

Land Compensation Act 1973

1973 CHAPTER 26

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An Act to confer a new right to compensation for depreciation of the value of interests in land caused by the use of highways, aerodromes and other public works; to confer powers for mitigating the injurious effect of such works on their surroundings; to make new provision for the benefit of persons displaced from land by public authorities; to amend the law relating to compulsory purchase and planning blight; to amend section 35 of the Roads (Scotland) Act 1970; and for purposes connected with those matters.

[23rd May 1973]

Extent

Preamble: England, Wales

PART I

COMPENSATION FOR DEPRECIATION CAUSED BY USE OF PUBLIC WORKS

✓ Law In Force

1.— Right to compensation.

(1) Where the value of an interest in land is depreciated by physical factors caused by the use of public works, then, if—

- (a) the interest qualifies for compensation under this Part of this Act; and
- (b) the person entitled to the interest makes a claim [after the time provided]¹ by and otherwise in accordance with this Part of this Act,

compensation for that depreciation shall, subject to the provisions of this Part of this Act, be payable by the responsible authority to the person making the claim (hereafter referred to as “the claimant”).

(2) The physical factors mentioned in subsection (1) above are noise, vibration, smell, fumes, smoke and artificial lighting and the discharge on to the land in respect of which the claim is made of any solid or liquid substance.

- (3) The public works mentioned in subsection (1) above are—
- (a) any highway;
 - (b) any aerodrome; and
 - (c) any works or land (not being a highway or aerodrome) provided or used in the exercise of statutory powers.
- (4) The responsible authority mentioned in subsection (1) above is, in relation to a highway, the appropriate highway authority and, in relation to other public works, the person managing those works.
- (5) Physical factors caused by an aircraft arriving at or departing from an aerodrome shall be treated as caused by the use of the aerodrome whether or not the aircraft is within the boundaries of the aerodrome; but, save as aforesaid, the source of the physical factors must be situated on or in the public works the use of which is alleged to be their cause.
- (6) Compensation shall not be payable under this Part of this Act in respect of the physical factors caused by the use of any public works other than a highway unless immunity from actions for nuisance in respect of that use is conferred (whether expressly or by implication) by an enactment relating to those works or, in the case of an aerodrome and physical factors caused by aircraft, the aerodrome is one to which [section 77(2) of the Civil Aviation Act 1982]² (immunity from actions for nuisance) for the time being applies.
- (7) Compensation shall not be payable under this Part of this Act in respect of physical factors caused by accidents involving vehicles on a highway or accidents involving aircraft.
- (8) Compensation shall not be payable under this Part of this Act on any claim unless the relevant date in relation to the claim falls on or after 17th October 1969.
- (9) Subject to section 9 below, “the relevant date” in this Part of this Act means—
- (a) in relation to a claim in respect of a highway, the date on which it was first open to public traffic;
 - (b) in relation to a claim in respect of other public works, the date on which they were first used after completion.

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Notes

¹ Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 112(3)(9) except in cases where the relevant date was more than 3 years before 13.11.1980

² Words substituted by Civil Aviation Act 1982 (c.16), Sch. 15 para. 12(1)

³ Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2

Commencement

Pt I s. 1: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 1(1)-(9)(b): England, Wales

✓ Law In Force

2.— Interests qualifying for compensation.

(1) An interest qualifies for compensation under this Part of this Act if it was acquired by the claimant before the relevant date in relation to the claim and the requirements of subsection (2) or, as the case may be, subsection (3) below are satisfied on the date on which notice of the claim for compensation in respect of that interest is served.

(2) If and so far as the interest is in land which is a dwelling, the said requirements are—

- (a) that the interest is an owner's interest; and
- (b) where the interest carries the right to occupy the land, that the land is occupied by the claimant in right of that interest as his residence.

(3) If and so far as the interest is not in such land as aforesaid, the said requirements are—

- (a) that the interest is that of an owner-occupier; and
- (b) that the land is or forms part of either—
 - (i) a hereditament the annual value of which does not exceed the prescribed amount; or
 - (ii) an agricultural unit.

(4) In this section “owner's interest” in relation to any land, means the legal fee simple therein or a tenancy thereof granted or extended for a term of years certain of which, on the date of service of the notice of claim in respect thereof, not less than three years remain unexpired.

