable in respect of certain acquisitions of land so acquired).

### Textual Amendments

**F25** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\)](#), [Sch. 24 para. 2](#)

### Modifications etc. (not altering text)

**C52** S. 11 extended by [Post Office Act 1969 \(c. 48\)](#), [Sch. 4 para. 93\(1\)](#) and by [Civil Aviation Act 1982 \(c. 16, SIF 9\)](#), s. 19(2), [Sch. 2 para. 4](#)

**C53** S. 11 modified (1.4.2001) by [2000 c. 38, s. 37](#), [Sch. 5 para. 1\(2\)\(g\)](#) (with s. 106); [S.I. 2001/869, art. 2](#)

## 12 Outstanding right to compensation for refusal etc. of planning permission.

(1) Where, in the case of any compulsory acquisition, a planning decision or order has been made before the service of the notice to treat, and in consequence of the decision or order any person is entitled (subject to the making and determination of a claim in accordance with the relevant provisions, and to the effect of any direction by the Minister under section twenty-three or section forty-five of the <sup>M6</sup>Town and Country Planning Act 1954) to compensation for depreciation of the value of an interest in land which consists of or includes the whole or part of the relevant land, then if—

- (a) no notice stating that the compensation has become payable has been registered before the date of service of the notice to treat (whether or not a claim for compensation has been made); but
- (b) such a notice is registered on or after that date;

the compensation payable in respect of the compulsory acquisition shall be assessed as if the said notice had been registered before the date of service of the notice to treat and had remained on the register of local land charges on that date.

(2) In this section any reference to compensation for depreciation of the value of an interest in land is a reference to compensation payable either—

- (a) under Part II or Part V of the <sup>M7</sup>Town and Country Planning Act 1954, in respect of depreciation of the value of that interest, or
- (b) under subsection (1) of section twenty-two of the <sup>M8</sup>Town and Country Planning Act 1947, in respect of loss or damage consisting of depreciation of the value of that interest;

any reference to registration is a reference to registration in the register of local land charges under subsection (5) of section twenty-eight of the Act of 1954, or under the provisions of that subsection as applied by section thirty-nine or section forty-six of that Act; and “the relevant provisions”, in relation to compensation under the said Part II or the said Part V, means the provisions of the said Part II, or those provisions as applied by the said Part V, and, in relation to compensation under the said subsection (1), means the provisions of regulations made under the said Act of 1947 with respect to claims for compensation under that subsection.

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

- C54** References to [Town and Country Planning Act 1954 \(c. 72\)](#), **ss. 23**, 28(5) and 39 and Pts. II and V to be construed as references to [Town and Country Planning Act 1971 \(c. 78\)](#), **ss. 36**, 158(5) and 166 and Pt. VIII: *ibid.*, Sch. 24 Pts. I, VII
- C55** S. 12 applied (with modifications) (30.10.1994) by [S.I. 1994/2716](#), **reg. 97**
- C56** Reference to [Town and Country Planning Act 1947 \(c. 51\)](#), **s. 22(1)** to be construed as reference to [Town and Country Planning Act 1971 \(c. 78\)](#), **s. 166**: *ibid.*, Sch. 24 para. 2

#### **Marginal Citations**

- M6** 1954 c. 72.  
**M7** 1954 c. 72.  
**M8** 1947 c. 51.

13

F26

#### **Textual Amendments**

- F26** S. 13 repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(1), **Sch. 1 Pt. VII**

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

- C57** S. 13 applied (2.4.2004) by [Docklands Light Railway \(Woolwich Arsenal Extension\) Order 2004 \(S.I. 2004/757\)](#), arts. 1, **31(10)**
- C58** S. 13 applied (25.11.2005) by [Docklands Light Railway \(Capacity Enhancement\) Order 2005 \(S.I. 2005/3105\)](#), arts. 1, **31(10)** (with arts. 3(5), 15(3))

### *Assumptions as to planning permission*

#### **14 Assumptions as to planning permission.**

- (1) For the purpose of assessing compensation in respect of any compulsory acquisition, such one or more of the assumptions mentioned in sections fifteen and sixteen of this Act as are applicable to the relevant land or any part thereof shall [<sup>F27</sup>(subject to subsection (3A) of this section)] be made in ascertaining the value of the relevant interest.
- (2) Any planning permission which is to be assumed in accordance with any of the provisions of those sections is in addition to any planning permission which may be in force at the date of service of the notice to treat.
- (3) Nothing in those provisions shall be construed as requiring it to be assumed that planning permission would necessarily be refused for any development which is not development for which, in accordance with those provisions, the granting of planning permission is to be assumed;

<sup>F28</sup>[(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



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- (b) whether any of the assumptions mentioned in section 16 of this Act (but not section 15) 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 III of this Act.]
- (4) For the purposes of any reference in this section, or in section fifteen of this Act, to planning permission which is in force on the date of service of the notice to treat, it is immaterial whether the planning permission in question was granted—
- unconditionally or subject to conditions, or
  - in respect of the land in question taken by itself or in respect of an area including that land, or
  - on an ordinary application or on an outline application or by virtue of a development order,
- or is planning permission which, in accordance with any direction or provision given or made by or under any enactment, is deemed to have been granted.
- <sup>F29</sup>(5) If, in a case where—
- the relevant land is to be acquired for use for or in connection with the construction of a highway, or
  - 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.
- (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 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
  - 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.]

#### Textual Amendments

**F27** Words in s. 14(1) inserted (25.9.1991, subject to the restrictions referred to in S.I. 1991/2067, art. 4, **Sch. 2 Pt. II para. 5(1)**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 70(b), **Sch. 15 Pt. II para. 15(1)** (with s. 84(5)); S.I. 1991/2067, **art.3**

**F28** S. 14(3A) substituted for words in s. 14(3) (25.9.1991, subject to the restrictions referred to in S.I. 1991/2067, art. 4, **Sch. 2 Pt. II para. 5(1)**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 70(b), **Sch. 15 Pt. II para. 15(2)** (with s. 84(5)); S.I. 1991/2067, **art.3**

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**F29** S. 14(5)-(8) added (25.9.1991, subject to the restrictions referred to in S.I. 1991/2067, art. 4, **Sch. 2 Pt. I para. 2**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), **s.64** (with s. 84(5)); S.I. 1991/2067, **art.3**

## 15 Assumptions not directly derived from development plans.

(1) In a case where—

- (a) the relevant interest is to be acquired for purposes which involve the carrying out of proposals of the acquiring authority for development of the relevant land or part thereof, and
- (b) on the date of service of the notice to treat there is not in force planning permission for that development,

it shall be assumed that planning permission would be granted, in respect of the relevant land or that part thereof, as the case may be, such as would permit development thereof in accordance with the proposals of the acquiring authority.

(2) For the purposes of paragraph (b) of the preceding subsection, no account shall be taken of any planning permission so granted as not to enure (while the permission remains in force) for the benefit of the land and of all persons for the time being interested therein.

<sup>F30</sup>(3) Subject to subsection (4) of this section, it shall be assumed that, in respect of the relevant land or any part of it, planning permission would be granted—

- (a) subject to the condition set out in Schedule 10 to the Town and Country Planning Act 1990, for any development of a class specified in paragraph 1 of Schedule 3 to that Act; and
- (b) for any development of a class specified in paragraph 2 of Schedule 3 to that Act.]

