



Town and Country Planning Act 1932

1932 CHAPTER 48

Compensation and Betterment

18 Provisions as to compensation for injurious affection, &c

- (1) Subject to the provisions of this Act, any person—
- (a) whose property is injuriously affected by the coming into operation of any provision contained in a scheme, or by the execution of any work under a scheme, or by the coming into operation of an order under section seventeen of this Act, being a provision, work or order which infringes or curtails his legal rights in respect of that property; or
 - (b) who suffers damage by reason of any action taken by a responsible authority under section thirteen of this Act; or
 - (c) who for the purpose of complying with any provision contained in a scheme, or in making or resisting a claim under the provisions of this Act relating to compensation and betterment, has incurred expenditure which is rendered abortive by a subsequent variation or revocation of the scheme,

shall, if he makes a claim within the time limited for the purpose by this Act, be entitled to recover as compensation from the responsible authority, or, if his claim arises out of the coming into operation of an order under section seventeen of this Act, from the council by whom the order was made, the amount by which his property is decreased in value, and, in the case of property on which he has carried on a trade or business or profession, the amount of any resulting injury to that trade or business or profession, or the amount of his damage, or, so far as it was reasonably incurred, the amount of the abortive expenditure, as the case may be.

- (2) In awarding any compensation payable in respect of property injuriously affected by the coming into operation of any provision contained in a scheme, account shall be taken of any additional injurious affection of the property by reason that since the commencement of this Act the Minister has refused, on an appeal made to him under an interim development order, to grant an application for permission to develop the property, or that the Minister has imposed any conditions on the grant of such an application made since that date.

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19 Power of Minister to exclude compensation in certain classes of cases

- (1) Subject to the provisions of this section, a scheme may provide, either generally or as respects all property except such as may be specified for the purpose in the scheme, that no compensation shall be payable under paragraph (a) of subsection (1) of the last preceding section in respect of the injurious affection of property by the coming into operation of any provision of the scheme which—
- (a) prescribes the space about buildings; or
 - (b) limits the number of buildings; or
 - (c) regulates, or empowers the responsible authority to regulate, the size, height, design or external appearance of buildings; or
 - (d) prohibits or restricts building operations only pending the coming into operation of a general development order; or
 - (e) prohibits or restricts building operations permanently on the ground that, by reason of the situation or nature of the land, the erection of buildings thereon would be likely to involve danger or injury to health, or excessive expenditure of public money in the provision of roads, sewers, water supply or other public services; or
 - (f) prohibits (otherwise than by way of prohibition of building operations) the use of land for a purpose likely to involve danger or injury to health, or serious detriment to the neighbourhood, or restricts (otherwise than by way of restriction of building operations) the use of land so far as may be necessary for preventing such danger, injury, or detriment; or
 - (g) restricts the manner in which buildings may be used; or
 - (h) in the interests of safety regulates or empowers the responsible authority to regulate the height and position of proposed walls, fences or hedges near the corners or bends of roads, other than highways maintainable at the material date by the Minister of Transport, a county council, or other highway authority; or
 - (i) limits the number, or prescribes the sites, of new roads entering a classified road, or a road, or the site of a proposed road, which is declared by the Minister of Transport to be intended to be a classified road; or
 - (k) in the case of land which at no time within the period of five years immediately preceding the material date was or formed part of, the site of a building, fixes in relation to any street or proposed street a line beyond which no building in that street or proposed street may project; or
 - (l) in the case of the erection of any building intended to be used for purposes of business or industry, requires the provision of accommodation for loading, unloading or fuelling vehicles with a view to preventing obstruction of traffic on any highway.
- (2) The Minister shall not approve the insertion in a scheme of a provision excluding compensation under the last preceding subsection or himself insert in a scheme such a provision—
- (i) unless he is satisfied that, having regard to the objects of the scheme, the provision in respect of which compensation is to be excluded is proper and reasonable and expedient having regard to the local circumstances;
 - (ii) if the provision in respect of which compensation is to be excluded is such a provision as is mentioned in paragraph (a), (b), (c), (d), or (g) of the said subsection, unless the scheme contains also provisions satisfactory to him for securing that—

