



# Land Compensation Act 1961

1961 CHAPTER 33 9 and 10 Eliz 2

## PART II

### PROVISIONS DETERMINING AMOUNT OF COMPENSATION

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

C1 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>F1</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

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purpose, the compensation may, if the [<sup>F2</sup>Upper Tribunal] is satisfied that 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

- F1** Words in s. 5(3) repealed (25.9.1991, subject to the restrictions referred to in S.I. 1991/2067, art. 4, **Sch. 2 Pt.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**
- F2** 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)

- C2** 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)**
- C3** 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)**
- C4** 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)**
- C5** 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.))
- C6** 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)**
- C7** 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)**
- C8** 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)**
- C9** S. 5 applied (with modifications) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), regs. 1(2), **28(6)** (with reg. 125)
- C10** S. 5 applied (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), regs. 1(2), **32(4)** (with reg. 125)
- C11** S. 5 applied (with modifications) (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), **Sch. 5 para. 6** (with reg. 1(2), Sch. 4)

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- C12** S. 5 modified (E.) (19.7.2015) by [The Environmental Damage \(Prevention and Remediation\) \(England\) Regulations 2015 \(S.I. 2015/810\)](#), reg. 1(1), **Sch. 6 para. 6(1)** (with regs. 4-8)
- C13** S. 5 applied (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), **Sch. 5 para. 6(2)** (with regs. 1(3), 77-79, Sch. 4)
- C14** S. 5(2)(4) applied (5.11.1993) by [1993 c. 42, s. 21](#), **Sch. 7 para. 16(2)(a)**

### [<sup>F3</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.
- (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.

[ If—

- <sup>F4</sup>(5A)
  - (a) the acquiring authority enters on and takes possession of land in pursuance of a notice of entry given as mentioned in paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (“the original land”),
  - (b) the acquiring authority are subsequently required by a determination under paragraph 27 of Schedule 2A to the Compulsory Purchase Act 1965 to take additional land, and
  - (c) the acquiring authority enters on and takes possession of that additional land, the authority is deemed for the purposes of subsection (3)(a) to have entered on and taken possession of the additional land when it entered on and took possession of the original land.]

[ If—

- <sup>F5</sup>(5B)
  - (a) the land is the subject of a general vesting declaration, and
  - (b) the vesting date is different for different parts of the land,the first of the vesting dates is deemed for the purposes of subsection (4)(a) to be the vesting date for the whole of the land.]

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- (6) [<sup>F6</sup>Subsections (5), (5A) and (5B) also apply] for the purposes of calculating interest under the following enactments—
- (a) section 11(1) of the Compulsory Purchase Act 1965;
  - <sup>F7</sup>(b) . . . . .
  - (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>F8</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 <sup>F9</sup>... under section 85 of the Lands Clauses Consolidation Act 1845.]

#### Textual Amendments

- F3** 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)
- F4** S. 5A(5A) inserted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 17 para. 4\(2\)](#); S.I. 2017/75, reg. 3(g)
- F5** S. 5A(5B) inserted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 18 para. 9](#); S.I. 2017/75, reg. 3(k)
- F6** Words in s. 5A(6) substituted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 17 para. 4\(3\)](#); S.I. 2017/75, reg. 3(g)
- F7** S. 5A(6)(b) omitted (13.7.2016) by virtue of [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 16 para. 1\(a\)](#); S.I. 2016/733, reg. 3(j)
- F8** 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)
- F9** Words in s. 5A(9)(b) omitted (13.7.2016) by virtue of [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 16 para. 1\(b\)](#); S.I. 2016/733, reg. 3(j)

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

- C15** S. 5A modified (30.4.2015) by [Energy Act 2013 \(c. 32\), ss. 124\(6\)\(a\), 156\(1\)](#) (with s. 130); S.I. 2015/817, art. 2(a)

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## 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—
- (a) (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
  - (b) (where the circumstances are those described in one or more of paragraphs 2 to [F10 4B] 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 [F11 and so far as applicable paragraph 3A] of Part I of that Schedule [F12 and 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”—
- (a) 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
  - (b) 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

- F10** “4B” substituted by virtue of [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 78(4)**  
**F11** Words inserted by [New Towns Act 1966 \(c. 44\)](#), **Sch. Pt. I para. 3**  
**F12** Words added by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), **s. 145(3)(b)**