(4) Notwithstanding anything in subsection (3) of this section—

- <sup>F31</sup>(a) .....
- <sup>F31</sup>(b) .....

(c) where, at any time before the said date, an order was made under [<sup>F32</sup>section 51 of the said Act of 1971], in respect of the relevant land or any part thereof, requiring the removal of any building or the discontinuance of any use, and compensation became payable in respect of that order under [<sup>F32</sup>section 170] of that Act, it shall not by virtue of the said subsection (3) be assumed that planning permission would be granted, in respect of the relevant land or that part thereof, as the case may be, for the rebuilding of that building or the resumption of that use.

(5) Where a certificate is issued under the provisions of Part III of this Act, it shall be assumed that any planning permission which, according to the certificate, [<sup>F33</sup>would have been] granted in respect of the relevant land or part thereof [<sup>F34</sup>if it were not proposed to be acquired by any authority possessing compulsory purchase powers] would be so granted, but, where any conditions are, in accordance with those provisions, specified in the certificate, only subject to those conditions and, if any future time is so specified, only at that time.

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### Textual Amendments

- F30** S. 15(3) substituted (25.7.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 31(4), [Sch. 6 para. 1\(1\)\(a\)\(2\)](#) (with s. 84(5))
- F31** S. 15(4)(a)(b) repealed (25.7.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), ss. 31(4), 84(6), [Sch. 6 para. 1\(1\)\(b\)\(2\)](#), [Sch. 19 Pt.II](#) (with s. 84(5))
- F32** Words in s. 15(4)(c) substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\)](#), [Sch. 24 para. 2](#)
- F33** Words substituted by [Community Land Act 1975 \(c. 77\)](#), [Sch. 10 para. 4\(2\)\(5\)](#); continued by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 33 para. 5\(1\)\(3\)\(5\)](#) in relation to applications, or certificates issued in pursuance of applications, made after 12.12.1975
- F34** Words inserted by [Community Land Act 1975 \(c. 77\)](#), [Sch. 10 para. 4\(2\)\(5\)](#); continued by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 33 para. 5\(1\)\(3\)\(5\)](#) in relation to applications or certificates issued in pursuance of applications, made after 12.12.1975

## 16 Special assumptions in respect of certain land comprised in development plans.

- (1) If the relevant land or any part thereof (not being land subject to comprehensive development) consists or forms part of a site defined in the current development plan as the site of proposed development of a description specified in relation thereto in the plan, it shall be assumed that planning permission would be granted for that development.
- (2) If the relevant land or any part thereof (not being land subject to comprehensive development) consists or forms part of an area shown in the current development plan as an area allocated primarily for a use specified in the plan in relation to that area, it shall be assumed that planning permission would be granted, in respect of the relevant land or that part thereof, as the case may be, for any development which—
  - (a) is development for the purposes of that use of the relevant land or that part thereof, and
  - (b) is development for which planning permission might reasonably have been expected to be granted in respect of the relevant land or that part thereof, as the case may be.
- (3) If the relevant land or any part thereof (not being land subject to comprehensive development) consists or forms part of an area shown in the current development plan as an area allocated primarily for a range of two or more uses specified in the plan in relation to the whole of that area, it shall be assumed that planning permission would be granted, in respect of the relevant land or that part thereof, as the case may be, for any development which—
  - (a) is development for the purposes of a use of the relevant land or that part thereof, being a use falling within that range of uses, and
  - (b) is development for which planning permission might reasonably have been expected to be granted in respect of the relevant land or that part thereof, as the case may be.
- (4) If the relevant land or any part thereof is land subject to comprehensive development, it shall be assumed that planning permission would be granted, in respect of the relevant land or that part thereof, as the case may be, for any development for the purposes of a use of the relevant land or that part thereof falling within the planned range of uses (whether it is the use which, in accordance with the particulars and proposals comprised in the current development plan in relation to the area in question,

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is indicated in the plan as the proposed use of the relevant land or that part thereof, or is any other use falling within the planned range of uses) being development for which, in the circumstances specified in the next following subsection, planning permission might reasonably have been expected to be granted in respect of the relevant land or that part thereof, as the case may be.

(5) The circumstances referred to in the last preceding subsection are those which would have existed if—

- (a) the area in question had not been defined in the current development plan as an area of comprehensive development, and no particulars or proposals relating to any land in that area had been comprised in the plan, and
- (b) in a case where, on the date of service of the notice to treat, land in that area has already been developed in the course of the development or redevelopment of the area in accordance with the plan, no land in that area had been so developed on or before that date;

and in that subsection “the planned range of uses” means the range of uses which, in accordance with the particulars and proposals comprised in the current development plan in relation to the area in question, are indicated in the plan as proposed uses of land in that area.

(6) Where in accordance with any of the preceding subsections it is to be assumed that planning permission would be granted as therein mentioned—

- (a) the assumption shall be that planning permission would be so granted subject to such conditions (if any) as, in the circumstances mentioned in the subsection in question, might reasonably be expected to be imposed by the authority granting the permission, and
- (b) if, in accordance with any map or statement comprised in the current development plan, it is indicated that any such planning permission would be granted only at a future time, then (without prejudice to the preceding paragraph) the assumption shall be that the planning permission in question would be granted at the time when, in accordance with the indications in the plan, that permission might reasonably be expected to be granted.

(7) Any reference in this section to development for which planning permission might reasonably have been expected to be granted is a reference to development for which planning permission might reasonably have been expected to be granted if no part of the relevant land were proposed to be acquired by any authority possessing compulsory purchase powers.

(8) In this section “land subject to comprehensive development” means land which consists or forms part of an area defined in the current development plan as an area of comprehensive development.

### PART III

#### CERTIFICATION BY PLANNING AUTHORITIES OF APPROPRIATE ALTERNATIVE DEVELOPMENT

#### **[<sup>F35</sup>17 Certification of appropriate alternative development.**

- <sup>F36</sup>[ Where an interest in land is proposed to be acquired by an authority possessing (1) compulsory purchase powers, either of the parties directly concerned may, subject to

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subsection (2) of this section, apply to the local planning authority for a certificate under this section.]

- (2) [<sup>F37</sup>If the authority proposing to acquire the interest] have served a notice to treat in respect thereof, or an agreement has been made for the sale thereof to that authority, and a reference has been made to the [<sup>F38</sup>Upper Tribunal] to determine the amount of the compensation payable in respect of that interest, no application for a certificate under this section shall be made by either of the parties directly concerned after the date of that reference except either—
- (a) with the consent in writing of the other of those parties, or
  - (b) with the leave of the [<sup>F38</sup>Upper Tribunal].
- (3) An application for a certificate under this section—
- (a) shall state whether or not there are, in the applicant’s opinion, any classes of development which, either immediately or at a future time, would be appropriate for the land in question if it were not proposed to be acquired by any authority possessing compulsory purchase powers and, if so, shall specify the classes of development and the times at which they would be so appropriate;
  - (b) shall state the applicant’s grounds for holding that opinion; and
  - (c) shall be accompanied by a statement specifying the date on which a copy of the application has been or will be served on the other party directly concerned.
- (4) Where an application is made to the local planning authority for a certificate under this section in respect of an interest in land, the local planning authority shall, not earlier than twenty-one days after the date specified in the statement mentioned in paragraph (c) of subsection (3) of this section, issue to the applicant a certificate stating either of the following to be the opinion of the local planning authority regarding the grant of planning permission in respect of the land in question, if it were not proposed to be acquired by an authority possessing compulsory purchase powers, that is to say—
- <sup>F39</sup> [ that planning permission would have been granted for development of one or
    - (a) 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,
- 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.]
- (5) Where, in the opinion of the local planning authority, planning permission would have been granted as mentioned in paragraph (a) of subsection (4) of this section, but would only have been granted subject to conditions, or at a future time, or both subject to conditions and at a future time, the certificate shall specify those conditions, or that future time, or both, as the case may be, in addition to the other matters required to be contained in the certificate.
- (6) For the purposes of subsection (5) of this section, a local planning authority may formulate general requirements applicable to such classes of case as may be described therein; and any conditions required to be specified in the certificate in accordance with that subsection may, if it appears to the local planning authority to be convenient

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to do so, be specified by reference to those requirements, subject to such special modifications thereof (if any) as may be set out in the certificate.