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- (a) existing buildings may be maintained and their existing use continued; and
 - (b) reasonable alterations and, in proper cases, extensions of existing buildings may be made; and
 - (c) where an existing building or a building which was standing within two years before the material date is destroyed or demolished, a new building having at least an equal cubic content above the level of the ground and, in addition, in the case of premises used for business or industry, at least an equal superficial area on the ground floor, may be erected on the same site, if commenced within two years after the destruction or demolition of the previous building, or within such longer period as the responsible authority may permit; and
 - (d) a new building so substituted as aforesaid may be used for any purpose of the same or a similar character as that for which the previous building was last used before its destruction or demolition, notwithstanding that its use for that purpose would be contrary to the provisions of the scheme, unless such a use is declared in the scheme to be both contrary to the provisions thereof and also of a noxious or otherwise offensive character;
 - (iii) if the provision in respect of which compensation is to be excluded is such a provision as is mentioned in paragraph (f) of the said subsection, in so far as that provision—
 - (a) prohibits or restricts the winning of minerals by underground working;
 - (b) prohibits or restricts as respects any land the winning of minerals by surface working unless the land is reserved by the scheme, and has been substantially developed, for residential purposes; or
 - (c) prohibits or restricts as respects any land so reserved the winning by surface working of minerals, if the Minister is satisfied, upon representations being made to him, that the minerals, or the right to win the minerals, had before the material date been acquired by some person for the purpose of winning them, or had before that date devolved upon some person desirous of winning them;
 - (iv) if the provision in respect of which compensation is to be excluded is such a provision as is mentioned in paragraph (i) of the said subsection, unless he is satisfied, if representations are made to him in any particular case, and the case appears to him to be a proper one, that reasonable means of access from neighbouring land to a highway will be provided;
 - (v) if the provision in respect of which compensation is to be excluded is such a provision as is mentioned in paragraph (k) of the said subsection, and, so far as concerns any particular land, unless he is satisfied, if representations are made to him as respects that land, that the area of the land of the owner fronting the street or proposed street will not be diminished to such an extent by the fixing of the building line as to render it less suitable for the erection of buildings in conformity with the provisions of the scheme.
- (3) Notwithstanding the insertion in a scheme of such provisions satisfactory to the Minister as are mentioned in paragraph (ii) of the last foregoing subsection, if and in so far as any alteration or extension of an existing building, or the substitution of a new building for a previous building, being an alteration, extension, or substitution which is authorised by, or might be permitted under, the said provisions, would not be in conformity with, or would contravene, any provision of the scheme, the responsible authority may prohibit that alteration, extension or substitution, but in that case the person whose property is injuriously affected by the prohibition shall, if he makes

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a claim within twelve months after receiving notice of the prohibition, be entitled, notwithstanding anything in subsection (1) of this section, to recover compensation in respect of that injurious affection from the responsible authority in accordance with the provisions of this Act.

- (4) Notwithstanding the insertion in a scheme of such provisions satisfactory to the Minister as are mentioned in paragraph (ii) of subsection (2) of this section, if and in so far as the continuance of any existing building or of any existing use of an existing altered, extended or substituted building is not in conformity with, or contravenes, any provisions of the scheme, nothing in that subsection shall be construed as precluding the responsible authority from exercising at any future time their powers under section thirteen of this Act in respect of that use, subject, however, to payment of compensation in accordance with the provisions of paragraph (b) of subsection (1) of section eighteen of this Act.
- (5) In considering whether he ought to approve the insertion in a scheme of a provision excluding compensation, or ought himself to insert such a provision, the Minister shall have regard to—
 - (a) the nature and situation and existing development of the land affected by the provision in respect of which compensation is excluded and of neighbouring land not so affected; and
 - (b) the interests of any person who would be affected by the provision in respect of which compensation is excluded.

