



Land Compensation (Scotland) Act 1963

1963 CHAPTER 51

PART III

PROVISIONS DETERMINING AMOUNT OF COMPENSATION

General provisions

12 Rules for assessing compensation.

Compensation in respect of any compulsory acquisition shall be assessed in accordance with the following rules:—

- (1) No allowance shall be made on account of the acquisition being compulsory:
- (2) The value of land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise:
- (3) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from ^{F1} . . . the special needs of a particular purchaser or the requirements of any authority possessing compulsory purchase powers:
- (4) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the occupants of the premises or to the public health, the amount of that increase shall not be taken into account:
- (5) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the official arbiter is satisfied that reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement:

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- (6) The provisions of rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land:
 and the following provisions of this Part of this Act shall have effect with respect to the assessment.

Textual Amendments

- F1** Words in s. 12 rule 3 repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 84(6), [Sch. 17 Pt. I, para. 5](#), [Sch. 19](#), Pt.IV, (with s. 84(5)); S.I. 1991/2092, art.3, [Sch. 1](#) (with savings in art. 4, [Sch. 2 Pt. 1 paras. 4, 6](#))

Modifications etc. (not altering text)

- C1** S. 12 applied with modifications by Acts listed in Chronological Table of the Statutes; modified by [Agriculture Act 1967 \(c. 22\)](#), [s. 50\(8\)](#), [New Towns \(Scotland\) Act 1968 \(c. 16\)](#), ss. 13, 26, [Sch. 5 para. 2](#) and S.I. 1976/1218, [art. 4](#); extended by [Countryside \(Scotland\) Act 1967 \(c. 86\)](#), [s. 70\(4\)](#) and [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), [s. 228\(1\)](#)
- C2** S. 12 applied (with modifications) by [Aviation Security Act 1982 \(c. 36, SIF 9\)](#), [Sch. 1 para. 9\(a\)](#) and [Aviation and Maritime Security Act 1990 \(c. 31, SIF 39:2\)](#), s. 43(5), [Sch. 2 paras. 4, 8](#)
- C3** S. 12 applied (with modifications) (30.10.1994) by S.I. 1994/2716, [reg. 91\(5\)](#)
 S. 12 applied (with modifications) (27.5.1997) by 1997 c. 8, [ss. 87\(1\)](#), 95(5), 278(2)
 S. 12 applied (27.5.1997) by 1997 c. 8, [ss. 204\(3\)](#), 278(2)
 S. 12 applied (27.5.1997) by 1997 c. 8, ss. 234, 278(2), [Sch. 9 para. 15\(4\)](#), [Sch. 10 para. 13\(4\)](#)
 S. 12 applied (with modifications) (27.5.1997) by 1997 c. 9, [ss. 27\(1\)](#), 85(2) (with s. 45(4))
 S. 12 applied (with modifications) (1.4.1999) by S.I. 1999/481, [reg. 7\(2\)](#)
 S. 12 applied (with modifications) (28.9.2000) by S.S.I. 2000/323, [reg. 9\(17\)](#), [Sch. 6 para. 6\(2\)](#)
- C4** S. 12 applied (with modifications) (1.4.2003) by [The Anti-Pollution Works \(Scotland\) Regulations 2003 \(S.S.I. 2003/168\)](#), [reg. 1\(1\)](#), [sch. para. 5\(1\)](#)
- C5** S. 12 applied (with modifications) (1.4.2006) by [The Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/348\)](#), [reg. 1\(2\)](#), [sch. 7 para. 5\(1\)](#) (with regs. 4, 50)
- C6** S. 12 applied (with modifications) (24.6.2009) by [The Environmental Liability \(Scotland\) Regulations 2009 \(S.S.I. 2009/266\)](#), [reg. 1\(b\)](#), [sch. 4 para. 5](#)
- C7** S. 12 applied (with modifications) (31.3.2011) by [The Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/209\)](#), [reg. 1\(2\)](#), [sch. 7 para. 5\(1\)](#) (with reg. 54)
- C8** S. 12 applied (7.1.2013) by [The Pollution Prevention and Control \(Scotland\) Regulations 2012 \(S.S.I. 2012/360\)](#), [reg. 1\(2\)](#), [sch. 6 para. 6\(2\)](#) (with reg. 71)
- C9** S. 12 modified in part (30.4.2015) by [Energy Act 2013 \(c. 32\)](#), [ss. 124\(6\)\(b\)](#), 156(1) (with s. 130); S.I. 2015/817, art. 2(a)
- C10** S. 12 applied by [Communications Act 2003 \(c. 21\)](#), [Sch. 3A para. 84\(3\)\(b\)](#) (as inserted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 1](#) (with Sch. 2); S.I. 2017/1286, [reg. 2\(b\)](#))
- C11** S. 12 applied (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\)](#), [reg. 1](#), [sch. 2 para. 12](#) (with reg. 78, [sch. 5 para. 2](#))