- (7) In determining, for the purposes of the issue of a certificate under this section, whether planning permission for any particular class of development would have been granted in respect of any land, the local planning authority shall not treat development of that class as development for which planning permission would have been refused by reason only that it would have involved development of the land in question (or of that land together with other land) otherwise than in accordance with the provisions of the development plan relating thereto.

<sup>F40</sup>(8) .....

- (9) On issuing to one of the parties directly concerned a certificate under this section in respect of an interest in land, the local planning authority shall serve a copy of the certificate on the other of those parties.]

<sup>F41</sup>[(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).]

[<sup>F42</sup>(10) For the purposes of this section and sections 18 to 20 of this Act, the Broads Authority shall be the sole district planning authority in respect of the Broads.

- (11) In subsection (10) above “the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988]

#### Textual Amendments

- F35** S. 17 substituted by virtue of [Community Land Act 1975 \(c. 77\)](#), s. 47(1), [Sch. 9](#); continued by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 121, [Sch. 24 Pt. I](#) in relation to applications, and certificates issued in pursuance of applications, made after 12.12.1975
- F36** S. 17(1) substituted (25.9.1991, subject to the restrictions referred to in [S.I. 1991/2067](#), art. 4, [Sch. 2 Pt. II para. 3](#)) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 65(1) (with s. 84(5)); [S.I. 1991/2067](#), [art.3](#)
- F37** Words in s. 17(2) substituted (25.9.1991, subject to the restrictions referred to in [S.I. 1991/2067](#), art. 4, [Sch. 2 Pt. II para. 5\(1\)](#)) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70(b), [Sch. 15 Pt. II para. 16\(a\)](#) (with s. 84(5)); [S.I. 1991/2067](#), [art. 3](#)
- F38** Words in s. 17(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 42](#) (with Sch. 5)
- F39** S. 17(4)(a)(b) and additional words substituted (25.9.1991, subject to the restrictions referred to in [S.I. 1991/2067](#), art. 4, [Sch. 2 Pt. II para. 3](#)) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 65(2) (with s. 84(5)); [S.I. 1991/2067](#), [art.3](#)
- F40** S. 17(8) repealed (25.9.1991, subject to the restrictions referred to in [S.I. 1991/2067](#), art. 4, [Sch. 2 Pt. II paras. 5\(1\), 7\(2\)](#)) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), ss. 70(b), 84(6), [Sch. 15 Pt. II para. 16\(b\)](#), [Sch. 19 Pt. III](#) (with s. 84(5)); [S.I. 1991/2067](#), [art. 3](#)
- F41** S. 17(9A) inserted (25.9.1991, subject to the restrictions referred to in [S.I. 1991/2067](#), art. 4, [Sch. 2 Pt. II para. 3](#)) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 65(3) (with s. 84(5)); [S.I. 1991/2067](#), [art. 3](#)
- F42** S. 17(10)(11) added by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), s. 2(5), [Sch. 3 Pt. I para. 3](#)



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- C59** S. 17 amended (except as to Greater London) by [Local Government Act 1972 \(c. 70\)](#), s. 182(3), [Sch. 16 para. 55](#)
- C60** S. 17(2) modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 141, [Sch. 27 paras. 9, 11](#) and by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 76(5)(6), [Sch. 9 Pt. II para. 8](#)
- S. 17(2) modified (10.11.1993) by [1993 c. 28](#), s. 161(4), [Sch. 19 para.3](#); [S.I. 1993/2762](#), [art.3](#)

**18 Appeals against certificates under s. 17.**

- (1) Where the local planning authority have issued a certificate under section seventeen of this Act in respect of an interest in land,—
- (a) the person for the time being entitled to that interest, or
  - (b) any authority possessing compulsory purchase powers by whom that interest is proposed to be acquired,
- may appeal to the Minister against that certificate.
- (2) On any appeal under this section against a certificate the Minister shall consider the matters to which the certificate relates as if the application for a certificate under section seventeen of this Act had been made to him in the first instance, and shall either confirm the certificate, or vary it, or cancel it and issue a different certificate in its place, as he may consider appropriate.
- (3) Before determining any such appeal the Minister shall, if any such person or authority as is mentioned in paragraph (a) or paragraph (b) of subsection (1) of this section so desires, afford to each such person or authority and to the local planning authority an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.
- (4) Where an application is made for a certificate under section seventeen of this Act, and at the expiry of the time prescribed by a development order for the issue thereof (or, if an extended period is at any time agreed upon in writing by the parties and the local planning authority, at the end of that period) no certificate has been issued by the local planning authority in accordance with that section, the preceding provisions of this section shall apply as if the local planning authority had issued such a certificate containing such a statement as is mentioned in paragraph (b) of subsection (4) of that section.

**19 Extension of ss. 17 and 18 to special cases.**

- (1) Where an interest in land is proposed to be acquired [<sup>F43</sup>by an authority possessing compulsory purchase powers], and, by reason that the person entitled to the interest is absent from the United Kingdom or cannot be found, the compensation payable in respect of the interest falls to be determined by the valuation of a surveyor under section fifty-eight of the <sup>M9</sup>Lands Clauses Consolidation Act 1845, the surveyor, before carrying out his valuation, may apply to the local planning authority for a certificate under the said section seventeen; and the provisions of that section and of section eighteen of this Act shall apply in relation to an application made by virtue of this subsection as they apply in relation to an application made by virtue of subsection (1) of the said section seventeen.

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- (2) Where, in pursuance of an application made by virtue of subsection (1) of this section, the local planning authority issue a certificate to the surveyor, the authority shall serve copies of the certificate on both the parties directly concerned.
- (3) An application for a certificate made by virtue of subsection (1) of this section shall specify the matters referred to in [F44 paragraphs (a) and (b)] of subsection (3) of the said section seventeen, and shall be accompanied by a statement specifying the date on which a copy of the application has been or will be served on each of the parties directly concerned; and, in relation to such an application, subsection (4) of that section shall have effect with the substitution, for the reference to the date specified in the statement mentioned in [F44 paragraph (c)] of the said subsection (3), of a reference to the date specified in accordance with this subsection, or, where more than one date is so specified, the later of those dates.

