
Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULES

SIXTH SCHEDULE

Sections 52, 54.

REDUCTION OR EXTINGUISHMENT OF UNEXPENDED BALANCE OF ESTABLISHED DEVELOPMENT VALUE

PART I

GENERAL PROVISIONS

- 1 (1) Where in the case of—
 - (a) a compulsory acquisition to which section one of this Act applies, or
 - (b) a sale of an interest in land by agreement in circumstances corresponding to such an acquisition,any of the land in which the interest acquired or sold subsisted had an unexpended balance of established development value immediately before the relevant date (in this paragraph referred to as "the relevant balance"), the following provisions of this paragraph shall have effect for the purpose of determining whether that land or any part thereof has an unexpended balance of established development value at any subsequent time.
- (2) Unless, immediately after the acquisition or sale, there is outstanding some interest (other than an excepted interest) in that land to which some person other than the acquiring authority is entitled, the original unexpended balance of established development value of that land shall be treated for the purposes of the Act of 1954 as having been extinguished immediately before that subsequent time.
- (3) If, immediately after the acquisition or sale, there is such an outstanding interest (other than an excepted interest) as is mentioned in the last preceding sub-paragraph, there shall be deducted from the said original balance an amount equal to any part of the relevant balance which is not attributable to any such outstanding interest, and the original balance of established development value of that land or that part thereof shall be treated for the purposes of the Act of 1954 as having been reduced or extinguished accordingly immediately before that subsequent time.
- (4) For the purposes of this paragraph any question as to the portion of the relevant balance which is attributable to an interest in land—
 - (a) in relation to a compulsory acquisition to which section one of this Act applies, shall be determined in accordance with the provisions of Part II of this Schedule, and
 - (b) in relation to a sale of an interest in land by agreement in circumstances corresponding to such an acquisition, shall be determined in accordance with the provisions of Part II of this Schedule as those provisions would apply if the sale had been a compulsory acquisition in pursuance of a notice to treat served on the relevant date.

*Status: This is the original version (as it was originally enacted). This
 item of legislation is currently only available in its original format.*

- 2 (1) Where, in connection with a compulsory acquisition to which section one of this Act applies, compensation is payable in respect of an interest in land other than the relevant land, for damage sustained by reason that the relevant land is severed from other land held therewith, or that any other land (whether held with the relevant land or not) is injuriously affected, then, for the purpose of determining whether that other land or any part thereof has an unexpended balance of established development value at any subsequent time, there shall be deducted from the original unexpended balance of established development value (if any) of that other land an amount calculated in accordance with the next following sub-paragraph, and the original balance of that land, or of the part thereof in question, as the case may be, shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.
- (2) The amount referred to in the preceding sub-paragraph is the amount (if any) by which the compensation payable as mentioned in that sub-paragraph exceeds the compensation which would have been so payable if the extent of the damage sustained in respect of the other land in question had fallen to be ascertained on the assumption that planning permission would be granted for development of any class specified in the Third Schedule to the Act of 1947, but would not be granted for any other development of that land.
- 3 The last preceding paragraph shall have effect in relation to a sale of an interest in land by agreement in circumstances corresponding to a compulsory acquisition to which section one of this Act applies as that paragraph has effect in relation to such an acquisition, but subject to the modification that—
- (a) any reference to the relevant land shall be construed as a reference to the land sold, and
 - (b) any reference to compensation payable in respect of an interest in land shall be construed as a reference to an amount included in the purchase price in respect of that interest.
- 4 In this Schedule " interest in land ", " unexpended balance of established development value " and " original unexpended balance of established development value " have the same meanings as in the Act of 1954; "excepted interest" means the interest of any such person as is mentioned in section one hundred and twenty-one of the Lands Clauses Consolidation Act, 1845 (which relates to persons having no greater interest than as tenant for a year or from year to year); and " the relevant date" means the date of service of the notice to treat or the date of the contract in pursuance of which the interest was sold, as the case may be.
- 5 In the application of this Part of this Schedule to Scotland—
- (a) for any reference to the Act of 1954 there shall be substituted a reference to the Scottish Act of 1954 ;
 - (b) for any reference to the Act of 1947 there shall be substituted a reference to the Scottish Act of 1947 ;
 - (c) for any reference to section one hundred and twenty-one of the Lands Clauses Consolidation Act, 1845, there shall be substituted a reference to section one hundred and fourteen of the Lands Clauses Consolidation (Scotland) Act, 1845; and
 - (d) for any reference to Part II of this Schedule there shall be substituted a reference to Part III of this Schedule.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

PART II

SPECIAL PROVISIONS FOR APPORTIONMENT IN ENGLAND AND WALES

Determination of relevant area

- 6 (1) Where, in the case of a compulsory acquisition to which section one of this Act applies, any area of the relevant land which, immediately before the service of the notice to treat, has an unexpended balance of established development value does not satisfy the conditions set out in the next following sub-paragraph, that area shall be treated as divided into as many separate areas as may be requisite to ensure that each of those separate areas satisfies those conditions.
- (2) The conditions referred to in the preceding sub-paragraph are—
- (a) that all the interests (other than excepted interests) subsisting in the area in question subsist in the whole thereof; and
 - (b) that any rentcharge charged on the area in question is charged on the whole thereof.
- (3) Any area of the relevant land which has an unexpended balance of established development value and which complies with the conditions set out in the last preceding sub-paragraph is in this Part of this Schedule referred to, in relation to the interests subsisting therein, as " the relevant area", and the subsequent provisions of this Part of this Schedule shall have effect separately in relation to each relevant area.

