



Land Compensation Act 1973

1973 CHAPTER 26

PART III

PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

Disturbance payments

37 Disturbance payments for persons without compensatable interests.

- (1) Where a person is displaced from any land in consequence of—
- (a) the acquisition of the land by an authority possessing compulsory purchase powers;
 - ^[F1](b) the making of a housing order in respect of a house or building on the land;
 - (c) where the land has been previously acquired by an authority possessing compulsory purchase powers or appropriated by a local authority and is for the time being held by the authority for the purposes for which it was acquired or appropriated, the carrying out of ^[F2]any improvement to a house or building on the land or of] redevelopment on the land,
 - (d) ^[F3]the carrying out of any improvement to a house or building on the land or of re-development on the land by a housing association which has previously acquired the land and at the date of the displacement is ^[F4]either a private registered provider of social housing or ^[F5]a registered social landlord within the meaning of the Housing Act 1985 (see section 5(4) and (5) of that Act);]

he shall, subject to the provisions of this section, be entitled to receive a payment (hereafter referred to as a “disturbance payment”) from

- ^[F6](i) where paragraph (a) above applies, the acquiring authority;
- (ii) where paragraph (b) above applies, the authority who made ^[F7]the housing order;]
- (iii) where paragraph (c) above applies, the authority carrying out the improvement or redevelopment; and
- (iv) where paragraph (d) above applies, the housing association carrying out the improvement or redevelopment.]

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- (2) A person shall not be entitled to a disturbance payment—
- (a) in any case, unless he is in lawful possession of the land from which he is displaced;
 - (b) in a case within subsection (1)(a) above, unless either—
 - (i) he has no interest in the land for the acquisition or extinguishment of which he is (or if the acquisition or extinguishment were compulsory would be) entitled to compensation under any other enactment; or
 - (ii)^{F8}
 - (c) in a case within subsection (1)(b) above, if he is entitled to [^{F9}a payment under section 584A(1) of the Housing Act 1985 (compensation payable in case of [^{F10}prohibition] and demolition orders)].
 - [^{F11}(d) in a case within subsection (1)(d) above, unless the ^{M1} displacement occurred on or after 31st July 1974 (on which date the Housing Act 1974 was passed).]
^{F12}
- (3) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of any such acquisition [^{F13}improvement or redevelopment as is mentioned in paragraph (a), (c) or (d)] of that subsection unless he was in lawful possession of the land—
- (a) in the case of land acquired under a compulsory purchase order, at the time when notice was first published of the making of the compulsory purchase order prior to its submission for confirmation or, where the order did not require confirmation, of the preparation of the order in draft;
 - (b) in the case of land acquired under an Act specifying the land as subject to compulsory acquisition, at the time when the provisions of the Bill for that Act specifying the land were first published;
 - (c) in the case of land acquired by agreement, at the time when the agreement was made;
- and a person shall not be treated as displaced in consequence of [^{F14}a housing order within paragraph (b) of that subsection unless he was in lawful possession as aforesaid at the time when the order was made.]
- [^{F15}(3A) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of [^{F16}the carrying out of any improvement to a house or building unless he is permanently displaced in consequence of the carrying out of that improvement.]
- (4) Where a person is displaced from land in circumstances such that, apart from this subsection, he would be entitled to a disturbance payment from any authority and also to compensation from that authority under section 37 of the ^{M2} Landlord and Tenant Act 1954 (compensation from landlord where order for new tenancy of business premises precluded on certain grounds) he shall be entitled, at his option, to one or the other but not to both.
- (5) Where a person is displaced from any land as mentioned in subsection (1) above but is not entitled, as against the authority there mentioned, to a disturbance payment or to compensation for disturbance under any other enactment, the authority may, if they think fit, make a payment to him determined in accordance with section 38(1) to (3) below.
- (6) A disturbance payment shall carry interest, at the rate for the time being prescribed under section 32 of the ^{M3} Land Compensation Act 1961. . . ^{F17}, from the date of displacement until payment.

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- (7) This section does not apply to any land which is used for the purposes of agriculture.
- (8) ^{F18}
- (9) In this section “a housing order. . . ^{F17F19} . . .” [“^{F20}improvement”] and “redevelopment” have the same meaning as in section 29 above.
- (10) This section applies if the date of displacement is on or after 17th October 1972.]