(5) In this section “owner-occupier”, in relation to land in a hereditament, means a person who occupies the whole or a substantial part of the land in right of an owner's interest therein and, in relation to land in an agricultural unit, means a person who occupies the whole of that unit and is entitled, while so occupying it, to an owner's interest in the whole or any part of that land.

(6) In this section “the prescribed amount” means the amount for the time being prescribed for the purposes of [section 149(3)(a) of the Town and Country Planning Act 1990]¹ (interests qualifying for protection under planning blight provisions) and “annual value” and “hereditament” have the meanings given in [section 171]² of that Act taking references to the date of service of a notice under [section 150]³ of that Act as references to the date on which notice of the claim is served.

(7) This section has effect subject to sections 10(4), 11 and 12 below.

(8) [...]⁴

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Notes

¹ Words substituted by Planning (Consequential Provisions) Act 1990 (c.11), s. 4, Sch. 2 para. 29(1)(a)

² Words substituted by Planning (Consequential Provisions) Act 1990 (c.11), s. 4, Sch. 2 para. 29(1)(b)

³ Words substituted by Planning (Consequential Provisions) Act 1990 (c.11), s. 4, Sch. 2 para. 29(1)(c)

⁴ Repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I

⁵ Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2

Commencement

Pt I s. 2: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 2(1)-(8): England, Wales

✓ Law In Force

3.— Claims.

(1) A claim under this Part of this Act shall be made by serving on the responsible authority a notice containing particulars of—

- (a) the land in respect of which the claim is made;
- (b) the claimant's interest and the date on which, and the manner in which, it was acquired;
- (c) the claimant's occupation of the land (except where the interest qualifies for compensation without occupation);
- (d) any other interests in the land so far as known to the claimant;
- (e) the public works to which the claim relates;
- (f) the amount of compensation claimed;
- (g) any land contiguous or adjacent to the land in respect of which the claim is made, being land to which the claimant was entitled in the same capacity (within the meaning of section 6 below) on the relevant date.

(2) Subject to the provisions of this section and of sections 12 and 14 below, no claim shall be made [before the expiration of twelve months from the relevant date; and the day next following the expiration of the said twelve months is in this Part of this Act referred to as “the first claim day”.] ¹

(3) Subsection (2) above shall not preclude the making of a claim in respect of an interest in land before [the first claim day] ² if—

- (a) the claimant has during the said twelve months made a contract for disposing of that interest or (in so far as the interest is in land which is not a dwelling) for the grant of a tenancy of that land; and
- (b) the claim is made before the interest is disposed of or the tenancy is granted; but compensation shall not be payable before [the first claim day] ³ on any claim made by virtue of this subsection.

(4) Where notice of a claim has been served on a responsible authority, any person authorised by that authority may, on giving reasonable notice, enter the land to which the claim relates for the purpose of surveying it and ascertaining its value in connection with the claim; and any person who wilfully obstructs a person in the exercise of the powers conferred by this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding [level 1 on the standard scale] ⁴.

(5) Where compensation is payable by a responsible authority on a claim there shall be payable by the authority, in addition to the compensation, any reasonable valuation or legal expenses incurred by the claimant for the purposes of the preparation and prosecution of the claim; but this subsection is without prejudice to the powers of the [Upper Tribunal in respect of the costs of and incidental to proceedings in the Upper Tribunal by virtue of section 29 of the Tribunals, Courts and Enforcement Act 2007] ⁵.

Notes

- ¹ Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 112(2)(9) except in cases where the relevant date was more than 3 years before 13.11.1980.
- ² Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 112(4)(9) except in cases where the relevant date was more than 3 years before 13.11.1980.
- ³ Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 112(4)(9) except in cases where the relevant date was more than 3 years before 13.11.1980
- ⁴ Words substituted by Criminal Justice Act 1982 (c.48), ss. 38, 46
- ⁵ Words substituted by Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009/1307 Sch.1 para.102 (June 1, 2009)

Commencement

Pt I s. 3: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 3(1)-(5): England, Wales

 Law In Force

4.— Assessment of compensation: general provisions.

(1) The compensations payable on any claim shall be assessed by reference to prices current on [the first claim day.]¹

(2) In assessing depreciation due to the physical factors caused by the use of any public works, account shall be taken of the use of those works as it exists on [the first claim day]¹ and of any intensification that may then be reasonably expected of the use of those works in the state in which they are on that date.