Preliminary calculations

- 7 There shall be calculated the amount referable to the relevant area of the rent which might reasonably be expected to be reserved if the relevant land were to be let on terms prohibiting the carrying out of any new development but permitting the carrying out of any other development; and the amount so calculated is in this Part of this Schedule referred to as " the existing use rent".
- 8 (1) If in the case of an interest in fee simple which is subject to a rentcharge, or in the case of a tenancy, so much of the rent reserved under the rentcharge or tenancy as is referable to the relevant area exceeds the existing use rent, there shall be calculated the capital value of the right to receive, for the period of the remainder of the term of the rentcharge or tenancy, an annual payment equal to the excess ; and any amount so calculated in the case of any interest is in this Part of this Schedule referred to as " the rental liability" of that interest.
- (2) Where the interest in fee simple is subject to more than one rentcharge, then, for the purposes of the preceding sub-paragraph, as respects any period included in the term of two or more of those rentcharges, those two or more rentcharges shall be treated as a single rentcharge charged on the relevant area for the duration of that period with a rent reserved thereunder of an amount equal to the aggregate of so much of their respective rents as is referable to the relevant area.
- 9 In the case of any interest in reversion—
- (a) there shall be calculated the capital value, as at the time immediately before the service of the notice to treat, of the right to receive a sum equal to the unexpended balance of established development value of the relevant area at that time, but payable at the end of the tenancy upon the termination of which the interest in question is immediately expectant; and the amount so

*Status: This is the original version (as it was originally enacted). This
 item of legislation is currently only available in its original format.*

calculated in the case of any interest is in this Part of this Schedule referred to as " the reversionary development value" of that interest;

- (b) if so much of the rent reserved under the said tenancy as is referable to the relevant area exceeds the existing use rent, there shall also be calculated the capital value as at the said time of the right to receive, for the period of the remainder of the term of that tenancy, an annual payment equal to the excess ; and any amount so determined in the case of any interest is in this Part of this Schedule referred to as " the rental increment" of that interest.

Apportionment of unexpended balance between interests

10 Where two or more interests (other than excepted interests) subsist in the relevant area, the portion of the unexpended balance of established development value of the relevant area attributable to each respectively of those interests shall be taken to be the following, that is to say—

- (a) in the case of the interest in fee simple, an amount equal to the reversionary development value of that interest, less the amount (if any) by which any rental liability of that interest exceeds any rental increment thereof;
- (b) in the case of a tenancy in reversion, an amount equal to the reversionary development value of that tenancy, less the aggregate of—
- (i) the reversionary development value of the interest in reversion immediately expectant upon the termination of that tenancy, and
- (ii) the amount (if any) by which any rental liability of that tenancy exceeds any rental increment thereof;
- (c) in the case of a tenancy other than a tenancy in reversion, the remainder (if any) of the said balance after the deduction of the aggregate of—
- (i) the reversionary development value of the interest in reversion immediately expectant upon the termination of that tenancy, and
- (ii) any rental liability of that tenancy.

Interpretation

11 In this Part of this Schedule—

- (a) " tenancy " does not include an excepted interest;
- (b) any reference to an interest or tenancy in reversion does not include an interest or tenancy in reversion immediately expectant upon the termination of an excepted interest;
- (c) " new development" means any development other than development of a class specified in the Third Schedule to the Act of 1947.

12 This Part of this Schedule shall not apply to Scotland.

PART III

SPECIAL PROVISIONS FOR APPORTIONMENT IN SCOTLAND

Determination of relevant area

13 (1) Where, in the case of a compulsory acquisition to which section one of this Act applies, any area of the relevant land which, immediately before the service of the

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

notice to treat, had an unexpended balance of established development value does not satisfy the condition set out in the next following sub-paragraph, that area shall be treated as divided into as many separate areas as may be requisite to ensure that each of those separate areas satisfies that condition.

- (2) The condition referred to in the preceding sub-paragraph is that all the interests (other than excepted interests) subsisting in the area in question subsist in the whole thereof.
- (3) Any area of the relevant land which has an unexpended balance of established development value and which complies with the condition set out in the last preceding sub-paragraph is in this Part of this Schedule referred to in relation to the interests subsisting therein as " the relevant area", and the subsequent provisions of this Part of this Schedule shall have effect separately in relation to each relevant area.

Preliminary calculations

- 14 In the case of the interest of the lessor under any lease there shall be calculated the capital value as at the time immediately before the service of the notice to treat of the right to receive a sum equal to the unexpended balance of established development value of the relevant area at that time, but payable at the expiration of the lease ; and the amount so calculated in the case of any such interest is in this Part of this Schedule referred to as " the reversionary development value " of that interest.

Apportionment of unexpended balance between interests

- 15 Where two or more interests other than excepted interests, subsist in the relevant area, the portion of the unexpended balance of established development value of the relevant area attributable to each respectively of those interests shall be taken to be the following, that is to say—
- (a) in the case of the interest of the lessor under any lease, so much, if any, of the reversionary development value of that interest, as remains after the deduction therefrom of the aggregate of—
 - (i) the reversionary development value of the interest of the person, if any, to whom that lessor stands in the relationship of lessee ; and
 - (ii) in a case where the restricted value of the first-mentioned interest is a minus quantity, an amount equal to that minus quantity;
 - (b) in the case of the interest of the lessee under any lease which is not subject to a sub-lease, so much, if any, of the said balance as remains after the deduction therefrom of the aggregate of—
 - (i) the reversionary development value of the interest of the lessor under the lease, and
 - (ii) in a case where the restricted value of the first-mentioned interest is a minus quantity, an amount equal to that minus quantity.

Interpretation

- 16 In this Part of this Schedule the expression " lease " does not include any lease in the case of which the interest of the lessee is an excepted interest.
- 17 This Part of this Schedule shall apply to Scotland only.