



Land Compensation Act 1961

1961 CHAPTER 33

PART V

MISCELLANEOUS AND GENERAL

30 Power to pay allowances to persons displaced

- (1) Where any interest in land is compulsorily acquired or is sold by agreement to an authority possessing compulsory purchase powers, the acquiring authority—
 - (a) may pay to any person displaced from a house or other building on that land such reasonable allowance as they think fit towards his expenses in removing therefrom ; and
 - (b) may pay to any person carrying on any trade or business in any such house or other building such reasonable allowance as they think fit towards the loss which, in their opinion, he will sustain by reason of the disturbance of his trade or business consequent upon his having to quit the house or building.
- (2) In estimating the loss of any person for the purposes of paragraph (b) of the preceding subsection, the authority shall have regard to the period for which the premises occupied by him might reasonably have been expected to be available for the purpose of his trade or business, and to the availability of other premises suitable for that purpose.
- (3) The preceding provisions of this section shall have effect without prejudice to the operation of any other enactments authorising the making of payments to or in respect of persons displaced or otherwise affected by acquisitions by authorities possessing compulsory purchase powers.

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.

Status: This is the original version (as it was originally enacted).

- (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 Lands 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 Lands 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 Lands 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 Lands 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,

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 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.

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) Where the fee simple of any ecclesiastical property, not being property in Wales or Monmouthshire, is in abeyance, it shall be treated for the purposes of this Act as being vested in the Church Commissioners.
- (2) In this section "ecclesiastical property" means land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of a bishop

of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

35 Certificates of value

The Lands 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.

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 section two hundred and ninety of the Local Government Act, 1933 (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall have effect with respect to any such inquiry.

38 Service 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

Status: This is the original version (as it was originally enacted).

- (b) being addressed as aforesaid and marked in the manner for the time being prescribed by regulations under the Town and Country Planning Act, 1947, 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.

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 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 or parish meeting on whose behalf a county 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 by the Minister or 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 section twelve of the Town and Country Planning Act, 1947, and " develop " shall be construed accordingly;

" development order " means an order under subsection (1) of section thirteen of the Town and Country Planning Act, 1947;

" development plan " has the meaning assigned to it by section five of the Town 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, bye-law 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;

" local planning authority " has the meaning assigned to it by section four of the Town and Country Planning Act, 1947;

" the Minister " means the Minister of Housing and Local Government;

" 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 Part III of the Town and Country Planning Act, 1947;

Status: This is the original version (as it was originally enacted).

" planning permission " means permission under Part III of the Town and Country Planning Act, 1947;

" 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 Landlord 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;
 - (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 subsection (3) of section sixteen of the Town and Country Planning Act, 1947, 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 subsection (3) of section sixteen of the Town and Country Planning Act, 1947, 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—

Status: This is the original version (as it was originally enacted).

- (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.

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 sub section (2) of section five of the 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) the enactments specified in the Fourth Schedule to this Act shall have effect subject to the amendments specified in that Schedule.
- (3) The enactments specified in the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) The mention of particular matters in this section shall not be taken to affect the general application to this Act of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals).
- (5) Any regulations made under subsection (2) of section fifty-seven of the Town and Country Planning Act, 1947, or made under section fifty-five of the Town and Country Planning Act, 1959, for the purposes of section nineteen or section twenty of that Act shall have effect respectively as if made under section thirty-two or section twenty-eight of this Act.

41 Saving for transactions before commencement

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 or served in the exercise of powers conferred by Part II of the Requisitioned Land and War Works Act, 1945 ; 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.

42 Short title, commencement and extent

- (1) This Act may be cited as the Land Compensation Act, 1961.

Status: This is the original version (as it was originally enacted).

- (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.