



Housing and Planning Act 2016

2016 CHAPTER 22

PART 7

COMPULSORY PURCHASE ETC

Compensation

192 Making a claim for compensation

(1) After section 4 of the Land Compensation Act 1961 (costs) insert—

“4A Making a claim for compensation

- (1) The appropriate national authority may by regulations impose further requirements about the notice mentioned in section 4(1)(b).
- (2) In subsection (1) “appropriate national authority” means—
 - (a) in relation to a claim for compensation for the compulsory acquisition of land in England, the Secretary of State;
 - (b) in relation to a claim for compensation for the compulsory acquisition of land in Wales, the Welsh Ministers.
- (3) Regulations under subsection (1) may make provision about—
 - (a) the form and content of the notice, and
 - (b) the time at which the notice must be given.
- (4) Regulations under subsection (1) may permit or require a person specified in the regulations to design the form of the notice.
- (5) Regulations under subsection (1) may require an acquiring authority to supply, at specified stages of the compulsory acquisition process, copies of a form to be used in giving the notice.
- (6) Regulations under subsection (1) are to be made by statutory instrument.

Changes to legislation: Housing and Planning Act 2016, Cross Heading: Compensation is up to date with all changes known to be in force on or before 05 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (7) A statutory instrument containing regulations under subsection (1) is subject to annulment—
- (a) in the case of an instrument made by the Secretary of State, in pursuance of a resolution of either House of Parliament;
 - (b) in the case of an instrument made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.”
- (2) In section 5 of the Compulsory Purchase Act 1965 (notice to treat and untraced owners), after subsection (2) insert—
- “(2ZA) For provision about notice of claims for compensation, see sections 4 and 4A of the Land Compensation Act 1961.”

Commencement Information

II [S. 192](#) in force at 6.4.2018 by [S.I. 2018/251](#), [reg. 4\(c\)](#)

193 Compensation after withdrawal of notice to treat

- (1) Section 31 of the Land Compensation Act 1961 (withdrawal of notices to treat) is amended in accordance with subsections (2) and (3).
- (2) After subsection (3) insert—
- “(3A) Where the acquiring authority withdraw a notice to treat under this section, the authority shall also be liable to pay a person compensation for any loss or expenses occasioned by the person as a result of the giving and withdrawal of the notice to treat if the person—
- (a) acquired the interest to which the notice to treat relates before its withdrawal, and
 - (b) has not subsequently been given a notice to treat in relation to that interest.”
- (3) In subsection (4), after “(3)” insert “ or (3A) ”.
- (4) In Schedule 18 to the Planning and Compensation Act 1991 (provisions under which compensation is payable with interest), in Part 1, in the entry relating to the Land Compensation Act 1961, after “section 31(3)” insert “ or (3A) ”.

Commencement Information

I2 [S. 193](#) in force at 6.4.2018 by [S.I. 2018/251](#), [reg. 4\(d\)](#) (with [reg. 6](#))

194 Making a request for advance payment of compensation

- (1) The Land Compensation Act 1973 is amended as follows.
- (2) In section 52 (right to advance payment of compensation), for subsection (2) substitute—
- “(2) A request for advance payment must be made in writing by the person entitled to it (“the claimant”) and must include—

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- (a) details of the claimant's interest in the land, and
 - (b) information to enable the acquiring authority to estimate the amount of the compensation in respect of which the advance payment is to be made.
- (2A) Within 28 days of receiving a request, the acquiring authority must—
 - (a) determine whether they have enough information to estimate the amount of compensation, and
 - (b) if they need more information, require the claimant to provide it.”
- (3) In section 52ZC (land subject to mortgage: supplementary), for subsection (2) substitute—
 - “(2) Within 28 days of receiving a request for a payment under section 52ZA or 52ZB, the acquiring authority must—
 - (a) determine whether they have enough information to give effect to section 52ZA or, as the case may be, 52ZB, and
 - (b) if they need more information, require the claimant to provide it.”
- (4) After section 52ZC (land subject to mortgage: supplementary) insert—

“52ZD Making a request for advance payment

- (1) The appropriate national authority may by regulations impose requirements about the form and content of a request under section 52(2), 52ZA(3) or 52ZB(3).
- (2) In subsection (1) “appropriate national authority” means—
 - (a) in relation to a request relating to the compulsory acquisition of land in England, the Secretary of State;
 - (b) in relation to a request relating to the compulsory acquisition of land in Wales, the Welsh Ministers.
- (3) Regulations under subsection (1) may permit or require a person specified in the regulations to design a form to be used in making a request.
- (4) Regulations under subsection (1) may require an acquiring authority to supply, at specified stages of the compulsory acquisition process, copies of a form to be used in making a request.
- (5) Regulations under subsection (1) are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under subsection (1) is subject to annulment—
 - (a) in the case of an instrument made by the Secretary of State, in pursuance of a resolution of either House of Parliament;
 - (b) in the case of an instrument made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.”