#### Textual Amendments

- F43** Words in s. 19(1) substituted (25.9.1991, subject to the restrictions referred to in S.I. 1991/2067 , art. 4 , **Sch. 2 Pt. II para. 5(1)** ) by Planning and Compensation Act 1991 (c. 34, SIF 28:1) , s. 70(b) , **Sch. 15 Pt. II para.17** (with s. 84(5) ); S.I. 1991/2067 , **art.3**
- F44** Words substituted by Community Land Act 1975 (c. 77) , **Sch. 10 para. 4(3)(5)** ; continued by Local Government, Planning and Land Act 1980 (c. 65) , **Sch. 33 para. 5(1)(4)(5)** in relation to applications, or certificates issued in pursuance of applications, made after 12.12.1975

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

- C61** S. 19(1) amended by Compulsory Purchase Act 1965 (c. 56) , **Sch. 7**

#### Marginal Citations

- M9** 1845 c. 18.

## 20 Power to prescribe matters relevant to Part III.

The provisions which may be made by a development order shall include provision for regulating the manner in which applications under section seventeen or nineteen of this Act and appeals under section eighteen of this Act are to be made and dealt with respectively, and in particular—

- (a) for prescribing (subject to the provisions of subsection (4) of section seventeen of this Act) the time within which a certificate is required to be issued under that section;
- (b) for prescribing the manner in which notices of appeals under section eighteen of this Act are to be given, and the time for giving any such notice;
- (c) for requiring local planning authorities to furnish the Minister, and such other persons (if any) as may be prescribed by or under the order, with such information as may be so prescribed with respect to applications under the said section seventeen or the said section nineteen, including information whether any such application has been made in respect of any particular land and information as to the manner in which any such application has been dealt with, together, in such cases as may be so prescribed, with copies of certificates issued under the said section seventeen;
- (d) for requiring a local planning authority, on issuing a certificate specifying conditions by reference to general requirements in accordance with subsection (6) of the said section seventeen, to supply a copy of those

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requirements (or of so much thereof as is relevant to the certificate) with each copy of the certificate, unless, before the certificate is issued, the requirements in question have been made available to the public in such manner as may be specified in the development order.

## 21 Proceedings for challenging validity of decision on appeal under s. 18.

- (1) If any person aggrieved by a decision of the Minister under section eighteen of this Act or the local planning authority desires to question the validity of that decision on the ground that it is not within the powers of this Act or that any of the requirements of this Act or of a development order or of [<sup>F45</sup>the Tribunals and Inquiries Act 1992 (or any enactment replaced thereby)] or rules made thereunder have not been complied with in relation to it, that person or authority may, within six weeks from the date of the decision, make an application to the High Court, and the High Court—
  - (a) may by interim order suspend the operation of the decision until the determination of the proceedings;
  - (b) if satisfied that the decision is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with the said requirements, may quash the decision.
- (2) Subject to subsection (1) of this section, the validity of a decision on an appeal under section eighteen of this Act shall not be questioned in any legal proceedings whatsoever.
- (3) Nothing in this section shall effect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Minister to give a decision on an appeal under section eighteen of this Act.

### Textual Amendments

**F45** Words in s. 21(1) substituted (1.10.1992) by virtue of [Tribunal and Inquiries Act 1992 \(c. 53\)](#), ss. 18(1), 19(2), [Sch. 3 para.1](#)

## 22 Interpretation of Part III.

- (1) In this Part of this Act “the parties directly concerned”, in relation to an interest in land, means the person entitled to the interest and the authority by whom it is proposed to be acquired.
- (2) For the purposes of sections seventeen and eighteen of this Act, an interest in land shall be taken to be an interest proposed to be acquired by an authority possessing compulsory purchase powers in the following (but no other) circumstances, that is to say—
  - (a) where, for the purposes of a compulsory acquisition by that authority of land consisting of or including land in which that interest subsists, a 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, has been published or served in accordance with that Act or Order; or
  - (b) where a notice requiring the purchase of that interest has been served under any enactment, and in accordance with that enactment that authority are to be deemed to have served a notice to treat in respect of that interest; or

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- (c) where an offer in writing has been made by or on behalf of that authority to negotiate for the purchase of that interest.

<sup>F46</sup>(3) .....

#### Textual Amendments

**F46** S. 22(3) repealed (25.9.1991, subject to the restrictions referred to in S.I. 1991/2067 , art. 4 , Sch. 2 Pt. II paras. 5(1) , 7(2) ) by Planning and Compensation 1991 (c. 34, SIF 28:1) , ss. 70(b) , 84(6) , Sch. 15 Pt. II para. 18 , **Sch. 19 Pt.III** (with s. 84(5)) ; S.I. 1991/2067 , **art.3**

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

**C62** S. 22 modified by Local Government, Planning and Land Act 1980 (c. 65) , s. 141 , Sch. 27 paras. 9 , 12

**C63** S. 22(2) modified by Housing Act 1988 (c. 50, SIF 61) , s. 76(5)(6) , **Sch. 9 Pt. II para. 9(a)**  
 S. 22(2) modified (10.11.1993) by 1993 c. 28 , s. 161(4) , **Sch. 19 para.4** ; S.I. 1993/2762 , **art.3**

## [<sup>F47</sup>PART IV

### COMPENSATION WHERE PERMISSION FOR ADDITIONAL DEVELOPMENT GRANTED AFTER ACQUISITION

#### Textual Amendments

**F47** Part IV (ss. 23-29) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:1) , s. 66, **Sch. 14 para.1** (with s. 84(5)) ; S.I. 1991/2067, **art. 3**

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

**C64** Part IV (ss. 23-29) restricted (10.11.1993) by 1993 c. 28, s. 161(6); S.I. 1993/2762, **art.3**

**C65** Pt. IV (ss. 23-29) excluded (25.11.1998 for specified purposes and otherwise 3.7.2000) by 1998 c. 45, s. 19(8); S.I. 1998/2952, **art. 2(2)**; S.I. 2000/1173, **art. 2(2)(c)**

## <sup>F48</sup> 23 Compensation where planning decision made after acquisition.

(1) Where—

- (a) any interest in land is compulsorily acquired or is sold to an authority possessing compulsory purchase powers and, before the end of the period of ten years beginning with the date of completion, a planning decision is made granting permission for the carrying out of additional development of any of the land; and
- (b) the principal amount of the compensation which was payable in respect of the compulsory acquisition or, in the case of a sale by agreement, the amount of the purchase price, was less than the amount specified in subsection (2) of this section,

then, subject to the following provisions of this section, the person to whom the compensation or purchase price was payable shall be entitled, on a claim duly made by him, to compensation from the acquiring authority of an amount equal to the difference.

