



# Town and Country Planning Act 1971

## 1971 CHAPTER 78

### PART XI

#### STATUTORY UNDERTAKERS

##### *Compensation*

#### **238 Measure of compensation to statutory undertakers**

- (1) Where statutory undertakers are entitled to compensation—
- (a) as mentioned in subsection (1), (2) or (3) of section 237 of this Act; or
  - (b) under the provisions of section 170 in respect of an order made under section 51 of this Act as modified by section 228 thereof; or
  - (c) in respect of a compulsory acquisition of land which has been acquired by those undertakers for the purposes of their undertaking, where the first-mentioned acquisition is effected under a compulsory purchase order confirmed or made without the appropriate Minister's certificate,
- the amount of the compensation shall (subject to section 239 of this Act) be an amount calculated in accordance with the following provisions of this section.
- (2) The said amount, subject to subsections (3) and (4) of this section, shall be the aggregate of the following amounts, that is to say—
- (a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking rendered necessary by the proceeding giving rise to compensation ;
  - (b) whichever of the following is applicable, namely—
    - (i) where such an adjustment is made, the estimated amount of any decrease in net receipts from the carrying on of the undertaking pending the adjustment, in so far as the decrease is directly attributable to the proceeding giving rise to compensation, together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on 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*Status: This is the original version (as it was originally enacted).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.*

---

- undertaking in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment;
- (ii) where no such adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking which is directly attributable to the proceeding giving rise to compensation;
- (c) where the compensation is under section 237(2) of this Act, and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers in complying with the requirement, reduced by the value after removal of the apparatus removed.
- (3) Where any such adjustment as is mentioned in paragraph (a) of subsection (2) of this section is made, the aggregate amount mentioned in that subsection shall be reduced by such amount (if any) as appears to the Lands Tribunal to be appropriate to offset—
- (a) the estimated value of any property (whether moveable or immovable) belonging to the statutory undertakers and used for the carrying on of their undertaking which, in consequence of the adjustment, ceases to be so used, in so far as the value of the property has not been taken into account under paragraph (c) of that subsection; and
- (b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as that amount has not been taken into account under paragraph (b) of that subsection and is directly attributable to the adjustment,
- and by any further amount which appears to the Lands Tribunal to be appropriate, having regard to any increase in the capital value of immovable property belonging to the statutory undertakers which is directly attributable to the adjustment, allowance being made for any reduction made under paragraph (b) of this subsection.
- (4) Where the compensation is under section 237(3) of this Act and the acquiring or appropriating authority carry out the works, then, in addition to any reduction falling to be made under subsection (3) of this section, the aggregate amount mentioned in subsection (2) of this section shall be reduced by the actual cost to the authority of carrying out the works.
- (5) References in this section to a decrease in net receipts shall be construed as references to the amount by which a balance of receipts over expenditure is decreased, or a balance of expenditure over receipts is increased, or, where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, as references to the aggregate of the two balances; and references to an increase in net receipts shall be construed accordingly.
- (6) In this section—
- " proceeding giving rise to compensation " means—
- (a) except in relation to compensation under section 237(3) of this Act, the particular action (that is to say, the decision, order, extinguishment of a right, imposition of a requirement, or acquisition) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken;
- (b) in relation to compensation under the said section 237(3), the circumstances making it necessary for the apparatus in question to be removed or re-sited;

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

---

" the appropriate Minister's certificate " has the same meaning as in section 229 of this Act.