



Long Leases (Scotland) Act 2012

2012 asp 9

PART 4

COMPENSATION FOR LOSS OF LANDLORD'S RIGHTS

Additional payment

52 Calculating additional payment

- (1) This section applies for the purpose of calculating the amount of an additional payment.
- (2) The extinguished right mentioned in section 51(1) is to be valued as at the appointed day.
- (3) In the case of a claim for an additional payment arising from the extinction of the right mentioned in section 51(1)(e), the value mentioned in subsection (2) must represent the value which the right could reasonably be expected to obtain if sold on the open market by a willing seller to a willing buyer.
- (4) For the purposes of subsection (3)—
 - (a) it is to be presumed that the lease will continue until the expiry of the period for which it was granted, and
 - (b) no account should be taken of—
 - (i) any factor attributable to the known existence of a person (including the former tenant) who would be willing to buy the right at a price higher than other persons because of a characteristic of the right which relates peculiarly to that person's interest in buying it, and
 - (ii) any depreciation in the value of any other land owned by the former landlord.
- (5) Any obligations of the former landlord arising from the lease which are, on the appointed day, extinguished by virtue of Part 1 must be taken into account.
- (6) But no account is to be taken of any such obligation in so far as it is preserved as a counter-obligation to a real burden.

Status: This is the original version (as it was originally enacted).

- (7) Any other entitlement (including under this Act) of the former landlord to recover any loss for which the additional payment is claimed must be taken into account.
- (8) In the case of a claim for an additional payment arising from the extinction of a right to development value, the additional payment may not exceed such sum as would make up for any effect which the right produced, at the time when the condition reserving the right was imposed, in reducing the consideration (including rent) paid for or payable under the lease.