13 Disregard of actual or prospective development in certain cases.

- (1) Subject to section 15 of this Act, no account shall be taken of any increase or diminution in the value of the relevant interest which, in the circumstances described in any of the paragraphs in the first column [F2 of Part I] of Schedule 1 to this Act, is attributable to the carrying out, or the prospect, of so much of the development mentioned in relation thereto in the second column [F2 of Part I] of that Schedule as would not have been likely to be carried out if—

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- (a) (where the acquisition is for purposes involving development of any of the land authorised to be acquired) the acquiring authority had not acquired and did not propose to acquire any of that land; and
 - (b) (where the circumstances are those described in one or more of paragraphs 2 to [F34A] in the said first column [F2of Part I]) the area or areas referred to in that paragraph or those paragraphs had not been defined or designated as therein mentioned or (in a case falling within paragraph 4) if the scheme therein mentioned had not come into operation.
- (2) In determining whether the relevant land forms part of such an area as is mentioned in paragraph 3 of Schedule 1,—
- (a) in the case of an area designated as the site of a new town by an order which became operative on or before 29th October, 1958, regard shall be had to that order in the form in which, whether as originally made or as subsequently varied, it was in force on that day, and any variation becoming operative after that day shall be disregarded;
 - (b) in the case of an area designated as the site of a new town by an order which became operative after the said 29th October, whether before or after the passing of this Act, regard shall be had to the order in its original form, and any variation of the order shall be disregarded.

[F4(2A) The provisions of Part II of Schedule 1 to this Act shall have effect with regard to paragraphs 3 and 3A of Part I of that Schedule][F5and the provisions of Part III of that Schedule shall have effect with regard to paragraph 4A.]

- (3) In this section and in Schedule 1 to this Act—
- “the land authorised to be acquired”—
- (a) in relation to a compulsory acquisition authorised by a compulsory purchase order or a special enactment, means the aggregate of the land comprised in that authorisation, and
 - (b) in relation to a compulsory acquisition not so authorised but effected under powers exercisable by virtue of any enactment for defence purposes, means the aggregate of the land comprised in the notice to treat and of any land contiguous or adjacent thereto which is comprised in any other notice to treat served under the like powers not more than one month before and not more than one month after the date of service of that notice;
- “defence purposes” has the same meaning as in the M1Land Powers (Defence) Act 1958;

and any reference to development of any land shall be construed as including a reference to the clearing of that land.

Textual Amendments

- F2** Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), Sch. 25 Pt. IV para. 9\(2\)](#) **(a)(3)** except where a notice to treat has been served before 13.11.1980
- F3** Word substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 145\(5\)\(a\)](#)
- F4** [S. 13\(2A\)](#) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), Sch. 25 Pt. IV para. 9\(2\)\(b\)\(3\)](#) except where a notice to treat has been served before 13.11.1980
- F5** Words added by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 145\(5\)\(b\)](#)

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Modifications etc. (not altering text)

C12 S. 13 excluded by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), s. 6\(3\)](#); modified by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), s. 47\(2\)](#)

Marginal Citations

M1 [1958 c. 30.](#)

14 Effect of certain actual or prospective development of adjacent land in same ownership.

- (1) Subject to section 15 of this Act, where, on the date of service of the notice to treat, the person entitled to the relevant interest is also entitled in the same capacity to an interest in other land contiguous or adjacent to the relevant land, there shall be deducted from the amount of the compensation which would be payable apart from this section the amount (if any) of such an increase in the value of the interest in that other land as is mentioned in subsection (2) of this section.
- (2) The said increase is such as, in the circumstances described in any of the paragraphs in the first column [^{F6}of Part I] of Schedule 1 to this Act, is attributable to the carrying out, or the prospect, of so much of the relevant development as would not have been likely to be carried out if the conditions mentioned in paragraphs (a) and (b) of section 13 (1) of this Act had been satisfied; and the relevant development for the purposes of this subsection is, in relation to the circumstances described in any of the said paragraphs, that mentioned in relation thereto in the second column [^{F6}of Part I] of the said Schedule 1, but modified, as respects the prospect of any development, by the omission of the words “other than the relevant land”, wherever they occur.
- (3) Nothing in this section shall affect the amount which is to be taken as the amount of the compensation for the purposes of section 20 of this Act (which relates to the consideration payable for the discharge of land from feu-duty and incumbrances).