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- (2) The amount referred to in subsection (1)(b) of this section is the principal amount of the compensation which would have been payable in respect of a compulsory acquisition of the interest by the acquiring authority, in pursuance of a notice to treat served on the relevant date if—
- (a) the planning decision mentioned in subsection (1)(a) of this section had been made before that date; and
  - (b) the permission granted by it had been in force on that date.
- (3) No compensation shall be payable by virtue of this section in respect of a planning decision in so far as it relates to land acquired by the acquiring authority, whether compulsorily or by agreement—
- [ under section 21A of the [<sup>F50</sup>Welsh Development Agency Act 1975 (Powers of land acquisition)];]
- <sup>F49</sup>(za)
- (a) under section 142 or 143 of the Local Government, Planning and Land Act 1980 (acquisitions by urban development corporations and by highway authorities in connection with urban development areas);
  - (b) under the New Towns Act 1981 (acquisitions by development corporations and by highway authorities in connection with new town areas); <sup>F51</sup> . . .
  - (c) where the compulsory purchase order included a direction under section 50 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (minimum compensation where building deliberately allowed to fall into disrepair) [<sup>F52</sup> or
  - (d) under Part 1 of the Housing and Regeneration Act 2008 (acquisition by the Homes and Communities Agency).]
- (4) If—
- (a) in accordance with the preceding provisions of this section the person referred to in subsection (1) of this section would be entitled to compensation under this section; but
  - (b) before the planning decision in question that person has died, or any other act or event has occurred whereby the right to compensation under this section, if vested in him immediately before that act or event, would thereupon have vested in some other person,
- the right to compensation under this section shall be treated as having devolved as if that right had been vested in him immediately before his death or immediately before that act or event, as the case may be, and the compensation shall be payable to the persons claiming under him accordingly.
- (5) Compensation under this section shall carry interest at the rate prescribed under section 32 of this Act from the date of the planning decision in question until payment.
- (6) The provisions of Part I of this Act (so far as applicable) shall apply (subject to the following provisions) in relation to the assessment of compensation under this section as they apply in relation to the assessment of compensation in respect of the compulsory acquisition of an interest in land.]

**Textual Amendments**

**F48** Part IV (ss. 23-29) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 66, [Sch. 14 para. 1](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#)

**F49** S. 23(3)(za) inserted (1.10.1998) by [1998 c. 38, s. 128, Sch. 14 Pt. II](#), para. 14 (with ss. 139(2), 143(2)); S.I. 1998/2244, [art. 4](#)

*Status: Point in time view as at 18/09/2009.*

*Changes to legislation: Land Compensation Act 1961 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F50** Words in s. 23(3)(za) substituted (1.4.2006) by [The Welsh Development Agency \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3226\)](#), **Sch. 2 para. 3** (with art. 3(1))
- F51** Words in s. 23(3)(b) repealed (10.11.1993) by [1993 c. 28, s. 187\(2\)](#), **Sch. 22**; [S.I. 1993/2762](#), **art. 3**
- F52** S. 23(3)(d) and word preceding it substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), **Sch. 8 para. 2**; [S.I. 2008/3068](#), art. 2(1)(w)(3) (with arts. 6-13, Sch.)

**F53** **24 Provisions as to claims under section 23.**

- (1) For the purpose of facilitating the making of claims for compensation under section 23 of this Act—
- (a) the person entitled to receive the compensation or purchase price in respect of such an acquisition or sale as is mentioned in section 23(1)(a) of this Act; or
  - (b) any person claiming under him as being a person who, if compensation under that section became payable, would be entitled to it by virtue of subsection (4) of that section,
- may give to the acquiring authority an address for service under this section.
- (2) Where, at any time—
- (a) after a person has given an acquiring authority an address for service under this section; and
  - (b) before the end of the period mentioned in paragraph (a) of section 23(1) of this Act,
- such a planning decision is made as is mentioned in that paragraph, the acquiring authority shall, subject to subsection (3) of this section, give notice of the decision in the prescribed form to that person at that address.
- (3) If—
- (a) an address for service has been given by such a person as is mentioned in subsection (1)(b) of this section; and
  - (b) the acquiring authority have reasonable grounds for believing that the person mentioned in subsection (1)(a) of this section is dead or that any other act or event has occurred as mentioned in section 23(4)(b) of this Act,
- the acquiring authority need not give a notice to the person mentioned in subsection (1) (a).
- (4) A claim for compensation under section 23 of this Act in respect of a planning decision shall not have effect if made more than six months after the following date, that is to say—
- (a) if the claim is made by a person who has not given the acquiring authority an address for service under this section, the date of the decision;
  - (b) if the claim is made by a person who has given the acquiring authority such an address, the date on which notice of the decision is given to him in accordance with subsection (2) of this section;
- but, where there is an appeal against the planning decision, the reference in paragraph (a) of this subsection to the date of the planning decision shall be read as a reference to the date of the decision on the appeal.
- (5) The references in subsection (4) of this section to an appeal against a planning decision include an appeal made by virtue of section 78(2) of the<sup>M10</sup>Town and Country Planning Act 1990.



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## (6) Where—

- (a) a person has given to an acquiring authority an address for service under this section; and
- (b) that authority, before the end of the period mentioned in section 23(1)(a) of this Act, cease to be entitled to an interest in the whole or part of the land comprised in the acquisition or sale, without remaining or becoming entitled to a freehold interest in, or tenancy of, that land or that part of it, as the case may be,

they shall notify the local planning authority; and after that it shall be the duty of the local planning authority to give notice to the acquiring authority of any planning decision of which the acquiring authority are required to give notice under subsection (2) of this section.

## (7) Notice under subsection (6) of this section of a planning decision—

- (a) in the case of a decision made by the local planning authority, shall be given within seven days after the making of the decision; and
- (b) in any other case, shall be given within seven days after the making of the decision has been notified to the local planning authority.

**Textual Amendments**

**F53** Part IV (ss. 23-29) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 66, [Sch. 14 para.1](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#)

**Marginal Citations**

**M10** 1959 c. 25.

**<sup>F54</sup>25 Extension to planning permission where no planning decision made.**

- (1) The provisions of sections 23 and 24(1) of this Act shall have effect in relation to any planning permission falling within column 1 of the following table for any development as if a planning decision granting that permission had been made on the date shown in column 2.

<b>Planning permission</b>	<b>Date of decision</b>
Permission granted by a development order	When development is initiated
Permission granted by the adoption or approval of a simplified planning zone scheme	When the scheme is approved or adopted
Permission granted by an order designating an enterprise zone	When the designation takes effect
Permission deemed to be granted by a direction under section 90 of the Town and Country Planning Act 1990	When the direction is given

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Permission deemed to be granted by a local planning authority	The occurrence of the event in consequence of which the permission is deemed to be granted
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- (2) Where the provisions of section 23 of this Act have effect as applied by subsection (1) of this section in relation to any planning permission falling within column 1 of that table for any development, then if—
- (a) before the date shown in column 2, a person who (under section 24(1) of this Act as so applied) is entitled to give an address for service under that section has given such an address to the acquiring authority; and
  - (b) the development is proposed to be carried out by the acquiring authority or, if it is proposed to be carried out by a person other than the acquiring authority, notice of that proposal is given to the acquiring authority by the person proposing to carry out the development,
- it shall, subject to subsection (3) of this section, be the duty of the acquiring authority to give notice of that proposal in the prescribed form to the person mentioned in paragraph (a) of this subsection at the address given by him to the authority.
- (3) An acquiring authority shall not be required by virtue of subsection (2) of this section to give notice of proposed development to the person mentioned in section 24(1)(a) of this Act if—
- (a) an address for service has been given to them by such a person as is mentioned in section 24(1)(b) of this Act; and
  - (b) they have reasonable grounds for believing that the former person is dead or that any other act or event has occurred as mentioned in section 23(4)(b) of this Act.
- (4) A claim for compensation under section 23 of this Act in respect of a planning permission falling within column 1 of that table shall not have effect if made more than six months after the following date, that is to say—
- (a) if the claim is made by a person to whom notice has been given under subsection (2) of this section, the date on which the notice was given;
  - (b) in any other case, the date shown in column 2.

