



Land Compensation (Scotland) Act 1973

1973 CHAPTER 56

PART III

PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

Disturbance payments

34 Disturbance payments for persons without compensatable interests.

- (1) Where a person is displaced from any land in consequence of—
- (a) the acquisition of the land by an authority possessing compulsory purchase powers;
 - (b) the making, passing or acceptance of a housing order, resolution or undertaking in respect of a house or building on the land;
 - (c) where the land has been previously acquired by an authority possessing compulsory purchase powers or appropriated by a local authority and is for the time being held by the authority for the purposes for which it was acquired or appropriated, the carrying out of [^{F1}any improvement to a house or building on the land or of] redevelopment on the land,
 - [^{F2}(d) the carrying out of any improvement to a house or building on the land or of redevelopment on the land by a housing association which has previously acquired the land and at the date of the displacement is registered,]
 - [^{F3}(e) a requirement to remove from a building on the land in pursuance of [^{F4}section 29] of the ^{M1}Building (Scotland) Act [^{F5}2003 (asp 8)] (dangerous buildings) or any other enactment which requires the demolition of the building on account of its condition,]

he shall, subject to the provisions of this section, be entitled to receive a payment (hereafter referred to as a “disturbance payment”) from

- [^{F6}(i) where paragraph (a) above applies, the acquiring authority;
- (ii) where paragraph (b) above applies, the authority who made the order, passed the resolution or accepted the undertaking;

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- (iii) where paragraph (c) above applies, the authority carrying out the improvement or redevelopment; and
- (iv) where paragraph (d) above applies; the housing association carrying out the improvement or redevelopment.]
- [^{F7}(v) where paragraph (e) above applies; the authority requiring the removal]

(2) A person shall not be entitled to a disturbance payment—

- (a) in any case, unless he is in lawful possession of the land from which he is displaced;
- (b) in a case within subsection (1)(a) above, unless either—
 - (i) he has no interest in the land for the acquisition or extinguishment of which he is (or if the acquisition or extinguishment were compulsory would be) entitled to compensation under any other enactment; or
 - (ii) he has such an interest as aforesaid but the compensation is subject to a site value provision and he is not (or if the acquisition were compulsory would not be) entitled in respect of that acquisition to an owner-occupier's supplement;
- (c) in a case within subsection (1)(b) above, if he is entitled to an owner-occupier's supplement by reference to the order, resolution or undertaking.
- [^{F8}(d) in a case within subsection (1)(d) above, unless the ^{M2}displacement occurred on or after 31st July 1974 (on which date the Housing Act 1974 was passed).]

In this subsection “site value provision” means [^{F9}section 121 ^{F10}... the Housing (Scotland) Act 1987 and “owner occupier's supplement” means a payment under sections 308 to 311 of that Act.]

(3) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of any such acquisition [^{F11}improvement or redevelopment as is mentioned in paragraph (a), (c) or (d)] of that subsection unless he was in lawful possession of the land—

- (a) in the case of land acquired under a compulsory purchase order, at the time when notice was first published of the making of the compulsory purchase order prior to its submission for confirmation or, where the order did not require confirmation, of the preparation of the order in draft;
- (b) in the case of land acquired under an Act specifying the land as subject to compulsory acquisition, at the time when the provisions of the Bill for that Act specifying the land were first published;
- (c) in the case of land acquired by agreement, at the time when the agreement was made;

and a person shall not be treated as displaced in consequence of any such order, resolution [^{F12}undertaking or requirement to remove as is mentioned in paragraph (b) or (e)] of that subsection unless he was in lawful possession as aforesaid at the time when the order was made, the resolution was passed [^{F12}the undertaking was accepted or he was required to remove.]

[^{F13}(3) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of [^{F14}(a)] the carrying out of any improvement to a house or building [^{F15}or; (a) a requirement to remove as mentioned in subsection (1)(e) above] unless he is permanently displaced in consequence of the carrying out of the improvement in question][^{F16}or removal as the case may be.]

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- (4) Where a person is displaced from any land as mentioned in subsection (1) above but is not entitled, as against the authority there mentioned, to a disturbance payment or to compensation for disturbance under any other enactment, the authority may, if they think fit, make a payment to him determined in accordance with section 35(1) to (3) below.
- (5) A disturbance payment shall carry interest, at the rate for the time being prescribed under section 40 of the ^{M3}Land Compensation (Scotland) Act 1963, from the date of displacement until payment.
- (6) This section does not apply to any land which is used for the purposes of agriculture.
- (7) In section 71(4) of the ^{M4}Housing (Financial Provisions)(Scotland) Act 1972 (financial assistance towards tenants' removal expenses) for the words from "160" to the end there shall be substituted the words " 34 of the Land Compensation (Scotland) Act 1973 (disturbance payments for persons without compensatable interests) ".
- (8) In this section "a housing order, resolution or undertaking"^{F17}"improvement" and "redevelopment" have the same meaning as in section 27 above.
- (9) [^{F18}Subject to subsection (2)(d) above,] this section applies if the date of displacement is on or after 17th October 1972 [^{F19}except that, where the displacement is in consequence of the circumstances referred to in subsection (1)(e) above, it applies if the date of displacement is on or after the coming into force of paragraph 13 of Schedule 2 to the ^{M5}Housing (Financial Provisions) (Scotland) Act 1978.]

