



Land Compensation (Scotland) Act 1973

1973 CHAPTER 56

PART II

MITIGATION OF INJURIOUS EFFECT OF PUBLIC WORKS

Insulation against noise

18 Sound-proofing of buildings affected by public works.

- (1) The Secretary of State may make regulations imposing a duty or conferring a power on responsible authorities to insulate buildings against noise caused or expected to be caused by the construction or use of public works or to make grants in respect of the cost of such insulation.
- (2) Regulations under this section may—
 - (a) make provision as to the level of noise giving rise to a duty or power under the regulations and the area in which a building must be situated if a duty or power is to arise in respect of it;
 - (b) specify the classes of public works and of buildings in respect of which a duty or power is to arise, and the classes of persons entitled to make claims, under the regulations;
 - (c) specify the nature and extent of the work which is to be undertaken under the regulations and the expenditure in respect of which and the rate at which grants are to be made under the regulations;
 - (d) make the carrying out of work or the making of grants under the regulations dependent upon compliance with conditions;
 - (e) make provision as to the funds out of which expenses incurred by responsible authorities under the regulations are to be defrayed;
 - (f) make provision for the settlement of disputes arising under the regulations.
- (3) Without prejudice to the generality of paragraph (a) of subsection (2) above, regulations made by virtue of that paragraph may provide for the relevant level of noise or the relevant area in a particular case to be determined by reference to a document

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published by or on behalf of the Secretary of State or by any other authority or body or in such other manner as may be provided in the regulations.

- (4) If regulations under this section impose a duty or confer a power to carry out, or make a grant in respect of the cost of, work in respect of a building which is subject to a tenancy on a claim in that behalf made by the landlord or the tenant, provision may also be made by the regulations for enabling the work to be carried out notwithstanding the withholding of consent by the other party to the tenancy.
- (5) Regulations under this section may authorise or require local authorities to act as agents for responsible authorities in dealing with claims and in discharging or exercising the duties or powers of responsible authorities under the regulations, and may provide for the making by responsible authorities of payments to local authorities in respect of anything done by them as such agents.
- (6) Regulations under this section may contain such supplementary provisions as appear to the Secretary of State to be necessary or expedient and may make different provision with respect to different areas or different circumstances.
- (7) The power to make regulations under this section shall be exercisable by statutory instrument.
- (8) A draft of any regulations under this section shall be laid before Parliament and the first regulations shall not be made unless the draft has been approved by a resolution of each House of Parliament.
- (9) The purposes for which advances may be made by the Secretary of State under ^{F1}section 3 of the Roads (Scotland) Act 1984 shall include the discharge or exercise by a ^{F2}roads authority of any duty or power imposed or conferred on the authority under this section.
- (10) In sections 24(4) and 29(a) of the ^{M1}Rent (Scotland) Act 1971 (increase of rent for improvements) after the words “section 15 of the ^{M2}Airports Authority Act 1965 (grants towards the cost of soundproofing)” there shall be inserted the words “or regulations under section 18 of the Land Compensation (Scotland) Act 1973”.
- (11) In this section “public works” and “responsible authority” have the same meaning as in section 1 above except that “public works” does not include an aerodrome and except that “responsible authority” in relation to a highway, includes any authority having power to make an order in respect of that highway under section 1 or 6 of the ^{M3}Road Traffic Regulation Act 1967 (traffic regulation orders).

Textual Amendments

- F1** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 72\(5\)](#)
F2 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 72\(2\)\(3\)](#)

Modifications etc. (not altering text)

- C1** The text of Ss. 18(10), 34(7), 61, 62, 71(2)(3)(4), 72, 77(2)(3), Sch.2 pt.1 and pt.II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M1** 1971 c. 28
M2 1965 c. 16

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M3 1967 c. 76.

[18A F3 Power to make payments in respect of caravans and other structures affected by noise of public works.

- (1) The Secretary of State may make regulations empowering responsible authorities to make a payment, not exceeding an amount specified in the regulations, in respect of any dwelling which—
 - (a) is not a building;
 - (b) is occupied by a person as his only or main residence; and
 - (c) is affected or likely to be affected by noise caused by the construction or use of public works.
- (2) Regulations under this section may—
 - (a) make provision as to the level of noise giving rise to a power under the regulations and the area in which a dwelling must be situated if a power is to arise in respect of it;
 - (b) specify the classes of public works and of dwellings in respect of which a power is to arise, and the classes of persons entitled to make claims, under the regulations; and
 - (c) make provision as to the funds out of which expenses incurred by responsible authorities under the regulations are to be defrayed.
- (3) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsections (3), (6) and (11) of section 18 above apply for the purposes of this section as they apply for the purposes of that.]

Textual Amendments

F3 S. 18A inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, [Sch. 17 Pt. I para.13\(1\)\(2\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)

19 **F4**

Textual Amendments

F4 S. 19 repealed by [Airports Authority Act 1975 \(c. 78\)](#), [Sch. 6](#)

Powers of highway authorities

20— **F5**

23.

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Textual Amendments

F5 Ss. 20–23 repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 11](#)

Powers of authorities responsible for other public works

24 Acquisition of land in connection with public works.

- (1) Subject to the provisions of this section, a responsible authority may acquire land by agreement for the purpose of mitigating any adverse effect which the existence or use of any public works has or will have on the surroundings of the works.
- (2) Subject to the provisions of this section, a responsible authority may acquire by agreement—
 - (a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or alteration of any public works;
 - (b) land the enjoyment of which is seriously affected by the use of any public works,
 if the interest of the [^{F6}seller] is of the kind mentioned in section 20(2) above.