### Modifications etc. (not altering text)

- C16** S. 6 excluded by [Land Compensation Act 1973 \(c. 26\)](#), **s. 6(3)**; modified *ibid.*, s. 51(2)  
**C17** S. 6 modified (retrospective to 23.11.1994) by [1996 c. 61](#), **s. 46(2)(4)**

### Marginal Citations

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

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## 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)**

**C18** 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—
  - (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

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- (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>F13</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>F14</sup>
  - [<sup>F15</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>F16</sup>
- and, in subsection (1), includes references to any such local enactment as is mentioned in subsection (5).

**Textual Amendments**

- F13** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\)](#), [Sch. 24 para. 2](#)
- F14** S. 8(7)(b) repealed by [Miscellaneous Financial Provisions Act 1983 \(c. 29, SIF 99:1\)](#), [Sch. 3](#)
- F15** S. 8(7)(c) substituted by [Highways Act 1980 \(c. 66\)](#), [Sch. 24 para. 8](#)
- F16** S. 8(7)(d) repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, [Sch. 1 Pt. I](#)

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

- C19** S. 8 applied (with modifications) (30.10.1994) by [S.I. 1994/2716](#), [reg. 97](#)

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**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>F17</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**

- F17 Word repealed by [Town and Country Planning Act 1968 \(c. 72\)](#), [Sch. 11](#)

*Special Cases*

**10** ..... <sup>F18</sup>

**Textual Amendments**

- F18 S. 10 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), [Sch. 12 Pt. II](#)

**[10A] <sup>F19</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**

- F19 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 [F20]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

**F20** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\)](#), [Sch. 24 para. 2](#)

### Modifications etc. (not altering text)

**C20** 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](#)

**C21** 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)**

- C22** 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
- C23** S. 12 applied (with modifications) (30.10.1994) by [S.I. 1994/2716](#), **reg. 97**
- C24** 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** ..... <sup>F21</sup>

#### **Textual Amendments**

- F21** S. 13 repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(1), **Sch. 1 Pt. VII**

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

- C25** S. 13 applied (2.4.2004) by [Docklands Light Railway \(Woolwich Arsenal Extension\) Order 2004 \(S.I. 2004/757\)](#), arts. 1, **31(10)**
- C26** 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*

#### **[<sup>F22</sup>14 Taking account of actual or prospective planning permission.**

- (1) This section is about assessing the value of land in accordance with rule (2) in section 5 for the purpose of assessing compensation in respect of a compulsory acquisition of an interest in land.
- (2) In consequence of that rule, account may be taken—
  - (a) of planning permission, whether for development on the relevant land or other land, if it is in force at the relevant valuation date, and
  - (b) of the prospect, on the assumptions set out in subsection (5) but otherwise in the circumstances known to the market at the relevant valuation date, of planning permission being granted on or after that date for development, on the relevant land or other land, other than—
    - (i) development for which planning permission is in force at the relevant valuation date, and
    - (ii) appropriate alternative development.
- (3) In addition, it may be assumed—
  - (a) that planning permission is in force at the relevant valuation date for any development that is appropriate alternative development to which subsection (4)(b)(i) applies, and