20 Exclusion or limitation of compensation in certain other cases

- (1) No compensation shall be payable under this Act in respect of any property on the ground that it has been injuriously affected by any provision contained in a scheme, if and in so far as the same provision or a provision substantially to the same effect was, at the date when the scheme came into operation, already in force by virtue of some Act, not being either this Act or an Act repealed by this Act.
- (2) A person shall not be entitled to recover compensation under this Act in respect of any action taken by a responsible authority under section thirteen of this Act except in a case where a building or work which the authority have removed, pulled down or altered, was an existing building or an existing work, or a use of a building or land which they have prohibited was an existing use.
- (3) Where any provision contained in a scheme could immediately before the date on which the scheme came into operation have been validly included in a scheme, order, regulation or byelaw by virtue of any other Act in force at that date, then—
 - (a) if no compensation would have been payable in respect of injury caused by the coming into operation of that provision in that other scheme, or that order, regulation or byelaw, no compensation shall be payable in respect of that provision of the scheme under this Act; and
 - (b) if compensation would have been so payable, the compensation payable in respect of that provision of the scheme under this Act shall not be greater than the compensation which would have been so payable.
- (4) Where any provision of a scheme, whether made under this Act or under any Act repealed by this Act, is revoked by a subsequent scheme, no compensation shall be payable in respect of any property on the ground that it has been injuriously affected by any provision contained in the subsequent scheme if and in so far as that later

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provision is the same, or substantially the same, as the earlier provision so revoked; but if at the date when the revocation of that earlier provision becomes operative—

- (a) there is still outstanding any claim for compensation duly made thereunder; or
- (b) the time originally limited for making such a claim has not expired,

any such outstanding claim and any such claim made within the time so limited shall be entertained and determined, and may be enforced, in the same manner in all respects as if all the provisions of the earlier scheme had continued in operation.

21 Recovery of betterment from owners of property increased in value

- (1) Where by the coming into operation of any provision contained in a scheme, or by the execution by a responsible authority of any work under a scheme, any property is increased in value, the responsible authority, if within twelve months after the date on which the provision came into operation or such longer period as may be specified in the scheme, or within twelve months after the completion of the work, as the case may be, they make a claim in that behalf, may, subject to the provisions of this Act, recover from the person whose property is so increased in value an amount not exceeding seventy-five per cent. of the amount of that increase :

Provided that, except where the person against whom the claim is made has claimed from the responsible authority, by way of compensation under this Act in connection with the scheme and in respect of any injurious affection other than injurious affection immediately suffered, an amount not less than the amount claimed by the responsible authority under this section and the claim for compensation has been allowed in an amount not less than the amount claimed by the responsible authority as aforesaid, or is outstanding, that person may at any time within twenty-eight days after service on him of the claim give notice in writing to the responsible authority requiring them to defer the claim, and in that event the claim shall be withdrawn.

- (2) Where a notice has been given in respect of any property under the last preceding subsection, the responsible authority shall be entitled to make a fresh claim against the person who gave the notice in respect of any increase in the value of the property due to the coming into operation of any provision contained in the scheme or by the execution by the authority of any work under the scheme—
- (a) on the taking effect at any time within fourteen years from the date of service of the said notice of a disposition of the property;
 - (b) on the taking place at any time within the said period of fourteen years of a change of use of the property;
 - (c) in the case of property which was at the date of the original claim used for the purposes of any business or industry, and in respect of which there has not within the period of five years next after the date of the service of the notice been made any claim under paragraph (a) or (b) of this subsection, at any time within a period of twelve months after the expiration of the said period of five years :

Provided that no claim shall be made—

- (i) under paragraph (b) of this subsection if the new use of the property is a use as arable, meadow or pasture ground, or as market gardens, nursery grounds, orchards or allotments, or for a plantation or a wood, or for the growth of saleable underwood, or as allotment gardens within the meaning of the Allotments Act, 1922, or (being land which exceeds one quarter of an acre) for the purpose of poultry farming; and