Commencement Information

I3 S. 194 in force at 6.4.2018 by S.I. 2018/251, reg. 4(e) (with reg. 6)

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195 Power to make and timing of advance payment

(1) The Land Compensation Act 1973 is amended as follows.

(2) In section 52 (right to advance payment of compensation)—

(a) for subsections (1) to (1B) substitute—

“(1) An acquiring authority may make an advance payment on account of compensation payable by them for the compulsory acquisition of an interest in land if a request has been made under subsection (2) after the compulsory acquisition has been authorised.

(1A) In a case where the compulsory acquisition is one to which the Lands Clauses Consolidation Act 1845 applies, the acquiring authority may not make an advance payment if they have not taken possession of the land, but must do so if they have.

(1B) In all other cases, an acquiring authority must make an advance payment under subsection (1) if, before or after the request is made, the authority—

(a) give a notice of entry under section 11(1) of the Compulsory Purchase Act 1965, or

(b) execute a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in respect of that land.”;

(b) for subsection (4) substitute—

“(4) An advance payment required by subsection (1A) must be made—

(a) before the end of the day on which the authority take possession of the land, or

(b) if later, before the end of the period of two months beginning with the day on which the authority—

(i) received the request for the advance payment, or

(ii) received any further information required under subsection (2A)(b).

(4ZA) An advance payment required by subsection (1B) must be made—

(a) before the end of the day on which the notice of entry is given or the general vesting declaration is executed, or

(b) if later, before the end of the period of two months beginning with the day on which the authority—

(i) received the request for the advance payment, or

(ii) received any further information required under subsection (2A)(b).”;

(c) omit subsection (11).

(3) In section 52ZA (advance payments: land subject to mortgage for up to 90% of value), for subsection (1) substitute—

“(1) This section applies if—

(a) a request is made for an advance payment under section 52(1) in respect of land,

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- (b) the authority is required by section 52(1A) or (1B) to make the advance payment, and
 - (c) the land is subject to a mortgage the principal of which does not exceed 90% of the relevant amount.”
- (4) In section 52ZB (advance payments: land subject to mortgage for more than 90% of value)—
 - (a) for subsection (1) substitute—
 - “(1) This section applies if—
 - (a) a request is made for an advance payment under section 52(1) in respect of land,
 - (b) the authority would be required by section 52(1A) or (1B) to make the advance payment if it were not for this section, and
 - (c) the land is subject to a mortgage the principal of which exceeds 90% of the relevant amount.”;
 - (b) in subsection (9)(c) for “section 52ZA(1)(b)” substitute “ section 52ZA(1)(c) ”.
- (5) In section 52ZC (land subject to mortgage: supplementary provisions)—
 - (a) after subsection (3) insert—
 - “(3A) In a case where the compulsory acquisition to which the request relates is one to which the Lands Clauses Consolidation Act 1845 applies, the acquiring authority must make any payment under section 52ZA or 52ZB—
 - (a) before the end of the day on which the authority take possession of the land, or
 - (b) if later, before the end of the period of two months beginning with the day on which the authority—
 - (i) received the request under section 52ZA(3) or 52ZB(3), or
 - (ii) received any further information required under subsection (2).
 - (3B) In all other cases, the authority must make any payment under section 52ZA or 52ZB—
 - (a) before the end of the day on which the notice of entry is given or the general vesting declaration is executed, or
 - (b) if later, before the end of the period of two months beginning with the day on which the authority—
 - (i) received the request under section 52ZA(3) or 52ZB(3), or
 - (ii) received any further information required under subsection (2).”;
 - (b) in subsection (4) omit “(4) and”.

Commencement Information

I4 S. 195 in force at 6.4.2018 by S.I. 2018/251, reg. 4(f) (with reg. 6)

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196 Interest on advance payments of compensation

- (1) The Land Compensation Act 1973 is amended as follows.
- (2) In section 52A (right to interest where advance payment made)—
 - (a) in subsection (2), after the words “payment under section 52(1)” insert “ after the date of entry ”;
 - (b) after subsection (2A) insert—

“(2B) In respect of any period in relation to which the acquiring authority is required to pay interest under section 52B (interest on advance payment), the interest payable under subsection (2) is limited to the interest which accrues on the difference between the total amount and the paid amount.”
- (3) After section 52A insert—

“52B Interest on advance payments of compensation paid late

- (1) If the acquiring authority are required by section 52(1A) or (1B) to make an advance payment of compensation but pay some or all of it late, the authority must pay interest on the amount which is paid late (“the unpaid amount”).
- (2) Interest under subsection (1) accrues on the unpaid amount for the period beginning with the day after the last day on which payment could have been made in accordance with section 52(4) or (4ZA).
- (3) If the amount of the advance payment is greater than the compensation as finally determined or agreed (“the actual amount”), the claimant must repay any interest paid under this section that is attributable to the amount by which the advance payment exceeded the actual amount.
- (4) The Treasury must by regulations specify the rate of interest for the purposes of subsection (1).
- (5) Regulations under subsection (4) may contain further provision in connection with the payment of interest under subsection (1).
- (6) Regulations under subsection (4) are to be made by statutory instrument.
- (7) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement Information

- I5** S. 196(1)(2)(a) in force at 6.4.2018 by S.I. 2018/251, reg. 4(g) (with reg. 6)
- I6** S. 196(3) in force at 6.4.2017 for specified purposes by S.I. 2017/281, reg. 4(k)

197 Repayment of advance payment where no compulsory purchase

- (1) The Land Compensation Act 1973 is amended as follows.
- (2) Section 52 (right to advance payment of compensation) is amended in accordance with subsections (3) and (4).