#### Textual Amendments

**F54** Part IV (ss. 23-29) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 66, [Sch. 14 para. 1](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#)

#### <sup>F55</sup>26 Extension to Crown development.

- (1) Where—
- (a) any interest in land is compulsorily acquired or is sold to an authority possessing compulsory purchase powers, and before the end of the period of ten years beginning with the date of completion there is initiated any additional development of any of the land which was comprised in the acquisition or sale; and
  - (b) by reason of any such circumstances as are mentioned in subsection (2) of this section the development in question is development for which planning permission is not required,

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the provisions of sections 23 and 24(1) of this Act shall apply as if a planning decision granting permission for that development had been made at the time when the additional development is so initiated.

- (2) The circumstances referred to in subsection (1) of this section are either or both of the following—
- (a) that the development is initiated by or on behalf of the Crown;
  - (b) that there is a Crown or Duchy interest in the land and the development is initiated in right of that interest.
- (3) Where—
- (a) the provisions of section 23 of this Act have effect as applied by subsection (1) of this section in relation to the initiation of any development; and
  - (b) before the development is initiated a person who (under section 24(1) of this Act as so applied) is entitled to give an address for service under that section has given such an address to the acquiring authority,
- it shall, subject to subsections (4) and (5) of this section, be the duty of the acquiring authority to give notice in the prescribed form of the initiation of the development to the person mentioned in paragraph (b) of this subsection at the address given by him to the authority.
- (4) Where—
- (a) by virtue of subsection (3) of this section, it is the duty of a government department to give notice of development initiated by or on behalf of that department; and
  - (b) the Minister in charge of the department certifies that for reasons of national security it is necessary that the nature of the development should not be disclosed, except to the extent specified in the certificate,
- the department shall give notice of development, but shall not be required to give any particulars of the nature of the development except to the extent specified in the certificate.
- (5) An acquiring authority shall not be required by virtue of subsection (3) of this section to give notice of proposed development to the person mentioned in section 24(1)(a) of this Act if—
- (a) an address for service has been given to them by such a person as is mentioned in section 24(1)(b) of this Act; and
  - (b) they have reasonable grounds for believing that the former person is dead or that any other act or event has occurred as mentioned in section 23(4)(b) of this Act.
- (6) A claim for compensation under section 23 of this Act in respect of the initiation of any development shall not have effect if made more than six months after the following date, that is to say—
- (a) if the claim is made by a person to whom notice has been given under subsection (3) of this section, the date on which the notice was given;
  - (b) in any other case, the time the development is initiated.
- (7) In this section “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department.

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**Textual Amendments**

**F55** Part IV (ss. 23-29) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 66, [Sch. 14 para. 1](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#)

**<sup>F56</sup>27 Application of Part IV to certain cases.**

The preceding provisions of this Part of this Act shall have effect subject to the provisions of the Third Schedule to this Act.

**Textual Amendments**

**F56** Part IV (ss. 23-29) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c.34, SIF 28:1\)](#), s. 66, 84(2), [Sch. 14 para.1](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#)

**<sup>F57</sup>28 Regulations for purposes of Part IV.**

- (1) The Secretary of State may by statutory instrument make regulations for prescribing the form of any notice required by this Part of this Act to be given in the prescribed form.
- (2) Any statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F57** Part IV (ss. 23-29) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 66, [Sch. 14 para. 1](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#)

**<sup>F58</sup>29 Interpretation of Part IV.**

- (1) In this Part of this Act—
  - “additional development”, in relation to an acquisition or sale of an interest in land, means any development of the land other than the following, that is to say—
    - (a) where the acquiring authority are a local authority, and acquired the interest for the purposes of any of their functions, development for the purposes of the functions for which they acquired it;
    - (b) where the acquiring authority are not a local authority, development for the purposes of the project in connection with which they acquired the interest;
    - (c) development for which planning permission was in force on the relevant date;
    - (d) in the case of compulsory acquisition, development for which it was assumed (in accordance with the provisions of sections 14 to 16 of this Act) for the purpose of assessing compensation that planning permission would be granted; and
    - (e) in the case of a sale by agreement, development for which, if the interest (instead of being sold by agreement) had been compulsorily acquired by the acquiring authority in pursuance of a notice to treat served on the relevant date, it would have been so assumed;

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“date of completion”, in relation to an acquisition or sale of an interest in land, means the date on which the acquisition or sale is completed by the vesting of that interest in the acquiring authority;

“local authority” means—

- [<sup>F59</sup>(a) a charging authority or precepting authority (as defined in section 144 of the Local Government Finance Act 1988), or a combined police authority;
- (aa) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;]
- (b) a levying body within the meaning of section 74 of [<sup>F60</sup>the Local Government Finance Act 1988];
- (c) a body as regards which section 75 of that Act applies;
- (d) any joint board or joint committee if all the constituent authorities are such authorities as are described in paragraphs (a) to (c); and
- (e) the Honourable Society of the Inner Temple or the Honourable Society of the Middle Temple;

and includes any internal drainage board under section 6 of the <sup>M11</sup>Land Drainage Act 1976;

“prescribed” means prescribed by regulations under this Part of this Act;

“the relevant date”, in relation to a compulsory acquisition of an interest in land, means the date of service of the notice to treat and, in relation to a sale of such an interest by agreement, means the date of the making of the contract in pursuance of which the sale was effected.

- (2) In this Part of this Act any reference to the granting of permission for the carrying out of development of any land is a reference to the granting of permission (including where applicable outline permission) for that development—
- (a) either unconditionally or subject to conditions; and
  - (b) either in respect of that land taken by itself or in respect of an area including that land.

#### Textual Amendments

**F58** Part IV (ss. 23-29) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 66, [Sch. 14 para. 1](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#)

**F59** Words in s. 29(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 15\(2\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

**F60** Words in s. 29(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 15\(3\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

#### Marginal Citations

**M11** 1976 c. 70.

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## PART V

### MISCELLANEOUS AND GENERAL

30 ..... F61

#### Textual Amendments

F61 S. 30 repealed by [Land Compensation Act 1973 \(c. 26\)](#), [Sch. 3](#)

#### 31 **Withdrawal of notices to treat.**

- (1) Where a claimant has delivered such a notice as is mentioned in paragraph (b) of subsection (1) of section four of this Act, the acquiring authority may, at any time within six weeks after the delivery thereof, withdraw any notice to treat which has been served on him or on any other person interested in the land authorised to be acquired.
- (2) Where a claimant has failed to deliver a notice as required by the said paragraph (b), the acquiring authority may, at any time after the decision of the [<sup>F62</sup>Upper Tribunal] on his claim but not later than six weeks after the claim has been finally determined, withdraw any notice to treat which has been served on him or on any other person interested in the land authorised to be acquired, unless the authority have entered into possession of the land by virtue of the notice.
- (3) Where the acquiring authority withdraw a notice to treat under this section, the authority shall be liable to pay compensation to the person to whom it was given for any loss or expenses occasioned to him by the giving and withdrawal of the notice, but if the notice is withdrawn under subsection (2) of this section not for any loss or expenses incurred by the claimant mentioned therein after the time when, in the opinion of the [<sup>F63</sup>Upper Tribunal], a proper notice of claim should have been delivered by him.
- (4) The amount of any compensation payable under subsection (3) of this section shall, in default of agreement, be determined by the [<sup>F64</sup>Upper Tribunal].
- (5) So long as the acquiring authority are entitled to withdraw a notice to treat under subsection (2) of this section, the authority shall not be compellable to take the land to which the notice relates or to pay any compensation awarded in respect of the taking.
- (6) For the purposes of this section, a claim shall not be deemed to be finally determined so long as the time for requiring the [<sup>F65</sup>Upper Tribunal] to state a case with respect thereto, or for appealing from any decision on the points raised by a case so stated, has not expired.