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- (ii) under paragraphs (b) or (c) of this subsection in the case of property belonging to a statutory undertaker.
- (3) If a claim is made on a disposition of property or, in the case of property used for the purposes of any business or industry, on the expiration of the said period of five years, the responsible authority may recover a sum not exceeding seventy-five per cent. of the amount by which the property has been increased in value by the coming into operation of the provision or by the execution of the work in respect of which the original claim was made, and the date of the fresh claim shall be the date by reference to which the increase in value shall be determined, and thereafter no further claim shall be made under this section in respect of that property.
- (4) If a claim is made on a change of use of property taking place, the responsible authority may recover a sum not exceeding seventy-five per cent. of the amount by which the property has for the purposes of its new use been increased in value by the coming into operation of the provision or by the execution of the work in respect of which the original claim was made and, on any subsequent change of use taking place or upon any disposition of the property taking effect within the period of fourteen years a fresh claim may be made.
- (5) In assessing the amount of any sum payable under this section in respect of any property, account shall be taken—
- (a) of any principal sum paid or payable to the responsible authority in respect of the property under a claim previously made under this section; and
 - (b) of any gift of property whether real or personal, or any concession made or any works executed under arrangement with the responsible authority, by any person against whom the claim under this section in respect of the property is made or his predecessors in title, with a view to facilitating the making or carrying into effect of the scheme.
- (6) Any sum recoverable under this section may be paid either immediately or by such instalments spread over a period not exceeding thirty years as may be agreed or determined under this Act, and where payment is made by instalments interest at such rate as may from time to time be fixed by the Treasury shall be chargeable on the aggregate amount of the instalments for the time being outstanding, but notwithstanding any such agreement or determination the person from whom such instalments are due may, on giving not less than six months' notice in writing to the responsible authority of his intention so to do, pay to them the whole of any outstanding instalments, together with any interest accruing due thereon to the date of payment.
- (7) A person who gives a notice under subsection (1) of this section shall, within one month after the date on which any such disposition as is mentioned in paragraph (a) of subsection (2) of this section takes effect, or any such change of use as is mentioned in paragraph (b) of the said subsection (2) takes place, give written notice thereof to the responsible authority and shall, within one month after receiving from the responsible authority a demand in that behalf (which demand shall be made not later than the expiration of two months after the giving of the notice), furnish to the authority such particulars as they may reasonably require for the purposes of this section :
- Provided that, if at any time the responsible authority make a claim which under the provisions of subsection (3) of this section is final, they shall notify the person who gave the notice under subsection (1) of this section that no further notice of disposition or change of use need be sent.

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- (8) A claim made on a disposition of property taking effect, or on a change of use taking place, shall be made not later than the expiration of twelve months from the date on which notice is given to the responsible authority under subsection (7) of this section of the disposition or change of use, or, where particulars are demanded by the authority, the date on which the particulars are furnished to the authority :

Provided that, where a disposition is by way of lease or tenancy agreement for a term of less than seven years, the claim shall be made not earlier than the expiration of the seventh year from the date on which the said term commenced.

- (9) The provisions of this section shall apply to a disposition of, or a change of use of, a part of any property in respect of which notice has been given under subsection (1) of this section as they apply in relation to a disposition of or a change of use of the whole of that property.

- (10) Where any provision of a scheme, whether made under this Act or under any Act repealed by this Act, is revoked by a subsequent scheme, no property shall be deemed to be increased in value by any provision contained in the subsequent scheme if and in so far as that provision is the same, or substantially the same, as a provision contained in the scheme so revoked :

Provided that, if at the date when the revocation of the said scheme becomes operative there is still outstanding any claim in respect of an increase in the value of any property duly made thereunder, or the time originally limited for making such a claim has not expired, any such outstanding claim, and any such claim made within the time so limited, shall be entertained and determined and may be enforced, in the like manner in all respects as if all the provisions of the earlier scheme had continued in operation.

- (11) In this section the expression " disposition " means a disposition by way of sale (including a sale in consideration of a rentcharge or other periodical payment) or by way of lease or tenancy agreement for a period of not less than three years, and references to the person who gives a notice under subsection (1) of this section shall, where a devolution of the property to which the notice relates has occurred since the notice was given, be construed as references to the person on whom the property to which the notice relates last devolved before the date on which a disposition takes effect or a change of use takes place.

- (12) For the purposes of this section a change of use of property shall not be deemed to have occurred if the character of the new use is similar to that of the previous use.

22 Making of claims for compensation or betterment

- (1) A claim under this Act for compensation or in respect of an increase in the value of any property shall be made by serving upon the authority, council or person from whom the amount alleged to be payable is claimed, a notice in writing stating the grounds of the claim and the amount claimed.
- (2) Subject to the provisions of this Act, a claim under this Act for compensation may be made within twelve months after the date on which the provision giving rise to the claim came into operation or within such longer period as may be specified in the scheme, or, if the claim is a claim for compensation in respect of action taken by a responsible authority under section thirteen of this Act, or in respect of the coming into operation of an order under section seventeen of this Act, or in respect of expenditure rendered abortive by the variation or revocation of a scheme, within twelve months

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after the date on which the action was completed, or the order came into operation, or the variation or revocation of the scheme became operative.

