



Neighbourhood Planning Act 2017

2017 CHAPTER 20

PART 2

COMPULSORY PURCHASE ETC

CHAPTER 2

OTHER PROVISIONS RELATING TO COMPULSORY PURCHASE

32 No-scheme principle

- (1) The Land Compensation Act 1961 is amended in accordance with subsections (2) to (4).
- (2) In section 5, after rule (2) insert—

“(2A) The value of land referred to in rule (2) is to be assessed in the light of the no-scheme principle set out in section 6A.”
- (3) For sections 6 to 9 (provisions about how scheme is to be disregarded when assessing compensation in respect of compulsory acquisition) substitute—

“6A No-scheme principle

- (1) The no-scheme principle is to be applied when assessing the value of land in order to work out how much compensation should be paid by the acquiring authority for the compulsory acquisition of the land (see rule 2A in section 5).
- (2) The no-scheme principle is the principle that—
 - (a) any increase in the value of land caused by the scheme for which the authority acquires the land, or by the prospect of that scheme, is to be disregarded, and
 - (b) any decrease in the value of land caused by that scheme or the prospect of that scheme is to be disregarded.

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- (3) In applying the no-scheme principle the following rules in particular (the “no-scheme rules”) are to be observed.
- (4) Rule 1: it is to be assumed that the scheme was cancelled on the relevant valuation date.
- (5) Rule 2: it is to be assumed that no action has been taken (including acquisition of any land, and any development or works) by the acquiring authority wholly or mainly for the purposes of the scheme.
- (6) Rule 3: it is to be assumed that there is no prospect of the same scheme, or any other project to meet the same or substantially the same need, being carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers.
- (7) Rule 4: it is to be assumed that no other projects would have been carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers if the scheme had been cancelled on the relevant valuation date.
- (8) Rule 5: if there was a reduction in the value of land as a result of—
 - (a) the prospect of the scheme (including before the scheme or the compulsory acquisition in question was authorised), or
 - (b) the fact that the land was blighted land as a result of the scheme,
 that reduction is to be disregarded.
- (9) In this section—
 - “blighted land” means land of a description listed in Schedule 13 to the Town and Country Planning Act 1990;
 - “relevant valuation date” has the meaning given by section 5A.
- (10) See also section 14 for assumptions to be made in respect of planning permission.

6B Lower compensation if other land gains value

- (1) This section applies where—
 - (a) a person is entitled to compensation for the compulsory acquisition of land (the “original land”) for the purposes of a scheme,
 - (b) on the date the notice to treat is served in respect of the original land, the person is entitled to an interest in other land (the “other land”) which is contiguous or adjacent to the original land,
 - (c) the person is entitled to the interest in the other land in the same capacity as the person is entitled to the interest in the original land, and
 - (d) the person's interest in the other land has increased in value as a result of the scheme.
- (2) The amount of compensation to which the person is entitled in respect of the compulsory acquisition of the original land is to be reduced by the amount of the increase in the value of the person's interest in the other land as at the relevant valuation date (determined in accordance with section 5A).

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- (3) An amount by which the other land increases in value may not be set off against compensation payable to the person (for the original land or otherwise) in accordance with subsection (2) more than once.
- (4) If the other land is subsequently subject to compulsory acquisition for the purposes of the scheme mentioned in subsection (1), the compensation to which the person is entitled for the other land includes the amount which was deducted from the person's compensation for the original land in accordance with subsection (2) (despite the no-scheme principle).
- (5) If part only of the other land is subject to compulsory acquisition, the compensation to which the person is entitled by virtue of subsection (4) is to be reduced accordingly.
- (6) Subsections (4) and (5) apply in relation to a person (a “successor”) who derives title from the person mentioned in that subsection as if the original land had been acquired from the successor.
- (7) This section does not apply in relation to compensation which is to be assessed in accordance with section 261 of the Highways Act 1980 (benefit to vendor to be taken into account in assessing compensation on certain compulsory acquisitions for highway purposes).

6C Increased compensation if other land loses value

- (1) This section applies where—
 - (a) land (the “original land”) belonging to a person is acquired for the purposes of a scheme,
 - (b) as a result of the acquisition of the original land the person receives compensation for injurious affection in relation to other land, and
 - (c) the other land is subsequently subject to compulsory acquisition for the purposes of that scheme.
- (2) The compensation to which the person is entitled as a result of the compulsory acquisition of the other land is to be reduced by the amount which the person received in compensation for injurious affection in relation to the other land as a result of the acquisition of the original land.
- (3) Subsection (2) applies in relation to a person (a “successor”) who derives title from the person mentioned in that subsection as if the compensation for injurious affection had been paid to the successor.

6D Meaning of “scheme” etc.