#### Textual Amendments

- F62 Words in s. 31(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 43](#) (with Sch. 5)
- F63 Words in s. 31(3) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 43](#) (with Sch. 5)
- F64 Words in s. 31(4) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 43](#) (with Sch. 5)



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**F65** Words in s. 31(6) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 43** (with Sch. 5)

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

**C66** S. 31 excluded by [Forestry Act 1967 \(c. 10\)](#), **s. 22(5)**, [Agriculture Act 1967 \(c. 22\)](#), **s. 49(7)(ii)**, [Town and Country Planning Act 1971 \(c. 78\)](#), **s. 208**, [Land Compensation Act 1973 \(c. 26\)](#), **s. 54(4)**, [Compulsory Purchase \(Vesting Declarations\) Act 1981 \(c. 66, SIF 28:1\)](#), **s. 7(3)** and [Town and Country Planning Act 1990 \(c. 8, SIF 123:1\)](#), **ss. 139(5)**, 143(8), 146(6), 147, 167

**C67** S. 31 restricted by [Housing Act 1985 \(c. 68, SIF 61\)](#), **s. 227(2)**

**32 Rate of interest after entry on land.**

- (1) The rate of interest on any compensation in respect of the compulsory acquisition of an interest in any land on which entry has been made before the payment of the compensation shall (instead of being the rate of five per cent. specified under section eighty-five of the <sup>M12</sup>Lands Clauses Consolidation Act 1845) be such rate as may from time to time be prescribed by regulations made by the Treasury.
- (2) Any such regulations shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Subordinate Legislation Made**

**P1** [S. 32](#): for previous exercises of this power, see Index to Government Orders.

**P2** [S. 32\(1\)](#): power exercised (3.12.1991) by [S.I.1991/2732](#).

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

**C68** [S. 32](#) applied with modifications by [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34\)](#), s. 13(3), [Sch. 3 paras. 4, 5\(a\)](#)

**C69** [S. 32](#) applied (25.9.1991, subject to the restrictions referred to in [S.I. 1991/2067](#), art. 4, **Sch. 2 Pt. I**) by [Land Compensation Act 1973 \(c. 26, SIF 28:1\)](#), **s. 52A(8)(a)** (as inserted by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), **s. 63(2)**); [S.I. 1991/2067](#), **arts. 3, 4**

[S. 32](#) applied (25.9.1995) by [S.I. 1995/2248](#), **art. 5(3)**

**Marginal Citations**

**M12** 1845 c. 18.

**33 Application of Act to Crown.**

This Act applies in relation to the acquisition of interests in land (whether compulsorily or by agreement) by government departments, being authorities possessing compulsory purchase powers, as it applies in relation to the acquisition of interests in land by such authorities which are not government departments.

**34 Special provision as to ecclesiastical property in England.**

- (1) [<sup>F66</sup>Where ecclesiastical property in England is vested in the incumbent of a benefice which is vacant it shall be treated for the purposes of this Act as being vested in the Diocesan Board of Finance for the diocese in which the land is situated.]

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- (2) In this section “ecclesiastical property” means land belonging to any ecclesiastical benefice [<sup>F67</sup>of the Church of England], or being or forming part of a church subject to the jurisdiction of a bishop of any diocese [<sup>F67</sup>of the Church of England] or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

#### Textual Amendments

- F66** S. 34(1) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 8\(a\)](#); 2006 No. 2, Instrument made by Archbishops
- F67** Words in s. 34(2) inserted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 8\(b\)](#); 2006 No. 2, Instrument made by Archbishops

### 35 Certificates of value.

The [<sup>F68</sup>Upper Tribunal] may on the application of any person certify the value of land being sold by him to an authority possessing compulsory purchase powers, and the sale of the land to that authority at the price so certified shall be deemed to be a sale at the best price that can reasonably be obtained.

#### Textual Amendments

- F68** Words in s. 35 substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 44](#) (with Sch. 5)

### 36 Saving for certain statutory purchases of statutory undertakings.

- (1) Nothing in this Act shall apply to any purchase of the whole or any part of any statutory undertaking under any enactment in that behalf prescribing the terms on which the purchase is to be effected.
- (2) In this section, “statutory undertaking” means an undertaking established by an enactment.

### 37 Local inquiries.

The Minister may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Act; and the provisions of subsections (2) to (5) of [<sup>F69</sup>section 250 of the <sup>M13</sup>Local Government Act 1972] (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall have effect with respect to any such inquiry.

#### Textual Amendments

- F69** Words substituted by virtue of [Local Government Act 1972 \(c. 70\)](#), s. 272(2)

#### Marginal Citations

- M13** 1972 c. 70.

*Status: Point in time view as at 18/09/2009.*

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### 38 Services of notices.

- (1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under Part III or Part IV of this Act may be served or given either—
- (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
  - (b) by leaving it at the usual or last known place of abode of that person, or, in a case in which an address for service has been furnished by that person, at that address; or
  - (c) by sending it in a pre-paid registered letter addressed to that person at his usual or last known place of abode, or, in a case in which an address for service has been furnished by that person, at that address; or
  - (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a pre-paid registered letter addressed to the secretary or clerk of the company or body at that office.
- (2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, the notice shall be deemed to be duly served if—
- (a) being addressed to him either by name or by the description of “the owner” of the premises (describing them) it is delivered or sent in the manner mentioned in paragraph (a), (b) or (c) of subsection (1) of this section; or
  - (b) being addressed as aforesaid and marked in the manner for the time being prescribed by regulations under <sup>F70</sup>the <sup>M14</sup>Town and Country Planning Act 1971], for securing that notices thereunder are plainly identifiable as a communication of importance, it is sent in a pre-paid registered letter to the premises and is not returned to the authority sending it, or is delivered to some person on those premises or is affixed conspicuously to some object on those premises.

#### Textual Amendments

**F70** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\)](#), [Sch. 24 para. 2](#)

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

**C70** References to registered letter to be construed as including references to letter sent by recorded delivery service: [Recorded Delivery Service Act 1962 \(c. 27\)](#), s. 1(1)(2), [Sch. para. 1](#)

#### Marginal Citations

**M14** [1971 c. 78](#).

### 39 Interpretation.

- (1) In this Act, except where the context otherwise requires,—
- “acquiring authority”, in relation to an interest in land, means the person or body of persons by whom the interest is, or is proposed to be, acquired;
  - “authority possessing compulsory purchase powers”, where it occurs otherwise than in relation to a transaction, means any person or body of persons who could be or have been authorised to acquire an interest in land

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compulsorily, and, in relation to any transaction, means any person or body of persons who could be or have been so authorised for the purposes for which the transaction is or was effected or a parish council [F71community council] or parish meeting on whose behalf [F71district council][F72, county council or county borough council] could be or have been so authorised;

“building” includes any structure or erection and any part of a building as so defined, but does not include plant or machinery comprised in a building;

“the current development plan”, in relation to any land, means a development plan comprising that land, in the form in which (whether as originally approved or made . . . F73or as for the time being amended) that plan is in force on the date of service of the notice to treat;

“development” has the meaning assigned to it by [F74section 22 of the M15Town and Country Planning Act 1971], and “develop” shall be construed accordingly;

“development order” means an order under subsection (1) of [F74section 24 of the Town and Country Planning Act 1971];

“development plan” has the meaning assigned to it by section five of the M16Town and Country Planning Act 1947, and includes a plan made under subsection (5) of that section;

“enactment” includes an enactment in any local or private Act of Parliament and an order, rule, regulation, byelaw or scheme made under an Act of Parliament.

