

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1963, SCHEDULE 2. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 2

#### ACQUISITION OF HOUSES WHICH DO NOT MEET THE TOLERABLE STANDARD

##### Textual Amendments

**F1** Sch. 2 substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), Sch. 23 para. 10(2)

##### *Acquisitions to which this Schedule applies*

- 1 (1) This Schedule applies to a compulsory acquisition of a description mentioned in subparagraph (2) where the land in question comprises a house which, in the opinion of the appropriate local authority does not meet the tolerable standard.
- (2) The compulsory acquisitions referred to are—
- (a) an acquisition under Part VI of the Town and Country Planning (Scotland) Act <sup>M1</sup>1972, or
  - (b) an acquisition under section 13 of the Housing and Town Development (Scotland) Act <sup>M2</sup>1957, or
  - (c) an acquisition in pursuance of Part IX of the Town and Country Planning (Scotland) Act 1972, or
  - (d) an acquisition of land within the area designated by an order under section 1 of the New Towns (Scotland) Act <sup>M3</sup>1968 as the site of a new town, or
  - (e) an acquisition by a development corporation or a local roads authority or the Secretary of State under the New Towns (Scotland) Act 1968 or under any enactment as applied by any provision of that Act, or
  - (f) an acquisition by means of an order under section 141 of the Local Government, Planning and Land Act 1980 vesting land in an urban development corporation; or
  - (g) an acquisition by such a corporation under section 142 of that Act.

##### Modifications etc. (not altering text)

**C1** Para. 1(2) modified by Land Commission Act 1967 (c. 1), s. 23(3) and Local Government, Planning and Land Act 1980 (c. 65), s. 141, Sch. 27 para. 26

##### Marginal Citations

**M1** 1972 c.52 (123:2).

**M2** 1957 c.38 (123:4).

**M3** 1968 c.16 (123:4).

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### *Procedure*

- 2 (1) The local authority may make and submit to the Secretary of State an order, in such form as may be prescribed by regulations made under section 330 of the Housing (Scotland) Act 1987, declaring that the house does not meet the tolerable standard and if—
- (a) that order is confirmed by the Secretary of State, either before or concurrently with the confirmation of a compulsory purchase order for the acquisition of the land, or
  - (b) in a case where the acquisition is in pursuance of a notice to treat deemed to have been served in consequence of the service of a notice under section 170 of the Town and Country Planning (Scotland) Act <sup>M4</sup>1972 or the provisions of that section as applied by or under any other enactment or in consequence of the service of a notice under section 11 of the New Towns (Scotland) Act <sup>M5</sup>1968 or under section 182 of the Town and Country Planning (Scotland) Act 1972, the order is made before the date on which the notice to treat is deemed to have been served and is subsequently confirmed by the Secretary of State,
- section 305 and paragraph 12(2) and (3) of Schedule 8 to the Housing (Scotland) Act 1987 (which relate respectively to payments in respect of certain well-maintained houses under Part XV and to compensation for compulsory acquisition under Part IV of the Housing (Scotland) Act 1987) shall apply as if the house had been purchased under Part IV as not meeting the tolerable standard, and as if any reference in that section and paragraph to the local authority were a reference to the acquiring authority.
- (2) Before submitting to the Secretary of State an order under this paragraph, the local authority by whom the order was made shall serve on every owner, and (so far as it is reasonably practicable to ascertain such persons) on the superior of, and the holder of every heritable security over, the land or any part thereof, a notice in such form as may be prescribed as mentioned in the last preceding sub-paragraph, stating the effect of the order and that it is about to be submitted to the Secretary of State for confirmation, and specifying the time within which, and the manner in which, objection thereto can be made.
- (3) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Secretary of State may, if he thinks fit, confirm the order; but in any other case he shall, before confirming the order, consider any objection not withdrawn, and shall, if either the person by whom the objection was made or the local authority so desires, afford to that person and the authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
  - (4) Section 86 of the Housing (Scotland) Act 1987 shall have effect in determining for the purposes of this paragraph whether a house meets the tolerable standard as it has effect in so determining for the purposes of that Act.
  - (5) In this paragraph “appropriate local authority” means a local authority who, in relation to the area in which the land in question is situated, are a local authority for the purposes of the provisions of Part IV of the Housing (Scotland) Act 1987 relating to housing action areas; and “owner,” in relation to any land, includes any person who under the Lands Clauses Acts would be

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enabled to sell and convey the land to the promoters of an undertaking and includes also a lessee under a lease the unexpired period of which exceeds three years.