- (3) Where it is alleged that land which, at or within two years before the material date, formed the site of a building has been injuriously affected by a provision fixing, in relation to any street or proposed street, a line beyond which no building in that street or proposed street may project, then, subject to any agreement to the contrary, the period within which a claim for compensation may be made in respect of that land shall be a period of twelve months after the date on which a new building is erected on the site in conformity with the line so fixed:

Provided that, if in the case of any such land a claimant alleges in his claim, and proves to the satisfaction of the arbitrator, that it is not reasonably practicable to erect any new building on that land in conformity with the line so fixed, and, where the building is standing at the date on which the scheme comes into operation, has before commencing to demolish the building given notice to the responsible authority in accordance with the provisions of the next succeeding subsection, a claim made by him at any time within a period of twelve months after the date on which the building is demolished or the date on which the scheme comes into operation, whichever last occurs, shall be deemed to be validly made and shall be entertained by the arbitrator.

- (4) A person who intends to claim compensation in respect of any such land as is mentioned in the proviso to the last preceding subsection shall, if the building is standing at the date on which the scheme comes into operation, not less than three months before he commences to demolish the building, give notice in writing of his intention to the responsible authority, and that authority may, at any time before the expiration of two months from the receipt by them of the notice, require him to sell to them the site and the buildings thereon, and thereupon the provisions of this Act with respect to the compulsory acquisition of land by a responsible authority shall apply in relation to that site and any buildings thereon as they apply in relation to land required by such an authority for the purposes of a scheme.
- (5) Where it - is alleged that property has been injuriously affected by the execution of any work, the period within which a claim in respect of that injurious affection may be made shall be a period of twelve months after the completion of the work.

23 Determination of claims and recovery of amounts due

- (1) Any question arising under this Act as to—
- (i) the right of a claimant to recover compensation; or
 - (ii) the right of an authority to recover any amount in respect of an increase in the value of any property; or
 - (iii) the amount and manner of payment, whether immediately or by instalments spread over a period not exceeding thirty years, of any such recoverable compensation or amount as aforesaid,

shall, unless the authority and all persons concerned otherwise agree, be referred to and determined by an official arbitrator to be appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, who shall have the like powers with respect to procedure (including the hearing of claims and objections together), costs, and the statement of special cases as he has under that Act.

- (2) The arbitrator or other person charged with the duty of determining any such question as aforesaid—

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- (i) shall have regard to any undertaking which either the local authority or joint committee by whom the scheme was prepared, or the responsible authority, or a county council, or the person against whom the claim is made, may have given; and
 - (ii) if the question arises out of the coming into operation of a supplementary scheme or a supplementary order, shall take into account any amount which the responsible authority have paid or are liable to pay, or have recovered or are entitled to recover, in respect of that property by reason of the coming into operation of the original scheme, or any other scheme or order supplemental thereto; and
 - (iii) if any contribution has been made by an authority under the provisions of this Act relating to interim development orders, shall take into account that contribution.
- (3) Any amount due as compensation from a responsible authority and any amount due to an authority from a person whose property is increased in value may be recovered summarily as a civil debt.

24 Power to withdraw or modify provisions of scheme after award of compensation

- (1) The responsible authority may, at anytime within one month after the date of an award of compensation under this Act in respect of the injurious affection of any property, give notice to the claimant of their intention to withdraw or modify all or any of the provisions of the scheme which gave rise to his claim for compensation.
- (2) Where such a notice has been given, the responsible authority shall within three months from the date of the notice submit for the approval of the Minister a varying scheme carrying into effect such withdrawal or modification as aforesaid, and upon the varying scheme, as approved by the Minister with or without modifications, coming into operation, and upon payment by the authority of the claimant's costs of and in connection with the arbitration, the award of the arbitrator shall be discharged, without prejudice, however, to the right of the claimant to make a further claim for compensation under paragraph (c) of subsection (1) of section eighteen of this Act or in respect of the scheme as varied.
- (3) No award of compensation under this Act in respect of the injurious affection of any property shall be enforceable before the expiration of one month from the date thereof, or if a notice has been given by the authority under subsection (1) of this section, until after the expiration of three months from the date of the notice, or, if within that period a varying scheme is submitted to the Minister, until that scheme has either come into operation, or been disapproved by the Minister, or quashed by a court.