^{F7}[(2A) Where the responsible authority—

- (a) propose to carry out works on land to which this subsection applies for the construction or alteration of any public works, and
- (b) are, in relation to the land, the appropriate authority,

they may, subject to the provisions of this section, acquire by agreement land the enjoyment of which will in their opinion be seriously affected by the carrying out of the works or the use of the public works if the interest of the seller is an interest such as is mentioned in [^{F8}section 100(2) (interests qualifying for protection under blight provisions) of the Town and Country Planning (Scotland) Act 1997].

(2B) Subsection (2A) above applies to any land such as is mentioned in [^{F9}Schedule 14 to the said Act of 1997].

(2C) In this section—

“appropriate authority” has the meaning given in section 194(1) of the said Act.]

- (3) The powers conferred by subsection (2)(b) above shall not be exercisable unless the date on which the public works or, as the case may be, the altered public works, are first used falls on or after 17th October 1971 and the powers conferred by subsections (1) and (2)(a) above shall not be exercisable unless that date falls on or after 17th October 1972; and—
 - (a) if that date falls not later than one year after 23rd May 1973—
 - (i) the powers conferred by subsections (1) and (2)(b) above shall not be exercisable unless the acquisition is begun before the end of one year after 23rd May 1973 or one year after that date, whichever ends later;
 - (ii) the powers conferred by subsection (2)(a) above shall not be exercisable unless the acquisition is begun before the end of one year after 23rd May 1973;
 - (b) if that date falls more than one year after 23rd May 1973—

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- (i) the powers mentioned in paragraph (a)(i) above shall not be exercisable unless the acquisition is begun before the end of one year after that date;
 - (ii) the powers mentioned in paragraph (a)(ii) above shall not be exercisable unless the acquisition is begun before that date.
- (4) For the purposes of subsection (3) above the acquisition of any land shall be treated as begun when the agreement for its acquisition is made.
- (5) This section applies only where the responsible authority have statutory powers to acquire land (whether compulsorily or by agreement) for the purposes of their functions but would not, apart from this section, have power to acquire land as mentioned in subsections (1), [F10(2) and (2A)] above.
- (6) In this section “public works” and “responsible authority” have the same meaning as in section 1 above except that “public works” does not include a road or any works forming part of a statutory undertaking as defined in [F11]section 214 of the Town and Country Planning (Scotland) Act 1997[[F12]or authorised by an order under section 1 of the Transport and Works (Scotland) Act 2007] .

Textual Amendments

- F6** Word in s. 24(2) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, [Sch. 17, Pt. II](#), para. 19(a) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F7** S. 24(2A)-(2C) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 76(1) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F8** Words in s. 24(2A) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 21\(3\)\(a\)](#)
- F9** Words in s. 24(2B) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 21\(3\)\(b\)](#)
- F10** Words in s. 24(5) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, [Sch. 17, Pt. II](#) para. 19(b) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F11** Words in s. 24(6) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 21\(3\)\(c\)](#)
- F12** Words in s. 24(6) added (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), [ss. 19\(7\)\(a\)](#), 30(4); S.S.I. 2007/516, [art. 2](#)

25 Execution of works etc. in connection with public works.

- (1) A responsible authority may carry out—
- (a) if they have power to acquire land under section 24 above, on any land acquired by them under that section;
 - (b) on any other land belonging to them,
- works for mitigating any adverse effect which the construction, alteration, existence or use of any public works has or will have on the surroundings of the works.
- (2) Without prejudice to the generality of subsection (1) above, the works that may be carried out under that subsection include the planting of trees, shrubs or plants of any other description and the laying out of any area as grassland.
- (3) A responsible authority may—
- (a) develop or redevelop any land acquired by them under section 24 above, or any other land belonging to them, for the purpose of improving the surroundings of public works in any manner which they think desirable by reason of the construction, alteration, existence or use of the works;

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- (b) dispose of any land acquired by them under section 24 above.
- (4) This section applies only where the responsible authority are a body incorporated by or under any enactment and has effect only for extending the corporate powers of any such authority.
- (5) In this section “public works” and “responsible authority” have the same meaning as in section 1 above except that “public works” does not include a road [F13 or any works authorised by an order under section 1 of the Transport and Works (Scotland) Act 2007] .

Textual Amendments

F13 Words in s. 25(5) added (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 19(7)(b)**, 30(4); S.S.I. 2007/516, art. 2

Expenses of persons moving temporarily during construction works etc.

26 Power to pay expenses of persons moving temporarily during construction works etc.

- (1) This section has effect where works are carried out—
- (a) by a [F14 roads authority] for the construction or improvement of a road; or
 - (b) by a responsible authority for the construction or alteration of any public works other than a road,
- and the carrying out of those works affects the enjoyment of a dwelling adjacent to the site on which they are being carried out to such an extent that continued occupation of the dwelling is not reasonably practicable.
- (2) Subject to subsection (3) below, the [F14 roads authority] or responsible authority, as the case may be, may pay any reasonable expenses incurred by the occupier of the dwelling in providing suitable alternative residential accommodation for himself and members of his household for the whole or any part of the period during which the works are being carried out.
- (3) No payment shall be made to any person under this section in respect of any expenses except in pursuance of an agreement made between that person and the authority concerned before the expenses are incurred; and no payment shall be so made except in respect of the amount by which the expenses exceed those which that person would have incurred if the dwelling had continued to be occupied.
- (4) In this section—
- (a) F15
 - (b) “public works” and “responsible authority” have the same meaning as in section 1 above.

Textual Amendments

F14 Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 72(2)(3)**

F15 [S. 26\(4\)\(a\)](#) repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 72(6), Sch. 11**

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