



Land Compensation (Scotland) Act 1963

1963 CHAPTER 51

PART III

PROVISIONS DETERMINING AMOUNT OF COMPENSATION

Special Cases

17 Acquisition of houses unfit for human habitation

The provisions of Schedule 2 to this Act shall have effect as to compensation in respect of the acquisition of land in the circumstances mentioned in that Schedule.

18 Land of statutory undertakers

In relation to compulsory acquisitions of interests in land which has been acquired by statutory undertakers (within the meaning of the Town and Country Planning (Scotland) Act 1947) for the purposes of their undertaking, the provisions of this Act shall have effect subject to the provisions of section 42(5) of that Act (which makes special provision as to the compensation payable in respect of certain acquisitions of land so acquired).

19 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 Secretary of State under section 23 or section 47 of the Town and Country Planning (Scotland) 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 recorded before the date of service of the notice to treat (whether or not a claim for compensation has been made); but

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(b) such a notice is recorded on or after that date ;

the compensation payable in respect of the compulsory acquisition shall be, assessed as if the said notice had been recorded before the date of service of the notice to treat.

(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 Town and Country Planning (Scotland) Act 1954 in respect of depreciation of the value of that interest, or

(b) under section 20(1) of the Town and Country Planning (Scotland) Act 1947, in respect of loss or damage consisting of depreciation of the value of that interest;

any reference to recording is a reference to recording in the appropriate Register of Sasines under section 29(1) or under section 41 of the Town and Country Planning (Scotland) Act 1954, or under the provisions of the said section 29(1) as applied by section 48 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 section 20(1) of the Town and Country Planning (Scotland) Act 1947, means the provisions of regulations made under that Act with respect to claims for compensation under that subsection.

20 Consideration in respect of discharge of feu-duty etc.

(1) Subject to the provisions contained in section 32 of this Act relating to increased compensation in cases falling under section 31 of this Act, the aggregate amount of the consideration payable under section 108 of the Lands Clauses Consolidation (Scotland) Act 1845 in respect of the discharge from all relevant prestations of land the *dominium utile* in which has been acquired (whether compulsorily or by agreement) by an authority possessing compulsory purchase powers, shall be an amount equal to the difference between—

(a) the amount of the compensation payable in respect of the acquisition of the *dominium utile* in the land, and

(b) the amount of the compensation which would have been so payable if the land had not been subject to any relevant prestation.

(2) Any reference in this section to a " relevant prestation " is a reference to any feu-duty, or ground annual or other annual or recurring payment or incumbrance (or any portion thereof), to which the said section 108 applies (not being stipend or standard charge in lieu of stipend).

(3) Where the *dominium utile* has been acquired by agreement it shall be assumed for the purpose of estimating the amounts referred to in subsections (1)(a) and (1)(b) of this section that it was acquired compulsorily in pursuance of a notice to treat served on the date of the making of the agreement.

(4) If the land is subject to only one relevant prestation the amount of the consideration in respect of the discharge of the land from that prestation shall be equal to the aggregate amount of the consideration.

(5) If the land is subject to two or more relevant prestations the market value of each such prestation immediately before the service of the notice to treat or, as the case may be, the making of the agreement, shall be estimated and the aggregate amount of the consideration shall be attributed to the discharge of the land from the relevant

prestations in order of priority, so however that so much thereof as is attributed to the discharge of the land from any prestation shall (without prejudice to the next following subsection) not exceed the value, estimated as aforesaid, of that prestation.

- (6) If, after giving effect to the provisions of the last preceding subsection in any case to which they apply, there remains an unattributed balance of the aggregate amount of the consideration, the amounts attributed in accordance with those provisions shall be increased proportionately so as to extinguish the balance.
- (7) Subject to the next following subsection references in this section to the compensation payable in respect of the acquisition of the *dominium utile* in any land shall be construed as references to such compensation exclusive of any compensation for disturbance or for severance or injurious affection.
- (8) In relation to the acquisition of the *dominium utile* in any land to which Rule (5) of section 12 of this Act applies, references in this section to the compensation payable in respect of the acquisition shall be construed as references to the compensation (exclusive of any compensation for disturbance or for severance or injurious affection) which would have been so payable if the said Rule (5) had not applied.

21 War-damaged land

- (1) Where an interest in any hereditament or part of a hereditament which has sustained war damage is compulsorily acquired, then if—
 - (a) any of the damage has not been made good at the date of the notice to treat; and
 - (b) the appropriate payment under the War Damage Act 1943 would, apart from the compulsory acquisition and apart from any direction given by the Treasury under section 20(2)(b) of that Act, be a payment of cost of works;the following provisions of this section shall have effect.
- (2) Where the land would, but for the occurrence of the war damage, be devoted to any such purpose as is mentioned in Rule (5) of the rules set out in section 12 of this Act, the provisions of that rule shall have effect for the purposes of the assessment of compensation payable in respect of the compulsory acquisition as if the land were devoted to that purpose.
- (3) Where (whether by virtue of subsection (2) of this section or otherwise) the compensation payable in respect of the acquisition falls to be assessed in accordance with the said Rule (5), the reasonable cost of equivalent reinstatement shall be ascertained for the purposes of that rule by reference to the state of the land immediately before the occurrence of the war damage.