“land” means any corporeal hereditament, including a building as defined by this section, and includes any interest or right in or over land and any right to water;

“local enactment” means any local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

[F75“local planning authority” shall be construed in accordance with Part I of the Town and Country Planning Act 1990;]

“the Minister” means [F76the Secretary of State];

“outline application” means an application for planning permission subject to subsequent approval on any matters;

“planning decision” means a decision made on an application under [F74Part III of the Town and Country Planning Act 1971];

“planning permission” means permission under [F74Part III of the Town and Country Planning Act 1971];

“special enactment” means a local enactment, or a provision contained in an Act other than a local or private Act, being a local enactment or provision authorising the compulsory acquisition of land specifically identified therein;

“tenancy” has the same meaning as in the M17Landlord and Tenant Act 1954.

- (2) In this Act, in relation to a compulsory acquisition in pursuance of a notice to treat, “the relevant interest” means the interest acquired in pursuance of that notice, “the relevant land” means the land in which the relevant interest subsists, and “the notice to treat” means the notice to treat in pursuance of which the relevant interest is acquired.
- (3) As respects references in this Act to planning decisions—
- (a) in relation to a decision altered on appeal by the reversal or variation of the whole or any part thereof, such references shall be construed as references to the decision as so altered;

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- (b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the local planning authority and not to the decision of the Minister on the appeal;
  - (c) in relation to a decision given on an appeal made by virtue of [<sup>F74</sup>section 37 of the <sup>M18</sup>Town and Country Planning Act 1971], in default of a decision by the local planning authority, such references shall be construed as references to the decision so given;
  - (d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the local planning authority, whether or not that decision is or was altered as aforesaid on that appeal, or, in the case of such a decision as is mentioned in paragraph (c) of this subsection, the time when by virtue of [<sup>F74</sup>section 37 of the Town and Country Planning Act 1971], the notification of a decision by the local planning authority is deemed to have been given.
- (4) References in this Act to a contract are references to a contract in writing or a contract attested by a memorandum or note thereof in writing, signed by the parties thereto or by some other person or persons authorised by them in that behalf, and, in relation to an interest in land conveyed or assigned without a preliminary contract, are references to the conveyance or assignment; and references to the making of a contract are references to the execution thereof or (if it was not in writing) to the signature of the memorandum or note by which it was attested.
- (5) References in this Act—
- (a) to a person from whom title is derived by another person include references to any predecessor in title of that other person;
  - (b) to a person deriving title from another person include references to any successor in title of that other person;
  - (c) to deriving title are references to deriving title either directly or indirectly.
- (6) For the purposes of this Act, a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—
- (a) to both of them beneficially, or
  - (b) to both of them as trustee of one particular trust, or
  - (c) to both of them as personal representative of one particular person.
- (7) For the purposes of this Act development of land shall be taken to be initiated—
- (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
  - (b) if the development consists of a change in use, at the time when the new use is instituted;
  - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.
- (8) References in this Act to a notice to treat include references to a notice to treat which, under any enactment, is deemed to have been served, and references to the service of such a notice and to the date of service shall be construed accordingly.
- (9) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment.

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### Textual Amendments

- F71** Words inserted by [S.I. 1976/315, art. 4\(4\)](#)
- F72** Words in definition of  
“authority possessing compulsory purchase powers”  
in s. 39(1) substituted (1.4.1996) by 1994 c. 19, s. 66(6), [Sch. 16 para. 17](#) (with ss. 54(5)(7), 55(5), [Sch. 17 para. 22\(1\), 23\(2\)](#)); [S.I. 1996/396, art. 4, Sch. 2](#)
- F73** Word repealed by [Town and Country Planning Act 1968 \(c. 72\), Sch. 11](#)
- F74** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\), Sch. 24 para. 2](#)
- F75** Definition of  
“local planning authority”  
in s. 39(1) substituted (23.11.1995) by 1995 c. 25, s. 78, [Sch. 10 para. 4\(2\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#)); [S.I. 1995/2950, art. 2\(1\)](#)
- F76** Words substituted by virtue of [S.I. 1965/319, art. 2, Sch. 1 Pt. I](#) and 1970/1681, arts. 2, 6(3)

### Modifications etc. (not altering text)

- C71** Definition of “development plan” explained by [Town and Country Planning Act 1971 \(c. 78\), s. 20](#)
- C72** [S. 39\(2\)](#) modified by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 141, Sch. 27 paras. 9, 13](#) and by [Housing Act 1988 \(c. 50, SIF 61\), s. 76\(5\)\(6\), Sch. 9 Pt. II para. 10](#)  
[S. 39\(2\)](#) modified (10.11.1993) by 1993 c. 28, s. 161(4), [Sch. 19 para. 5](#); [S.I. 1993/2762, art. 3](#)

### Marginal Citations

- M15** 1971 c. 78  
**M16** 1947 c. 51  
**M17** 1954 c. 56  
**M18** 1971 c. 78

## 40 †Consequential amendments, repeals, and transitional provisions.

- (1) Any enactment or document referring to an enactment repealed by this Act shall be construed as referring to the corresponding enactment in this Act.
- (2) Without prejudice to the generality of subsection (1) of this section—
- (a) any enactment excluding the power conferred by subsection (2) of section five of the <sup>M19</sup>Acquisition of Land (Assessment of Compensation) Act 1919, to withdraw notices to treat shall be construed as excluding any such power conferred by section thirty-one of this Act; and
- (b) ..... <sup>F77</sup>
- (3) ..... <sup>F78</sup>
- (4) The mention of particular matters in this section shall not be taken to affect the general application to this Act of [<sup>F79</sup>sections 16(1) and 17(2)(a) of the <sup>M20</sup>Interpretation Act 1978] (which relates to the effect of repeals).
- (5) ..... <sup>F80</sup>

### Textual Amendments

- F77** [S. 40\(2\)\(b\)](#) provides for amendments of enactments specified in [Sch. 4](#)
- F78** [S. 40\(3\)](#) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\), Sch. Pt. XI](#)
- F79** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#)



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**F80** S. 40(5) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1 Pt. VII

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

**C73** Unreliable marginal note

**Marginal Citations**

**M19** 1919 c. 57.

**M20** 1978 c. 30.

**41 Saving for transactions before commencement of Act.**

This Act (including the amendments and repeals made by it) shall not have effect in relation to any compulsory acquisition in pursuance of a notice to treat served before the commencement of this Act . . . <sup>F81</sup>; nor in relation to any sale of an interest in land by agreement in pursuance of a contract made before the commencement of this Act.

**Textual Amendments**

**F81** Words repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1 Pt. VII

**42 Short title, commencement and extent.**

- (1) This Act may be cited as the Land Compensation Act 1961.
- (2) This Act shall come into operation on the first day of August, nineteen hundred and sixty-one.
- (3) This Act does not extend to Scotland or Northern Ireland.

**Status:**

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**Changes to legislation:**

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