Textual Amendments

- F1** S. 37(1)(b) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\)\(f\), Sch. 15 para. 5\(2\)\(a\)](#); S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)
- F2** Words inserted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 39\(1\)\(b\)](#)
- F3** S. 37(1)(d) substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\), s. 4, Sch. 2 para. 24\(3\)\(b\)](#)
- F4** Words in s. 37(1)(d) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\), art. 1\(2\), Sch. 2 para. 6](#) (with art. 6, Sch. 3)
- F5** Words in s. 37(1)(d) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), [Sch. 2 para. 3\(3\)](#)
- F6** Paras. (i) to (iv) substituted for words by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 39\(1\)\(d\)](#)
- F7** Words in s. 37(1)(ii) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\)\(f\), Sch. 15 para. 5\(2\)\(b\)](#); S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)
- F8** S. 37(2)(b)(ii) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), s. 194\(4\), Sch. 12 Pt. II](#)
- F9** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 61\), s. 194\(1\), Sch. 11 para. 31](#)
- F10** Word in s. 37(2)(c) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\)\(f\), Sch. 15 para. 5\(3\)](#); S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)
- F11** S. 37(2)(d) added by [Housing Rents and Subsidies Act 1975 \(c. 6\), s. 17\(4\), Sch. 5 para. 10\(b\)](#) and continued by virtue of [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\), s. 4, Sch. 2 para. 24\(3\)\(d\)](#)
- F12** Words repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\), s. 3, Sch. 1 Pt. I](#)
- F13** Words substituted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 39\(2\)](#)
- F14** Words in s. 37(3) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\)\(f\), Sch. 15 para. 5\(4\)](#); S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)
- F15** S. 37(3A) inserted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 39\(3\)](#)
- F16** Words in s. 37(3A) substituted (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\)\(f\), Sch. 15 para. 5\(5\)](#); S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)
- F17** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), Sch. 2 Pt. I](#)
- F18** Ss. 32(9), 34(7), 37(8), 41(11), 44(3), 46(8) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), Sch. 2 Pt. I](#)
- F19** Words in s. 37(9) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\)\(f\), Sch. 15 para. 5\(6\), 16](#); S.I. 2006/1060, art. 2(1)(d)(e) (with Sch.); S.I. 2006/1535, art. 2(b) (c) (with Sch.)
- F20** Word inserted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 39\(4\)](#)

Modifications etc. (not altering text)

- C1** S. 37(5) excluded by [Conwy Tunnel \(Supplementary Powers\) Act 1983 \(c. 7, SIF 59\), s. 14\(7\)](#)
S. 37(5) modified (5.11.1993) by [1993 c. 42, s. 2, Sch. 2 para. 5\(7\)](#) (with s. 30(1), Sch. 2 para. 9).

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Marginal Citations

- M1** 1974 c. 44.
M2 1954 c. 56.
M3 1961 c. 33.

38 Amount of disturbance payment.

- (1) The amount of a disturbance payment shall be equal to—
- (a) the reasonable expenses of the person entitled to the payment in removing from the land from which he is displaced; and
 - (b) if he was carrying on a trade or business on that land, the loss he will sustain by reason of the disturbance of that trade or business consequent upon his having to quit the land.
- (2) In estimating the loss of any person for the purposes of subsection (1)(b) above, regard shall be had to the period for which the land occupied by him may reasonably have been expected to be available for the purposes of his trade or business and to the availability of other land suitable for that purpose.

This subsection has effect subject to section 46(7) below.

- (3) Where the displacement is from a dwelling in respect of which structural modifications have been made for meeting the special needs of a disabled person (whether or not the person entitled to the disturbance payment) then, if—
- (a) a local authority [^{F21}in England having functions under Part 1 of the Care Act 2014 or a local authority in Wales] having functions under [^{F22}Part 4 of the Social Services and Well-being (Wales) Act 2014] , ^{F23} . . . , provided assistance, or
 - (b) such an authority would, if an application had been made, have provided assistance,
- for making those modifications, the amount of the disturbance payment shall include an amount equal to any reasonable expenses incurred by the person entitled to the payment in making, in respect of a dwelling to which the disabled person removes, comparable modifications which are reasonably required for meeting the disabled person's special needs.
- (4) Any dispute as to the amount of a disturbance payment shall be referred to and determined by the [^{F24}Upper Tribunal]^{F23}

Textual Amendments

- F21** Words in s. 38(3)(a) inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 24** (with arts. 1(3), 3)
- F22** Words in s. 38(3)(a) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **31**
- F23** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**
- F24** Words in s. 38(4) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 107** (with Sch. 5)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2024/174 Sch. 8 para. 12](#)
- Act applied (with modifications) by [S.I. 2024/230 Sch. 9 para. 12](#)
- Act applied (with modifications) by [S.I. 2024/360 Sch. 5 para. 13](#)
- Act applied (with modifications) by [S.I. 2024/393 Sch. 10 para. 12](#)
- Act applied (with modifications) by [S.I. 2024/436 Sch. 9 para. 13](#)
- Act modified by [S.I. 2020/1297 Sch. 5 para. 3](#) (This amendment not applied to legislation.gov.uk. S.I. 2020/1297 was withdrawn following a request from the Department of Transport dated 9th August 2021 which followed the decision of the High Court of Justice to quash this Order in the judgement dated 2nd August 2021 (High Court of Justice — Planning Court — The Queen (on the application of Save Stonehenge World Heritage Site) v. Secretary of State for Transport — Case No. CO/4844/2020))
- Act modified by [S.I. 2021/51 Sch. 6 para. 3](#) (This amendment not applied to legislation.gov.uk. S.I. 2021/51 removed from the website by request from the Department of Transport dated 12th July 2021 which followed the decision of the High Court of Justice to quash these Regulations in the judgement dated 8th July 2021 (High Court of Justice — Planning Court — The Queen (on the application of Mair Bain) v. Secretary of State for Transport — Case No. CO/642/2021).)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12A(9)(b)(c) substituted for s. 12A(9)(b) by [2002 c. 15 Sch. 8 para. 1\(4\)](#)
- s. 52A(2B) inserted by [2016 c. 22 s. 196\(2\)\(b\)](#)
- s. 52A(2B) words substituted by [2017 c. 20 s. 39](#)