



# 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:

[<sup>F1</sup>(2A) The value of land referred to in rule (2) is to be assessed in the light of the no-scheme principle set out in section 6A.]

- (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>F2</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:

*Status: Point in time view as at 22/09/2017.*

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- (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>F3</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** S. 5(2A) inserted (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 32(2)**, 46(1); S.I. 2017/936, **reg. 3(b)** (with **reg. 4**)
- F2** 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**
- F3** 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**)

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- 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)
- 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>F4</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>F5</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>F6</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,

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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.]

- (6) [<sup>F7</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>F8</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>F9</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>F10</sup>... under section 85 of the Lands Clauses Consolidation Act 1845.]

#### Textual Amendments

- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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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## **<sup>F11</sup>6 Disregard of actual or prospective development in certain cases.**

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### **Textual Amendments**

**F11** Ss. 6A-6E substituted for ss. 6-9 (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), [ss. 32\(3\), 46\(1\)](#); [S.I. 2017/936](#), [reg. 3\(b\)](#) (with [reg. 4](#) and [regs. 6, 7](#) which amend the new s. 6E(2)(b)(c))

### **[<sup>F11</sup>6A No-scheme principle**

- (1) The no-scheme principle is to be applied when assessing the value of land in order to work out how much compensation should be paid by the acquiring authority for the compulsory acquisition of the land (see rule 2A in section 5).
- (2) The no-scheme principle is the principle that—
  - (a) any increase in the value of land caused by the scheme for which the authority acquires the land, or by the prospect of that scheme, is to be disregarded, and
  - (b) any decrease in the value of land caused by that scheme or the prospect of that scheme is to be disregarded.
- (3) In applying the no-scheme principle the following rules in particular (the “no-scheme rules”) are to be observed.
- (4) Rule 1: it is to be assumed that the scheme was cancelled on the relevant valuation date.
- (5) Rule 2: it is to be assumed 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.
- (6) Rule 3: it is to be assumed 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.
- (7) Rule 4: it is to be assumed that no other projects would have been carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers if the scheme had been cancelled on the relevant valuation date.
- (8) Rule 5: if there was a reduction in the value of land as a result of—
  - (a) the prospect of the scheme (including before the scheme or the compulsory acquisition in question was authorised), or
  - (b) the fact that the land was blighted land as a result of the scheme,that reduction is to be disregarded.
- (9) In this section—

“blighted land” means land of a description listed in Schedule 13 to the Town and Country Planning Act 1990;

“relevant valuation date” has the meaning given by section 5A.
- (10) See also section 14 for assumptions to be made in respect of planning permission.

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#### **Textual Amendments**

**F11** Ss. 6A-6E substituted for ss. 6-9 (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 32(3), 46(1)**; S.I. 2017/936, **reg. 3(b)** (with **reg. 4** and regs. 6, 7 which amend the new s. 6E(2)(b)(c))

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

**C16** [S. 6A](#) modified by 1999 c. 29, ss. 403A(9), 403B(9) (as inserted (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 36(2), 46(1)**; S.I. 2017/936, **reg. 3(f)**)

### **6B Lower compensation if other land gains value**

- (1) This section applies where—
  - (a) a person is entitled to compensation for the compulsory acquisition of land (the “original land”) for the purposes of a scheme,
  - (b) on the date the notice to treat is served in respect of the original land, the person is entitled to an interest in other land (the “other land”) which is contiguous or adjacent to the original land,
  - (c) the person is entitled to the interest in the other land in the same capacity as the person is entitled to the interest in the original land, and
  - (d) the person's interest in the other land has increased in value as a result of the scheme.
- (2) The amount of compensation to which the person is entitled in respect of the compulsory acquisition of the original land is to be reduced by the amount of the increase in the value of the person's interest in the other land as at the relevant valuation date (determined in accordance with section 5A).
- (3) An amount by which the other land increases in value may not be set off against compensation payable to the person (for the original land or otherwise) in accordance with subsection (2) more than once.
- (4) If the other land is subsequently subject to compulsory acquisition for the purposes of the scheme mentioned in subsection (1), the compensation to which the person is entitled for the other land includes the amount which was deducted from the person's compensation for the original land in accordance with subsection (2) (despite the no-scheme principle).
- (5) If part only of the other land is subject to compulsory acquisition, the compensation to which the person is entitled by virtue of subsection (4) is to be reduced accordingly.
- (6) Subsections (4) and (5) apply in relation to a person (a “successor”) who derives title from the person mentioned in that subsection as if the original land had been acquired from the successor.
- (7) This section does not apply in relation to compensation which is to be assessed in accordance with section 261 of the Highways Act 1980 (benefit to vendor to be taken into account in assessing compensation on certain compulsory acquisitions for highway purposes).