Textual Amendments

- F1** Words inserted by [Housing Act 1974 \(c. 44\), s. 30, Sch. 13 para. 43\(1\)\(a\)](#)
- F2** S. 34(1)(d) substituted by [Housing Rents and Subsidies \(Scotland\) Act 1975 \(c. 28\), Sch. 3 para. 10\(1\)](#)
- F3** S. 34(1)(e) inserted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\), Sch. 2 para. 13\(a\)\(i\)](#)
- F4** Words in s. 34(1)(e) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\), s. 59\(1\), sch. 6 para. 7\(3\)\(a\)](#) (with s. 53); S.S.I. 2004/404, art. 2(1)
- F5** Words in s. 34(1)(e) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\), s. 59\(1\), sch. 6 para. 7\(3\)\(b\)](#) (with s. 53); S.S.I. 2004/404, art. 2(1)
- F6** Paras. (i) to (iv) substituted for words by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 43\(1\)\(c\)](#)
- F7** Para. (v) added by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\), Sch. 2 para. 13\(a\)\(ii\)](#)
- F8** S. 34(2)(d) added by [Housing Rents and Subsidies \(Scotland\) Act 1975 \(c. 28\), Sch. 3 para. 10\(2\)](#)
- F9** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\), ss. 335, 339\(2\), Sch. 23 para. 19\(4\)](#)
- F10** Words in s. 34(2) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\), s. 195\(3\), sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3
- F11** Words substituted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 43\(2\)](#)
- F12** Words substituted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\), Sch. 2 para. 13\(b\)](#)
- F13** S. 34(3) inserted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 43\(3\)](#)
- F14** Word inserted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\), Sch. 2 para. 13\(c\)\(i\)](#)
- F15** Words inserted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\), Sch. 2 para. 13\(c\)\(ii\)](#)
- F16** Words added by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\), Sch. 2 para. 13\(c\)\(iii\)](#)
- F17** Word inserted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 43\(4\)](#)
- F18** Words inserted by [Housing Rents and Subsidies \(Scotland\) Act 1975 \(c. 28\), Sch. 3 para. 10\(3\)](#)
- F19** Words added by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\), Sch. 2 para. 13\(d\)](#)

Changes to legislation: There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Cross Heading: Disturbance payments. (See end of Document for details)

Modifications etc. (not altering text)

- C1** S. 34(3)(a) applied with modifications by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8\), s. 1, Sch. 2 para. 1](#)
- C2** 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** 1959 c. 24.
M2 1974 c. 44.
M3 1963 c. 51.
M4 1972 c. 46.
M5 1978 c. 14.

35 Amount of disturbance payment.

- (1) The amount of a disturbance payment shall be equal to—
- (a) the reasonable expenses of the person entitled to the payment in removing from the land from which he is displaced; and
 - (b) if he was carrying on a trade or business on that land, the loss he will sustain by reason of the disturbance of that trade or business consequent upon his having to quit the land.
- (2) In estimating the loss of any person for the purposes of subsection (1)(b) above, regard shall be had to the period for which the land occupied by him may reasonably have been expected to be available for the purposes of his trade or business and to the availability of other land suitable for that purpose.

This subsection has effect subject to section 43(7) below.

- (3) Where the displacement is from a dwelling in respect of which structural modifications have been made for meeting the special needs of a disabled person (whether or not the person entitled to the disturbance payment) then, if—
- (a) a local authority having duties under section 12 of the ^{M6}Social Work (Scotland) Act 1968 [^{F20}or section 23 of the Children (Scotland) Act 1995], provided assistance, or
 - (b) such an authority would, if an application had been made, have provided assistance,
- for making those modifications, the amount of the disturbance payment shall include an amount equal to any reasonable expenses incurred by the person entitled to the payment in making, in respect of a dwelling to which the disabled person removes, comparable modifications which are reasonably required for meeting the disabled person's special needs.
- (4) Any dispute as to the amount of a disturbance payment shall be referred to and determined by the Lands Tribunal.

Textual Amendments

- F20** Words in s. 35(3)(a) inserted (1.4.1997) by 1995 c. 36, s. 105(4), [Sch. 4 para. 21\(2\)](#) (with [Sch. 3 paras. 4, 6](#)); S.I. 1996/3201, [art. 3\(7\)](#)

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Marginal Citations

M6 1968 c. 49.

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