



Town and Country Planning Act 1962

1962 CHAPTER 38 10 and 11 Eliz 2

PART X

STATUTORY UNDERTAKERS

Compensation

170 Right to compensation in respect of certain decisions and orders

- (1) Statutory undertakers shall, subject to the following provisions of this Part of this Act, be entitled to compensation from the local planning authority—
 - (a) in respect of any decision made in accordance with section one hundred and fifty-nine of this Act whereby planning permission to develop operational land of those undertakers is refused or is granted subject to conditions;
 - (b) in respect of any decision made by a government department in respect of any such land, either refusing an authorisation as mentioned in paragraph (a) of subsection (1) of section one hundred and sixty of this Act, or directing that planning permission shall be deemed to be granted subject to conditions as mentioned in paragraph (b) of that subsection ;
 - (c) in respect of any order under section twenty-seven of this Act, as modified by section one hundred and sixty-one thereof, whereby planning permission, granted on the application of those undertakers for the development of any such land, is revoked or modified.
- (2) Where, by virtue of section one hundred and sixty-four of this Act, any right vested in or belonging to statutory undertakers is extinguished, or any requirement is imposed on statutory undertakers, those undertakers shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.
- (3) Notwithstanding anything in subsection (1) of this section, if the decision or order in question relates to land acquired by the statutory undertakers after the seventh day of January, nineteen hundred and forty-seven, and the Minister and the appropriate Minister are satisfied, having regard to the nature, situation and existing development

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

of the land and of any neighbouring land, and to any other material considerations, that it is unreasonable that compensation should be recovered in respect of that decision or order, they may include therein a direction that subsection (1) of this section shall not apply to that decision or order:

Provided that the power conferred by this subsection shall not be exercisable in relation to a decision falling within paragraph (b) of subsection (1) of this section, if the land in question was acquired by the statutory undertakers (whether compulsorily or by agreement) for the purposes of the development to which the decision relates, and was so acquired with the consent or authority of a government department.

171 Measure of compensation to statutory undertakers

- (1) Where statutory undertakers are entitled to compensation—
- (a) as mentioned in subsection (1) or subsection (2) of the last preceding section, or
 - (b) under the provisions of section one hundred and twenty four in respect of an order made under section twenty-eight of this Act as modified by section one hundred and sixty-two thereof, or
 - (c) in respect of a compulsory acquisition of land which has been acquired by those undertakers for the purposes of their undertaking, where the first-mentioned acquisition is effected under a compulsory purchase order confirmed or made without the appropriate Minister's certificate,
- the amount of the compensation shall (subject to the next following section) be an amount calculated in accordance with the following provisions of this section.
- (2) The said amount, subject to the next following subsection, shall be the aggregate of the following amounts, that is to say—
- (a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking rendered necessary by the proceeding giving rise to compensation ;
 - (b) whichever of the following is applicable, namely—
 - (i) where such an adjustment is made, the estimated amount of any decrease in net receipts from the carrying on of the undertaking pending the adjustment, in so far as the decrease is directly attributable to the proceeding giving rise to compensation, together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment;
 - (ii) where no such adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking which is directly attributable to the proceeding giving rise to compensation;
 - (c) where the compensation is under subsection (2) of the last preceding section, and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers in complying with the requirement, reduced by the value after removal of the apparatus removed.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) Where any such adjustment as is mentioned in paragraph (a) of the last preceding subsection is made, the aggregate amount mentioned in that subsection shall be reduced by such amount (if any) as appears to the Lands Tribunal to be appropriate to offset—
- (a) the estimated value of any property (whether moveable or immoveable) belonging to the statutory undertakers and used for the carrying on of their undertaking which, in consequence of the adjustment, ceases to be so used, in so far as the value of the property has not been taken into account under paragraph (c) of the last preceding subsection, and
 - (b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as that amount has not been taken into account under paragraph (b) of the last preceding subsection and is directly attributable to the adjustment,
- and by any further amount which appears to the Lands Tribunal to be appropriate, having regard to any increase in the capital value of immoveable property belonging to the statutory undertakers which is directly attributable to the adjustment, allowance being made for any reduction made under paragraph (b) of this subsection.
- (4) References in this section to a decrease in net receipts shall be construed as references to the amount by which a balance of receipts over expenditure is decreased, or a balance of expenditure over receipts is increased, or, where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, as references to the aggregate of the two balances; and references to an increase in net receipts shall be construed accordingly.
- (5) In this section “proceeding giving rise to compensation ” means the particular action (that is to say, the decision, order, extinguishment of a right, imposition of a requirement, or acquisition) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken, and " the appropriate Minister's certificate " has the same meaning as in section one hundred and sixty-three of this Act.

172 Exclusion of s.171 at option of statutory undertakers

- (1) Where statutory undertakers are entitled to compensation in respect of such a compulsory acquisition as is mentioned in paragraph (c) of subsection (1) of the last preceding section, the statutory undertakers may by notice in writing under this section elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section five of the Land Compensation Act, 1961) which would be applicable apart from the last preceding section ; and if the undertakers so elect the compensation shall be ascertained accordingly.
- (2) An election under this section may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of part of that land.
- (3) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

173 Procedure for assessing compensation where s.171 applies

- (1) Where the amount of any such compensation as is mentioned in subsection (1) of section one hundred and seventy-one of this Act falls to be ascertained in accordance

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

with the provisions of that section, the compensation shall, in default of agreement, be assessed by the Lands Tribunal, if apart from this section it would not fall to be so assessed.

- (2) For the purposes of any proceedings arising before the Lands Tribunal in respect of compensation falling to be ascertained as mentioned in the preceding subsection, the provisions of sections two and four of the Land Compensation Act, 1961, shall apply as they apply to proceedings on a question referred to the Tribunal under section one of that Act, but with the substitution in section four of that Act, for references to the acquiring authority, of references to the person from whom the compensation is claimed.