



Land Compensation (Scotland) Act 1963

1963 CHAPTER 51

PART I

DETERMINATION OF QUESTIONS OF DISPUTED COMPENSATION BY OFFICIAL ARBITER

1 Period during which Part I shall have effect

Until the coming into force in Scotland of sections 1 to 4 of the Lands Tribunal Act 1949 this Part of this Act shall have effect in relation to the determination of any such question as is mentioned in the next following section.

2 Tribunal for assessing compensation in respect of land compulsorily acquired

- (1) Where by or under any statute (whether passed before or after the passing of this Act) land is authorised to be acquired compulsorily, any question of disputed compensation and, where any part of the land to be acquired is subject to a lease which comprises land not acquired, any question as to the apportionment of the rent payable under the lease, shall be referred to the arbitration of such one of a panel of official arbiters appointed under this section as may be selected in accordance with rules made by the Reference Committee under this section and shall be determined by such arbiter in accordance with the following provisions of this Act.
- (2) Such number of persons, being persons with special knowledge in the valuation of land, as may be appointed by the Reference Committee shall form a panel of persons to act as official arbiters for the purposes of this Part of this Act.
- (3) A person appointed to be a member of the panel of official arbiters shall hold office for such term certain as may be determined by the Treasury before his appointment.
- (4) There shall be paid out of moneys provided by Parliament to official arbiters such salaries or remuneration as the Treasury may determine.
- (5) The Reference Committee shall consist of the Lord President of the Court of Session, the Lord Justice Clerk and the Chairman of the Scottish Committee of the Royal Institution of Chartered Surveyors.

3 Procedure on references under s. 2

- (1) The following provisions shall have effect with respect to any proceedings on a question referred to the official arbiter under section 2 of this Act.
- (2) The official arbiter shall sit in public.
- (3) Not more than one expert witness on either side shall be heard unless the official arbiter otherwise directs; except that, where the claim includes a claim for compensation in respect of minerals, or disturbance of business, as well as in respect of land, one additional expert witness on either side on the value of the minerals or, as the case may be, on the damage suffered by reason of the disturbance may be allowed.
- (4) The official arbiter shall be entitled to enter on and inspect any land which is the subject of proceedings before him.
- (5) An official arbiter shall be entitled to be furnished with such returns and assessments as he may require.
- (6) The official arbiter shall, on the application of either party, specify the amount awarded in respect of any particular matter the subject of the award.
- (7) The fees to be charged in respect of proceedings before official arbiters shall be such as the Treasury may prescribe.
- (8) Subject as aforesaid, the Reference Committee may make rules regulating the procedure before official arbiters.
- (9) The decision of an official arbiter upon any question of fact shall be final and binding on the parties and the persons claiming under them respectively, but the official arbiter may, and shall, if the Court of Session so directs, state at any stage of the proceedings, in the form of a special case for the opinion of the said Court, any question of law arising in the course of the proceedings, and may state his award as to the whole or part thereof in the form of a special case for the opinion of the said Court.

4 Consolidation of proceedings on claims in respect of several interests in the same land

Where notices to treat have been served for the acquisition of the several interests in any land then, if the acquiring authority so desire, the disputed claims of the persons entitled to those interests shall, so far as practicable, be heard and determined by the same official arbiter, and the Reference Committee may make rules providing that such claims shall be heard together; but the value of the several interests shall be separately assessed.

5 Expenses

- (1) Where either—
 - (a) the acquiring authority have made an unconditional offer in writing of any sum as compensation to any claimant and the sum awarded by the official arbiter to that claimant does not exceed the sum offered; or
 - (b) the official arbiter is satisfied that a claimant has failed to deliver to the acquiring authority, in time to enable them to make a proper offer, a notice in writing of the amount claimed by him, containing the particulars mentioned in subsection (2) of this section;

the official arbiter shall, unless for special reasons he thinks proper not to do so, order the claimant to bear his own expenses and to pay the expenses of the acquiring authority so far as they were incurred after the offer was made or, as the case may be, after the time when in the opinion of the official arbiter the notice should have been delivered.

