



# Housing and Planning Act 2016

## 2016 CHAPTER 22

### PART 7

#### COMPULSORY PURCHASE ETC

##### *Compensation*

#### **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).
- (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

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**Changes to legislation:** Housing and Planning Act 2016, Section 197 is up to date with all changes known to be in force on or before 07 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

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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an interest in land in relation to which an acquiring authority have made a payment to a claimant under section 52 is withdrawn or has ceased to have effect before the authority take possession of the land, the authority may by notice require the claimant to pay them an amount equal to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).
- (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.”

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**Commencement Information**

**II** S. 197 in force at 6.4.2018 by S.I. 2018/251, reg. 4(h) (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\(8\)\(a\)\(ii\)](#)