- (1) For the purposes of sections 6A, 6B and 6C, the “scheme” in relation to a compulsory acquisition means the scheme of development underlying the acquisition (subject to subsections (2) to (5)).
- (2) Where the acquiring authority is authorised to acquire land in connection with the development of an area designated as—
 - (a) an urban development area by an order under section 134 of the Local Government, Planning and Land Act 1980,

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- (b) a new town by an order under section 1 of the New Towns Act 1981, or
 - (c) a Mayoral development area by a designation under section 197 of the Localism Act 2011,
- the scheme is the development of any land for the purposes for which the area is or was designated.
- (3) Where land is acquired for regeneration or redevelopment which is facilitated or made possible by a relevant transport project, the scheme includes the relevant transport project (subject to section 6E).
 - (4) For the purposes of subsection (3) and section 6E—
 - (a) a “relevant transport project” means a transport project carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers (regardless of whether it is carried out before, after or at the same time as the regeneration or redevelopment), and
 - (b) where different parts of the works comprised in such a transport project are first opened for use on different dates, each part is to be treated as a separate relevant transport project.
 - (5) If there is a dispute as to what is to be taken to be the scheme (the “underlying scheme”) then, for the purposes of this section, the underlying scheme is to be identified by the Upper Tribunal as a question of fact, subject as follows—
 - (a) the underlying scheme is to be taken to be the scheme provided for by the Act, or other instrument, which authorises the compulsory acquisition unless it is shown (by either party) that the underlying scheme is a scheme larger than, but incorporating, the scheme provided for by that instrument, and
 - (b) except by agreement or in special circumstances, the Upper Tribunal may permit the acquiring authority to advance evidence of such a larger scheme only if that larger scheme is one identified in the following read together—
 - (i) the instrument which authorises the compulsory acquisition, and
 - (ii) any documents made available with it.
 - (6) In the application of no-scheme rule 3 in relation to the acquisition of land for or in connection with the construction of a highway (the “scheme highway”) the reference in that rule to “any other project” includes a reference to any other highway that would meet the same or substantially the same need as the scheme highway would have been constructed to meet.

6E Further provisions in relation to relevant transport projects

- (1) This section has effect for the purposes of section 6D(3).
- (2) The scheme referred to in that section includes the relevant transport project only if—
 - (a) regeneration or redevelopment was part of the published justification for the relevant transport project,

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- (b) the works comprised in the relevant transport project are first opened for use after the period of 5 years beginning with [F122nd September 2017] ,
 - (c) the instrument authorising the compulsory acquisition of the land which is acquired for regeneration or redevelopment was made or prepared in draft on or after [F222nd September 2017] ,
 - (d) the compulsory acquisition of that land is authorised before the end of the period of 5 years beginning with the day on which the works comprised in the relevant transport project are first opened for use, and
 - (e) that land is in the vicinity of land comprised in the relevant transport project.
- (3) In assessing compensation payable to a person in respect of the compulsory acquisition of that land, the scheme is to be treated as if it did not include the relevant transport project if the person acquired the land—
 - (a) after plans for the relevant transport project were announced, but
 - (b) before 8 September 2016.
- (4) Subsections (5) and (6) set out how subsection (2)(b) should be applied if a claim for compensation is made by a person (the “claimant”)—
 - (a) during the period of 5 years mentioned in that subsection, and
 - (b) before the works are first opened for use.
- (5) Compensation is to be assessed on the basis that the works will first be opened for use after the period of 5 years unless the acquiring authority confirms that, in the authority's opinion, the works will first be opened during that period (in which case compensation is to be assessed on the basis that the works will first be opened for use during that period).
- (6) If the basis on which compensation was assessed proves to be incorrect—
 - (a) the claimant's entitlement to any compensation which the claimant has already been awarded is not affected,
 - (b) the acquiring authority must give the claimant a notice informing the claimant that the basis on which the compensation was assessed was incorrect,
 - (c) the claimant may make a further claim for compensation in respect of the compulsory acquisition, and
 - (d) for the purposes of the Limitation Act 1980, the further claim for compensation accrues on the day the claimant receives the notice.”
- (4) Omit—
 - (a) section 15 (planning permission to be assumed for acquiring authority's proposals), and
 - (b) Schedule 1 (actual or prospective development relevant for purposes of sections 6, 7 and 8).
- (5) In section 6(3) of the Land Compensation Act 1973 (reduction of compensation where land is benefited)—
 - (a) for “section 6” substitute “ section 6A ”, and
 - (b) for “section 7” substitute “ section 6B ”.

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- (6) In section 78 of the Housing Act 1988 (supplementary provisions relating to vesting, acquisition and compensation) omit subsections (3) and (4).

Textual Amendments

- F1** Words in s. 32(3) substituted (22.9.2017) by [The Neighbourhood Planning Act 2017 \(Commencement No. 2\) Regulations 2017 \(S.I. 2017/936\)](#), [reg. 6](#)
- F2** Words in s. 32(3) substituted (22.9.2017) by [The Neighbourhood Planning Act 2017 \(Commencement No. 2\) Regulations 2017 \(S.I. 2017/936\)](#), [reg. 7](#)

Commencement Information

- I1** S. 32 in force at 22.9.2017 by [S.I. 2017/936](#), [reg. 3\(b\)](#) (with [reg. 4](#))

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