



# Planning and Compensation Act 1991

## 1991 CHAPTER 34

### PART IV

#### LAND COMPENSATION - SCOTLAND

#### 73 Advance payments of compensation and interest

- (1) In section 48 of the Land Compensation (Scotland) Act 1973 (right to advance payment of compensation) for subsection (5) there is substituted—

“(4A) Where, at any time after an advance payment has been made on the basis of the acquiring authority’s estimate of the compensation, it appears to the acquiring authority that their estimate was too low, they shall, if a request in that behalf is made in accordance with subsection (2) above, pay to the claimant the balance of the amount of the advance payment calculated as at that time.

- (5) Where the amount, or aggregate amount, of any payment under this section made on the basis of the acquiring authority’s estimate of the compensation exceeds the compensation as finally determined or agreed, the excess shall be repaid; and if after any payment under this section has been made to any person it is discovered that he was not entitled to it, the amount of the payment shall be recoverable by the acquiring authority”.

- (2) After that section there is inserted—

#### “48A Right to interest where advance payment made

- (1) This section applies where the compensation to be paid by the acquiring authority for the compulsory acquisition of any interest in land would (apart from this section) carry interest under paragraph 3(1) of the second Schedule to the Acquisition of Land (Authorisation Procedures) (Scotland) Act 1947 or any bond under section 84 (promoters to be allowed to enter on lands before purchase on giving bond etc.) of the Lands Clauses Consolidation (Scotland) Act 1845.

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- (2) If the authority make a payment under section 48(1) above to any person on account of the compensation—
  - (a) they shall at the same time make a payment to that person of accrued interest, for the period beginning with the date of entry, on the amount by reference to which the payment under section 48(1) above was calculated; and
  - (b) the difference between the amount of the payment under section 48(1) above and the amount by reference to which it was calculated is an unpaid balance for the purposes of this section.
- (3) If the authority make a payment under section 48(4A) above to any person on account of the compensation, they shall at the same time make a payment to him of accrued interest, for the period beginning with the date of entry, on—
  - (a) the amount by reference to which the payment under section 48(4A) above was calculated; less
  - (b) the amount by reference to which the preceding payment under section 48(1) or (4A) above was calculated.
- (4) Where the authority make a payment under section 48(4A) above on account of the compensation, the difference between—
  - (a) the amount of the payment; and
  - (b) the amount by reference to which it was calculated less the amount by reference to which the preceding payment under section 48(1) or (4A) above was calculated,is an unpaid balance for the purposes of this section.
- (5) If, on an anniversary of the date on which the authority made a payment to any person under section 48(1) above on account of the compensation—
  - (a) the amount of accrued interest on the unpaid balance under subsection (2) above or, as the case may be,
  - (b) the aggregate amount of the accrued interest on any unpaid balances, exceeds £1,000, the authority shall make a payment to the claimant of the amount or aggregate amount.
- (6) The acquiring authority shall, on paying the compensation, pay the amount of the accrued interest on the unpaid balance under subsection (2) above or, as the case may be, the aggregate amount of the accrued interest on any unpaid balances.
- (7) For the purposes of subsections (5) and (6) above, interest accrues on any unpaid balance for the period beginning with—
  - (a) the making of the payment under section 48(1) or, as the case may be, 48(4A) above; or
  - (b) if any payment has already been made in respect of that balance under subsection (5) above, the date of the preceding payment under that subsection.
- (8) For the purposes of this section—
  - (a) interest accrues at the rate prescribed under section 40 of the Land Compensation (Scotland) Act 1963 or, in the case of a bond under section 84 of the Lands Clauses Consolidation (Scotland) Act 1845, at the rate specified in that section; and

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- (b) the amount by reference to which a payment under section 48(1) or (4A) was calculated is the amount referred to in section 48(3)(a) or (b) for the purposes of that calculation.
- (9) Where any payment has been made under section 48(1) above on account of any compensation, the acquiring authority is not required to pay interest under paragraph 3(1) of the second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 or any bond under section 84 (promoters to be allowed to enter on lands before purchase on giving bond etc.) of the Lands Clauses Consolidation (Scotland) Act 1845.
- (10) Where the amount, or aggregate amount, of any payment under section 48 above made on the basis of the acquiring authority's estimate of the compensation is greater than the compensation as finally determined or agreed and, accordingly, the interest paid under this section is excessive, the excess shall be repaid.
- (11) If after any interest has been paid to any person under this section on any amount it is discovered that he was not entitled to the amount, the interest shall be recoverable by the acquiring authority.
- (12) The Secretary of State may by order increase the sum specified in subsection (5) above; and the power to make orders under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”