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(3) Omit subsection (5).

(4) In subsection (9), for the words from “he disposes” to the end substitute—

- “(a) the claimant's interest in some or all of the land is acquired by another person, or
- (b) the claimant creates an interest in some or all of the land in favour of a person other than the acquiring authority,

the amount of the advance payment together with any amount paid under section 52A shall be set off against any sum payable by the authority to that other person in respect of the compulsory acquisition of the interest acquired or the compulsory acquisition or release of the interest created. ”

(5) After section 52 insert—

“52AZA Repayment by claimant etc.

- (1) Where the amount or aggregate amount of any payments under section 52 made on the basis of the acquiring authority's estimate of the compensation exceeds the compensation as finally determined or agreed, the excess is to be repaid.
- (2) If after any payment under section 52 has been made to any person it is discovered that the person was not entitled to it, the person must repay it.
- (3) If the notice to treat relating to an interest in land in relation to which an acquiring authority have made a payment to a claimant under section 52 is withdrawn or has ceased to have effect before the authority take possession of the land, the authority may by notice require the claimant to pay them an amount equal to the amount of the payment, unless another person has acquired the whole of the claimant's interest in the land.
- (4) Subsection (5) applies where—
 - (a) a payment made to a claimant has been registered as a local land charge in accordance with section 52(8A),
 - (b) the whole of the claimant's interest in land has subsequently been acquired by another person (a “successor”),
 - (c) any notice to treat given in relation to the interest is withdrawn or ceases to have effect before the acquiring authority take possession of the land, and
 - (d) the authority notify the successor that they are not going to give the successor a notice to treat (or a further notice to treat) for the interest.
- (5) The authority may by notice require the successor to pay them an amount equal to the amount of any payment made to the claimant under section 52.
- (6) A notice under subsection (3) or (5) must specify the date by which the claimant or successor must pay the amount.
- (7) The date mentioned in subsection (6) must be after the period of two months beginning with the day on which the authority give the notice under subsection (3) or (5).

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- (8) Neither subsection (3) nor subsection (5) affects a right to compensation under section 31(3) or (3A) of the Land Compensation Act 1961 or section 5(2C)(b) of the Compulsory Purchase Act 1965.”

Commencement Information

I7 S. 197 in force at 6.4.2018 by S.I. 2018/251, reg. 4(h) (with reg. 6)

198 Repayment of payment to mortgagee if land not acquired

In the Land Compensation Act 1973, after section 52ZD (inserted by section 194 above) insert—

“52ZE Payment to mortgagee recoverable if notice to treat withdrawn

- (1) Where an acquiring authority have made a payment to a mortgagee under section 52ZA or 52ZB in relation to an interest in land and notify the claimant that the notice to treat relating to the interest is withdrawn or has ceased to have effect before the authority take possession of the land, the authority may by notice require the claimant to pay them an amount equal to the amount of the payment, unless another person has acquired the whole of the claimant's interest in the land.
- (2) Subsection (3) applies where—
 - (a) a payment under section 52ZA or 52ZB has been registered as a local land charge in accordance with section 52(8A),
 - (b) the whole of a claimant's interest in land has subsequently been acquired by another person (a “successor”),
 - (c) any notice to treat given in relation to the interest is withdrawn or ceases to have effect before the authority take possession of the land, and
 - (d) the acquiring authority notify the successor that they are not going to give the successor a notice to treat (or a further notice to treat) in relation to the interest.
- (3) The authority may by notice require the successor to pay them an amount equal to the amount of the payment.
- (4) A notice under subsection (1) or (3) must specify the date by which the claimant or successor must pay the amount.
- (5) The date mentioned in subsection (4) must be after the period of two months beginning with the day on which the authority give the notice under subsection (1) or (3).
- (6) Neither subsection (1) nor subsection (3) affects a right to compensation under section 31(3) or (3A) of the Land Compensation Act 1961 or section 5(2C)(b) of the Compulsory Purchase Act 1965.”

Commencement Information

I8 S. 198 in force at 6.4.2018 by S.I. 2018/251, reg. 4(i) (with reg. 6)

Changes to legislation:

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

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

- s. 172(1)(a) words renumbered as s. 172(1)(a) by [2017 c. 20 s. 26\(8\)\(a\)\(i\)](#)
- s. 172(1)(b) inserted by [2017 c. 20 s. 26\(8\)\(a\)\(ii\)](#)