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#### Textual Amendments

**F11** Ss. 6A-6E substituted for ss. 6-9 (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), [ss. 32\(3\), 46\(1\)](#); [S.I. 2017/936](#), [reg. 3\(b\)](#) (with [reg. 4](#) and regs. 6, 7 which amend the new s. 6E(2)(b)(c))

### 6C Increased compensation if other land loses value

- (1) This section applies where—
  - (a) land (the “original land”) belonging to a person is acquired for the purposes of a scheme,
  - (b) as a result of the acquisition of the original land the person receives compensation for injurious affection in relation to other land, and
  - (c) the other land is subsequently subject to compulsory acquisition for the purposes of that scheme.
- (2) The compensation to which the person is entitled as a result of the compulsory acquisition of the other land is to be reduced by the amount which the person received in compensation for injurious affection in relation to the other land as a result of the acquisition of the original land.
- (3) Subsection (2) applies in relation to a person (a “successor”) who derives title from the person mentioned in that subsection as if the compensation for injurious affection had been paid to the successor.

#### Textual Amendments

**F11** Ss. 6A-6E substituted for ss. 6-9 (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), [ss. 32\(3\), 46\(1\)](#); [S.I. 2017/936](#), [reg. 3\(b\)](#) (with [reg. 4](#) and regs. 6, 7 which amend the new s. 6E(2)(b)(c))

### 6D Meaning of “scheme” etc.

- (1) For the purposes of sections 6A, 6B and 6C, the “scheme” in relation to a compulsory acquisition means the scheme of development underlying the acquisition (subject to subsections (2) to (5)).
- (2) Where the acquiring authority is authorised to acquire land in connection with the development of an area designated as—
  - (a) an urban development area by an order under section 134 of the Local Government, Planning and Land Act 1980,
  - (b) a new town by an order under section 1 of the New Towns Act 1981, or
  - (c) a Mayoral development area by a designation under section 197 of the Localism Act 2011,the scheme is the development of any land for the purposes for which the area is or was designated.
- (3) Where land is acquired for regeneration or redevelopment which is facilitated or made possible by a relevant transport project, the scheme includes the relevant transport project (subject to section 6E).
- (4) For the purposes of subsection (3) and section 6E—

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- (a) a “relevant transport project” means a transport project carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers (regardless of whether it is carried out before, after or at the same time as the regeneration or redevelopment), and
  - (b) where different parts of the works comprised in such a transport project are first opened for use on different dates, each part is to be treated as a separate relevant transport project.
- (5) If there is a dispute as to what is to be taken to be the scheme (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 made available with it.
- (6) In the application of no-scheme rule 3 in relation to the acquisition of land for or in connection with the construction of a highway (the “scheme highway”) the reference in that rule to “any other project” includes a reference to any other highway that would meet the same or substantially the same need as the scheme highway would have been constructed to meet.

#### **Textual Amendments**

**F11** Ss. 6A-6E substituted for ss. 6-9 (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), ss. **32(3)**, **46(1)**; S.I. 2017/936, reg. **3(b)** (with reg. **4** and regs. 6, 7 which amend the new s. 6E(2)(b)(c))

### **6E Further provisions in relation to relevant transport projects**

- (1) This section has effect for the purposes of section 6D(3).
- (2) The scheme referred to in that section includes the relevant transport project only if—
  - (a) regeneration or redevelopment was part of the published justification for the relevant transport project,
  - (b) the works comprised in the relevant transport project are first opened for use after the period of 5 years beginning with 22nd September 2017,
  - (c) the instrument authorising the compulsory acquisition of the land which is acquired for regeneration or redevelopment was made or prepared in draft on or after 22nd September 2017,
  - (d) the compulsory acquisition of that land is authorised before the end of the period of 5 years beginning with the day on which the works comprised in the relevant transport project are first opened for use, and
  - (e) that land is in the vicinity of land comprised in the relevant transport project.