**Modifications etc. (not altering text)**

**C2** Sch. 2 para. 2(1)(a) modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 77(3)(4), 335, Sch. 6 para. 10

**Marginal Citations**

**M4** 1972 c.52 (123:2).

**M5** 1968 c.16 (123:4).

*Amount of compensation*

- 3 (1) Where in relation to a compulsory acquisition, section 120(2) to (4) or paragraph 12(2) and (3) of Schedule 8 to the Housing (Scotland) Act 1987 (which relate respectively to the compensation to be paid on the compulsory acquisition of closed houses, and of houses not meeting the tolerable standard) apply (whether by virtue of that Act or of an order under paragraph 2 of this Schedule) and-
- (a) the relevant land consists of or includes the whole or part of a house (in this paragraph referred to as "the relevant house") and, on the date of the making of the compulsory purchase order in pursuance of which the acquisition is effected, the person then entitled to the relevant interest was, in right of that interest, in occupation of the relevant house or part thereof as a private dwelling, and
  - (b) that person either continues, on the date of service of the notice to treat, to be entitled to the relevant interest, or, if he has died before that date, continued to be entitled to that interest immediately before his death,
- the following provisions of this paragraph shall apply in relation to the acquisition; and in those provisions "the dwelling" means so much of the relevant house as the said person occupied as aforesaid.
- (2) Subject to the next following sub-paragraph, the amount of the compensation payable in respect of the acquisition of the relevant interest shall not in any event be less than the gross annual value of the dwelling.
- (3) Where a payment falls to be made under section 304 or 305 of the Housing (Scotland) Act 1987 to the person entitled to the relevant interest, and that payment is attributable to the relevant house, any reference in the last preceding sub-paragraph to the amount of the compensation payable in respect of the acquisition of the relevant interest shall be construed as a reference to the aggregate of that amount and of the amount of the payment.
- (4) For the purposes of this paragraph the gross annual value of the dwelling shall be determined as follows-
- (a) if the dwelling constitutes the whole of the relevant house, the gross annual value of the dwelling shall be taken to be the value which, on the date of service of the notice to treat, is shown in the valuation roll then in force as the gross annual value of that house for rating purposes;
  - (b) if the dwelling is only part of the relevant house, an apportionment shall be made of the gross annual value of the relevant house for rating purposes, as

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shown in the valuation roll in force on the date of service of the notice to treat, and the gross annual value of the dwelling shall be taken to be the amount which, on such an apportionment, is properly attributable to the dwelling.

- (5) Any reference in this paragraph to the compensation payable in respect of the acquisition of the relevant interest shall be construed as excluding so much (if any) of that compensation as is attributable to disturbance or to severance or injurious affection.
- (6) Nothing in this paragraph shall affect the amount which is to be taken 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) as the amount of the compensation payable in respect of the acquisition of the relevant interest.
- (7) In the application of this paragraph to any lands and heritages whose net annual value is ascertained under subsection (8) of section 6 of the Valuation and Rating (Scotland) Act 1956 (and for which there is therefore no gross annual value shown in the valuation roll)-
  - (a) in sub-paragraph (2) above, for the word 'gross' there shall be substituted the words '1.25 times the net'; and
  - (b) in sub-paragraph (4) above, for the word 'gross', wherever it occurs, there shall be substituted the word 'net'.

*Interpretation*

- 4 This Schedule shall be construed as one with Parts IV and XV of the Housing (Scotland) Act 1987.]

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