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- (b) that, in the case of any development that is appropriate alternative development to which subsection (4)(b)(ii) applies and subsection (4)(b)(i) does not apply, it is certain at the relevant valuation date that planning permission for that development will be granted at the later time at which at that date it could reasonably have been expected to be granted.
- (4) For the purposes of this section, development is “appropriate alternative development” if—
- (a) it is development, on the relevant land alone or on the relevant land together with other land, other than development for which planning permission is in force at the relevant valuation date, and
  - (b) on the assumptions set out in subsection (5) but otherwise in the circumstances known to the market at the relevant valuation date, planning permission for the development could at that date reasonably have been expected to be granted on an application decided—
    - (i) on that date, or
    - (ii) at a time after that date.
- (5) The assumptions referred to in subsections (2)(b) and (4)(b) are—
- (a) that the scheme of development underlying the acquisition had been cancelled on the launch date,
  - (b) that no action has been taken (including acquisition of any land, and any development or works) by the acquiring authority wholly or mainly for the purposes of the scheme,
  - (c) that there is no prospect of the same scheme, or any other project to meet the same or substantially the same need, being carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers, and
  - (d) if the scheme was for use of the relevant land for or in connection with the construction of a highway (“the scheme highway”), that no highway will be constructed to meet the same or substantially the same need as the scheme highway would have been constructed to meet.
- (6) In subsection (5)(a) “the launch date” means whichever of the following dates applies—
- (a) if the acquisition is authorised by a compulsory purchase order, the date of first publication of the notice required under section 11 of the Acquisition of Land Act 1981 or (as the case may be) paragraph 2 of Schedule 1 to that Act,
  - (b) if the acquisition is authorised by any other order—
    - (i) the date of first publication, or
    - (ii) the date of service,of the first notice that, in connection with the acquisition, is published or served in accordance with any provision of or made under any Act, or
  - (c) if the acquisition is authorised by a special enactment other than an order, the date of first publication of the first notice that, in connection with the acquisition, is published in accordance with any Standing Order of either House of Parliament relating to private bills;
- and in paragraph (a) “compulsory purchase order” has the same meaning as in the Acquisition of Land Act 1981.
- (7) In subsection (5)(d) references to the construction of a highway include its alteration or improvement.

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- (8) If there is a dispute as to what is to be taken to be the scheme mentioned in subsection (5) (“the underlying scheme”) then, for the purposes of this section, the underlying scheme is to be identified by the Upper Tribunal as a question of fact, subject as follows—
- (a) the underlying scheme is to be taken to be the scheme provided for by the Act, or other instrument, which authorises the compulsory acquisition unless it is shown (by either party) that the underlying scheme is a scheme larger than, but incorporating, the scheme provided for by that instrument, and
  - (b) except by agreement or in special circumstances, the Upper Tribunal may permit the acquiring authority to advance evidence of such a larger scheme only if that larger scheme is one identified in the following read together—
    - (i) the instrument which authorises the compulsory acquisition, and
    - (ii) any documents published with it.
- (9) For the purposes of the references to planning permission in subsections (2)(a) and (b) (i) and (4)(a) and section 15(1)(b), it is immaterial whether any planning permission was granted—
- (a) unconditionally or subject to conditions, or
  - (b) on an ordinary application, on an outline application or by virtue of a development order,
- or is planning permission that, in accordance with any direction or provision given or made by or under any enactment, is deemed to have been granted.

#### **Textual Amendments**

**F22** Ss. 14, 15 substituted (6.4.2012) for ss. 14-16 by [Localism Act 2011 \(c. 20\)](#), [ss. 232\(2\), 240\(2\)](#) (with [s. 232\(8\)](#)); [S.I. 2012/628](#), [art. 8\(d\)](#) (with [arts. 9,12,13,16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), [arts. 2, 4](#))

## **15 Planning permission to be assumed for acquiring authority's proposals**

- (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 of it, and
  - (b) planning permission for that development is not in force at the relevant valuation date,
- it is to be assumed for the purposes of section 14(2)(a) and (b)(i) and (4)(a) that planning permission is in force at the relevant valuation date for the development of the relevant land or that part of it, as the case may be, in accordance with the proposals of the acquiring authority.
- (2) For the purposes of subsection (1)(b), no account is to 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 in the land.]

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**F22** Ss. 14, 15 substituted (6.4.2012) for ss. 14-16 by [Localism Act 2011 \(c. 20\)](#), [ss. 232\(2\), 240\(2\)](#) (with [s. 232\(8\)](#)); [S.I. 2012/628](#), [art. 8\(d\)](#) (with [arts. 9,12,13,16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), [arts. 2, 4](#))

**<sup>F22</sup>16 Special assumptions in respect of certain land comprised in development plans.**

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**Textual Amendments**

**F22** Ss. 14, 15 substituted (6.4.2012) for ss. 14-16 by [Localism Act 2011 \(c. 20\)](#), [ss. 232\(2\), 240\(2\)](#) (with [s. 232\(8\)](#)); [S.I. 2012/628](#), [art. 8\(d\)](#) (with [arts. 9,12,13,16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), [arts. 2, 4](#))

**Status:**

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