



# Land Compensation (Scotland) Act 1973

## 1973 CHAPTER 56

### PART III

#### PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

##### *Home loss payments*

#### **29 Supplementary provisions about home loss payments.**

[<sup>F1</sup>(1) No home loss payment or discretionary payment shall be made except on a claim in writing made by the person entitled thereto (“the claimant”) giving such particulars as the authority responsible for making the payment may reasonably require for the purpose of determining whether the payment should be made and, if so, its amount.

(2) Where a person is entitled to a home loss payment, the payment shall be made on or before the latest of the following dates—

- (a) the date of displacement;
- (b) the last day of the period of three months beginning with the making of the claim; and
- (c) where the amount of the payment is to be determined in accordance with section 28(1) above, the day on which the market value of the interest in question is agreed or finally determined.

(2A) Where the amount of the payment is to be determined in accordance with section 28(1) above—

- (a) the acquiring authority may at any time make a payment in advance; and
- (b) if, on the later of the dates referred to in subsection (2)(a) and (b) above, the market value of the interest in question has not been agreed or finally determined, the acquiring authority shall make a payment in advance (where they have not already done so).

(2B) The amount of the payment in advance shall be the lesser of—

- (a) the maximum amount for the purposes of section 28(1) above,

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- (b) 10 per cent. of the amount agreed to be the market value of the interest in question or, if there is no such agreement, 10 per cent. of the acquiring authority's estimate of that amount.
- (2C) Where the amount of a payment in advance differs from the amount of the home loss payment, the shortfall or excess shall be paid by or, as the case may be, repaid to the acquiring authority when the market value of the interest in question is agreed or finally determined.
- (3) Where the claimant has satisfied, throughout any period, the conditions mentioned in section 27(2) above, that period shall be treated for the purposes of that subsection as including any immediately preceding period throughout which—
- (a) he has resided in the dwelling as his only or main residence but without satisfying those conditions, and
  - (b) another person or other persons have satisfied those conditions,
- and references in this subsection and subsection (3A) below to a dwelling include a reference to a substantial part of it.
- (3A) Where the claimant has satisfied, throughout any period, the conditions mentioned in section 27(2) above, that period (or that period as extended under subsection (3) above) shall be treated for the purposes of section 27(2) above as including any immediately preceding period, or successive periods, throughout which he satisfied the conditions mentioned in section 27(2) above in relation to another dwelling or, as the case may be, other dwellings (applying subsection (3) above to determine the length of any period or periods).]
- (4) [<sup>F2</sup>Where a person (“the deceased”) entitled to a home loss payment dies without having claimed it, a claim to the payment may be made] by any person, not being a person under the age of eighteen, who—
- (a) throughout a period of not less than [<sup>F3</sup>one year] ending with the date of displacement of the deceased, has resided in the dwelling, or a substantial part of it, as his only or main residence; and
  - (b) is entitled to benefit by virtue of—
    - (i) a testamentary disposition or any other deed with testamentary effect taking effect on, or the law of intestate succession as applied to, the death of the deceased; or
    - (ii) a right to *jus relictii*, *jus relictiae* or *legitim* out of the deceased's estate.
- (5) Where the claimant has successively been in occupation of or resided in different dwellings in the same building, being dwellings consisting of a room or rooms not constructed or structurally adapted for use as a separate dwelling, section 27(2) above and subsections [<sup>F4</sup>(3) to (4)] above shall have effect as if those dwellings were the same dwelling.
- (6) Where there are two or more persons entitled to make a claim to a home loss payment in respect of the same dwelling (whether by virtue of joint occupation or of subsection (4) above) the payment to be made on each claim shall be equal to the whole amount of the home loss payment divided by the number of such persons.
- (7) Where an interest in a dwelling is acquired by agreement by an authority possessing compulsory purchase powers, the authority may, in connection with the acquisition, make to the person from whom the interest is acquired a payment corresponding to any home loss payment [<sup>F5</sup>or discretionary payment] which they would be required [<sup>F5</sup>or

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authorised] to make to him if the acquisition were compulsory and the authority had been authorised to acquire that interest before he gave up occupation of the dwelling.

[<sup>F6</sup>(7A) Section 6 of the Prescription and Limitation (Scotland) Act 1973 (extinction of obligations by prescriptive periods of five years) shall apply to an obligation to make a home loss payment, and in relation to such obligation the appropriate date for the purposes of subsection (1) of the said section 6 shall be the date of displacement.]

[<sup>F7</sup>(7AA) If a landlord recovers possession of a dwelling by agreement—

- (a) after serving notice under section [<sup>F8</sup>14 of the Housing (Scotland) Act 2001 (asp 10) on the tenant specifying the ground set out in paragraph 10 of schedule 2]to that Act; or
- (b) where, but for that agreement, it would have served such notice on him specifying that ground,

it may, in connection with the recovery, make to him a payment corresponding to any home loss payment [<sup>F5</sup>or discretionary payment] which it would be required [<sup>F5</sup>or authorised] to make to him if the recovery were by order under section [<sup>F9</sup>16(2)] of that Act.]

(8) ..... <sup>F10</sup>

#### Textual Amendments

- F1** S. 29(1)-(3A) substituted (25.9.1991) for s. 29(1)-(3) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 71\(4\)\(9\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F2** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [s. 114\(3\)\(6\)](#) except in cases where the date of displacement was more than 6 months before 13.11.1980
- F3** Words in s. 29(4) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 71\(5\)\(9\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F4** Words in s. 29(5) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 71\(6\)\(9\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F5** Words in s. 29(7)(7AA) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 71\(7\)\(9\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F6** S. 29(7A) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [s. 114\(5\)\(6\)](#) except in cases where the date of displacement was more than 6 months before 13.11.1980
- F7** S. 29(7AA) inserted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), [s. 20\(3\)](#)
- F8** Words in s. 29(7AA) substituted (30.9.2002) by 2001 asp 10, s. 112, [Sch. 10 para. 3\(b\)\(i\)](#); S.S.I. 2002/321, [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in arts. 3-5)
- F9** Word in s. 29(7AA) substituted (30.9.2002) by 2001 asp 10, s. 112, [Sch. 10 para. 3\(b\)\(ii\)](#); S.S.I. 2002/321, [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in arts. 3-5)
- F10** S. 29(8) repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 34 Pt. XII](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Section 29.