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- (3) In assessing compensation payable to a person in respect of the compulsory acquisition of that land, the scheme is to be treated as if it did not include the relevant transport project if the person acquired the land—
  - (a) after plans for the relevant transport project were announced, but
  - (b) before 8 September 2016.
- (4) Subsections (5) and (6) set out how subsection (2)(b) should be applied if a claim for compensation is made by a person (the “claimant”)—
  - (a) during the period of 5 years mentioned in that subsection, and
  - (b) before the works are first opened for use.
- (5) Compensation is to be assessed on the basis that the works will first be opened for use after the period of 5 years unless the acquiring authority confirms that, in the authority's opinion, the works will first be opened during that period (in which case compensation is to be assessed on the basis that the works will first be opened for use during that period).
- (6) If the basis on which compensation was assessed proves to be incorrect—
  - (a) the claimant's entitlement to any compensation which the claimant has already been awarded is not affected,
  - (b) the acquiring authority must give the claimant a notice informing the claimant that the basis on which the compensation was assessed was incorrect,
  - (c) the claimant may make a further claim for compensation in respect of the compulsory acquisition, and
  - (d) for the purposes of the Limitation Act 1980, the further claim for compensation accrues on the day the claimant receives the notice.]

**Textual Amendments**

**F11** Ss. 6A-6E substituted for ss. 6-9 (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\), ss. 32\(3\), 46\(1\); S.I. 2017/936, reg. 3\(b\)](#) (with [reg. 4](#) and regs. 6, 7 which amend the new s. 6E(2)(b)(c))

**<sup>F117</sup> Effect of certain actual or prospective development of adjacent land in same ownership.**

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**Textual Amendments**

**F11** Ss. 6A-6E substituted for ss. 6-9 (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\), ss. 32\(3\), 46\(1\); S.I. 2017/936, reg. 3\(b\)](#) (with [reg. 4](#) and regs. 6, 7 which amend the new s. 6E(2)(b)(c))

**<sup>F118</sup> Subsequent acquisition of adjacent land and acquisition governed by enactment corresponding to s. 7.**

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**F11** Ss. 6A-6E substituted for ss. 6-9 (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 32(3), 46(1)**; [S.I. 2017/936](#), **reg. 3(b)** (with [reg. 4](#) and regs. 6, 7 which amend the new s. 6E(2)(b)(c))

**<sup>F119</sup> Disregard of depreciation due to prospect of acquisition by authority possessing compulsory purchase powers.**

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**Textual Amendments**

**F11** Ss. 6A-6E substituted for ss. 6-9 (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 32(3), 46(1)**; [S.I. 2017/936](#), **reg. 3(b)** (with [reg. 4](#) and regs. 6, 7 which amend the new s. 6E(2)(b)(c))

*Special Cases*

**10** ..... <sup>F12</sup>

**Textual Amendments**

**F12** S. 10 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), **Sch. 12 Pt. II**

**[10A <sup>F13</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**

**F13** 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**

**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 [<sup>F14</sup>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

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(which makes special provision as to the compensation payable in respect of certain acquisitions of land so acquired).

#### Textual Amendments

**F14** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\)](#), **Sch. 24 para. 2**

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

**C17** 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**

**C18** 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>M1</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>M2</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>M3</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.

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

**C19** 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

**C20** S. 12 applied (with modifications) (30.10.1994) by S.I. 1994/2716, **reg. 97**

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**C21** 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

**M1** 1954 c. 72.  
**M2** 1954 c. 72.  
**M3** 1947 c. 51.

13

F15

#### Textual Amendments

**F15** S. 13 repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\), s. 1\(1\), Sch. 1 Pt. VII](#)

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

**C22** S. 13 applied (2.4.2004) by [Docklands Light Railway \(Woolwich Arsenal Extension\) Order 2004 \(S.I. 2004/757\)](#), arts. 1, **31(10)**

**C23** 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>F16</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
  - (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.

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- (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.
- (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—

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- (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**

**F16** 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](#))

**F17 15 Planning permission to be assumed for acquiring authority's proposals**

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**Textual Amendments**

**F17** S. 15 omitted (22.9.2017) by virtue of [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 32(4)(a), 46(1)**; [S.I. 2017/936](#), [reg. 3\(b\)](#) (with [reg. 4](#))

**F16 16 Special assumptions in respect of certain land comprised in development plans.**

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**Textual Amendments**

**F16** 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](#))



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