- (2) The notice mentioned in subsection (1)(b) of this section must state the exact nature of the interest in respect of which compensation is claimed and give details of the compensation claimed, distinguishing the amounts under separate heads and showing how the amount claimed under each head is calculated.
- (3) Where a claimant has delivered such a notice as is mentioned in subsection (1)(b) of this section and has made an unconditional offer in writing to accept any sum as compensation, then, if the sum awarded to him by the official arbiter is equal to or exceeds that sum, the official arbiter shall, unless for special reasons he thinks proper not to do so, order the acquiring authority to bear their own expenses and pay the expenses of the claimant so far as they were incurred after his offer was made.
- (4) Subject as aforesaid, the expenses of an arbitration under this Part of this Act shall be in the discretion of the official arbiter who may direct to and by whom, and in what manner, those expenses or any part thereof shall be paid, and the official arbiter may, in any case, disallow the cost of counsel.
- (5) An official arbiter may himself tax the amount of expenses ordered to be paid or may direct in what manner they are to be taxed.
- (6) Where the official arbiter orders the claimant to pay the expenses, or any part of the expenses, of the acquiring authority, the acquiring authority may deduct the amount so payable by the claimant from the amount of the compensation, if any, payable to him.
- (7) For the purposes of this section, expenses include any fees, charges and expenses of the arbitration or award.

6 Power to refer to Commissioners of Inland Revenue or to agreed arbiter

- (1) Nothing in this Part of this Act shall prevent, if the parties so agree, the reference of any question as to disputed compensation or apportionment of rent to the Commissioners of Inland Revenue or to an arbiter agreed on between the parties.
- (2) Where a question is so referred to the Commissioners of Inland Revenue, the Commissioners shall not proceed by arbitration, but shall cause an assessment to be made in accordance with the rules for the assessment of compensation under this Act, and the following provisions shall have effect:—
 - (a) The parties shall comply with any direction or requirements as to the furnishing of information (whether orally or in writing) and the production of documents and otherwise;
 - (b) Any officer of the Commissioners appointed for the purpose shall be entitled to enter on and inspect any land which is subject to the reference to them;
 - (c) The Commissioners, if either party so desires within such time as the Commissioners may allow, shall give the parties an opportunity of being heard before such officer of the valuation office of the Commissioners as the Commissioners may appoint for the purpose;
 - (d) The assessment when made shall be published to the parties and take effect as if it were an award of an official arbiter under this Part of this Act;

- (e) If either party refuses or neglects to comply with any direction or requirement of the Commissioners, the Commissioners may decline to proceed with the matter, and in that case the question shall be referred to an official arbiter as if there had been no reference to the Commissioners, and the official arbiter when awarding expenses shall take into consideration any report of the Commissioners as to the refusal or neglect which rendered such a reference to him necessary.
- (3) Where a question is referred to an arbiter under subsection (1) of this section, the provisions of this Part of this Act, except sections 2 and 4 and so much of section 3 as requires proceedings to be in public and as provides for the fixing of fees, shall apply as if the arbiter was an official arbiter.
- (4) Either party to a claim for compensation may require the Commissioners of Inland Revenue to assess the value of the land in respect of which the claim arises, and a copy of any such assessment shall be sent forthwith by the Commissioners to the other party, and a certified copy of such assessment shall be admissible in evidence of that value in proceedings before the official arbiter, and the officer who made the assessment shall attend, if the official arbiter so require, to answer such questions as the official arbiter may think fit to put to him thereon.

7 Rules and fees

- (1) Any power to make rules conferred by this Part of this Act on the Reference Committee and the power to prescribe fees conferred by this Part of this Act on the Treasury shall be exercisable by statutory instrument.
- (2) The Statutory Instruments Act 1946 shall apply to a statutory instrument containing rules made for the purposes of this Part of this Act as if the rules had been made by a Minister of the Crown.