Textual Amendments

F6 Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), Sch. 25 Pt. IV para. 9\(2\)\(a\)\(3\)](#) except where a notice to treat has been served before 13.11.1980

Modifications etc. (not altering text)

C13 S. 14 excluded by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), s. 6\(3\)](#); modified by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), s.47\(3\)](#)

15 Subsequent acquisition of adjacent land and acquisition governed by enactment corresponding to s. 14.

- (1) Where, for the purpose of assessing compensation in respect of a compulsory acquisition of an interest in land, an increase in the value of an interest in other land has, in any of the circumstances mentioned in the first column [^{F7}of Part I] of Schedule 1 to this Act, been taken into account by virtue of section 14 of this Act or any corresponding enactment, then, in connection with any subsequent acquisition to which this subsection applies, that increase shall not be left out of account by virtue of section 13 of this Act, or taken into account by virtue of section 14 of this Act or

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any corresponding enactment, in so far as it was taken into account in connection with the previous acquisition.

- (2) Where, in connection with a compulsory acquisition of an interest in land, a diminution in the value of an interest in other land has, in any of the circumstances mentioned in the first column [^{F7}of Part I] of the said Schedule 1, been taken into account in assessing compensation for injurious affection, then, in connection with any subsequent acquisition to which this subsection applies, that diminution shall not be left out of account by virtue of section 13 of this Act in so far as it was taken into account in connection with the previous acquisition.
- (3) Subsections (1) and (2) of this section apply to any subsequent acquisition where either—
- (a) the interest acquired by the subsequent acquisition is the same as the interest previously taken into account (whether the acquisition extends to the whole of the land in which that interest previously subsisted or only to part of that land), or
 - (b) the person entitled to the interest acquired is, or derives title to that interest from, the person who at the time of the previous acquisition was entitled to the interest previously taken into account;

and in this subsection any reference to the interest previously taken into account is a reference to the interest the increased or diminished value whereof was taken into account as mentioned in subsection (1) or subsection (2) of this section.

- (4) Where, in connection with a sale of an interest in land by agreement, the circumstances were such that, if it had been a compulsory acquisition, an increase or diminution of value would have fallen to be taken into account as mentioned in subsection (1) or subsection (2) of this section, the preceding provisions of this section shall apply, with the necessary modifications, as if that sale had been a compulsory acquisition and that increase or diminution of value had been taken into account accordingly.
- (5) Section 14 of this Act shall not apply to any compulsory acquisition in respect of which the compensation payable is subject to the provisions of any corresponding enactment, nor to any compulsory acquisition in respect of which the compensation payable is subject to the provisions of any local enactment which provides (in whatever terms) that, in assessing compensation in respect of a compulsory acquisition thereunder, account shall be taken of any increase in the value of an interest in contiguous or adjacent land which is attributable to any of the works authorised by that enactment.
- (6) Where any such local enactment as is mentioned in subsection (5) of this section includes a provision restricting the assessment of the increase in value thereunder by reference to existing use (that is to say, by providing, in whatever terms, that the increase in value shall be assessed on the assumption that planning permission in respect of the contiguous or adjacent land in question would be granted for development of any class specified in [^{F8}Schedule 11 to the Town and Country Planning (Scotland) Act 1997] but would not be granted for any other development thereof), the enactment shall have effect as if it did not include that provision.
- (7) References in this section to a corresponding enactment are references to any of the following, that is to say,—
- (a) section 13 of the ^{M2}Light Railways Act 1896;
 - (b) ^{F9}
 - (c) ^{F10}
 - [^{F11}(d) paragraph 4 of Schedule 1 to the Housing (Scotland) Act 1987.]

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[^{F12}(e) section 35 (3) of the ^{M3}Roads (Scotland) Act 1970;]
 and, in subsection (1), include references to any such local enactment as is mentioned in subsection (5).

Textual Amendments

- F7** Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), **Sch. 25 Pt. IV para. 9(2) (a)(3)** except where a notice to treat has been served before 13.11.1980
- F8** Words in s. 15(6) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 9(1)**
- F9** S. 15(7)(b) repealed by [Miscellaneous Financial Provisions Act 1983 \(c. 29, SIF 99:1\)](#), **Sch. 3**
- F10** S. 15(7)(c) repealed by [Roads \(Scotland\) Act 1970 \(c. 20\)](#), **Sch. 2**
- F11** S. 15(7)(d) substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339, **Sch. 23 para. 10(1)**
- F12** S. 15(7)(e) inserted by [Roads \(Scotland\) Act 1970 \(c. 20\)](#), **Sch. 1**, para. 11.
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Marginal Citations

- M2** 1896 c. 48.
- M3** 1970 c. 20.

16 Disregard of depreciation due to prospect of acquisition by authority possessing compulsory purchase powers.

No account shall be taken of any depreciation of the value of the relevant interest which is attributable to the fact that (whether by way of . . . ^{F13} allocation or other particulars contained in the current development plan, or by any other means) an indication has been given that the relevant land is, or is likely, to be acquired by an authority possessing compulsory purchase powers.

Textual Amendments

- F13** Word repealed by [Town and Country Planning \(Scotland\) Act 1969 \(c. 30\)](#), **Sch. 11**.

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