(3) In assessing the extent of the depreciation there shall be taken into account the benefit of any relevant works—

(a) which have been carried out, or in respect of which a grant has been paid, under section 20 below, section 15 of the Airports Authority Act 1965 [, section 29A of the Civil Aviation Act 1971]² [, section 79 of the Civil Aviation Act 1982]³ or any corresponding local enactment [or under any provision of a scheme operated by a person managing an aerodrome which provides for the payment of sound-proofing grants in respect of buildings near the aerodrome]⁴ ;

(b) which have been carried out under section 23 or 27 below;

and it shall be assumed that any relevant works which could be or could have been carried out, or in respect of which a grant could be or could have been paid, under any of the provisions mentioned in paragraph (a) above have been carried out but, in a case where the authority having functions under that provisions have a discretion whether or not to carry out the works or pay the grant, only if they have undertaken to do so.

[In paragraph (a) above “sound-proofing grants”, in relation to any buildings, means grants towards the costs of insulating those buildings or parts of those buildings against noise.]⁵

(4) The value of the interest in respect of which the claim is made shall be assessed—

- (a) Subject to subsection (5) below, by reference to the nature of the interest and the condition of the land as it subsisted on the date of service of notice of the claim;
- (b) subject to section 5 below, in accordance with rules (2) to (4) of the rules set out in section 5 of the Land Compensation Act 1961;
- (c) if the interest is subject to a mortgage or to a contract of sale or to a contract made after the relevant date for the grant of a tenancy, as if it were not subject to the mortgage or contract.

(5) In assessing the value of the interest in the respect of which the claim is made there shall be left out of account any part of that value which is attributable to—

- (a) any building, or improvement or extension of a building, on the land if the building or, as the case may be, the building as improved or extended, was first occupied after the relevant date; and
- (b) any change in the use of the land made after that date.

(6) [...] ⁶

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Notes


- ¹ Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 112(4)(9) except in cases where the relevant date was more than 3 years before 13.11.1980.
- ² Words inserted by Airports Authority Act 1975 (c. 78), Sch. 5 Pt. II para. 5.
- ³ Words inserted by Civil Aviation Act 1982 (c.16), Sch. 15 para. 12(2)
- ⁴ Words inserted by Civil Aviation Act 1980 (c. 60), s. 20(1)(a)
- ⁵ Para. added by Civil Aviation Act 1980 (c. 60), s. 20(1)(b)
- ⁶ Repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I
- ⁷ Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2

Commencement

Pt I s. 4: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 4(1)-(6): England, Wales

 Law In Force

5.— Assessment of compensation: assumptions as to planning permission.

(1) The following assumptions shall be made in assessing the value of the interest in respect of which the claim is made.

[(2) Subject to subsection (3) below, it shall be assumed that, in respect of the land in which the interest subsists (“the relevant land”) or any part of it, planning permission would be granted—

- (a) subject to the condition set out in Schedule 10 to the Town and Country Planning Act 1990, for any development of a class specified in paragraph 1 of Schedule 3 to that Act; and
- (b) for any development of a class specified in paragraph 2 of Schedule 3 to that Act.

] ¹

(3) Notwithstanding subsection (2) above—

(a)-(b) [...] ²

(c) where an order has been made under [section 102 of or paragraph 1 of Schedule 9 to the said Act of 1990] ³, in respect of the relevant land or any part thereof, requiring the removal of any building or the discontinuance of any use, and compensation has become payable in respect of that order under [section 115] ³ of that Act, it shall not by virtue of the said subsection (2) be assumed that planning permission would be granted, in respect of the relevant land or any part thereof, as the case may be, for the rebuilding of that building or the resumption of that use.

(4) It shall be assumed that planning permission would not be granted in respect of the relevant land or any part thereof for any development other than such development as is mentioned in subsection (2) above; and, if planning permission has been granted in respect of the relevant land or any part thereof for such other development, it shall be assumed that the planning permission has not been granted in so far as it relates to development that has not been carried out.

(5) In this section any expression which is also used in [the said Act of 1990] ⁴ has the same meaning as in that Act and references to any provision of that Act include references to any corresponding provision previously in force.

(6) [...] ⁵

Notes

¹ Substituted by Planning and Compensation Act 1991 c. 34 Sch.6 para.5(1)(a) (July 25, 1991)

² Repealed by Planning and Compensation Act 1991 c. 34 Sch.6 para.5(1)(b) (July 25, 1991)

³ Words substituted by Planning (Consequential Provisions) Act 1990 (c.11), s. 4, Sch. 2 para. 29(2)(b)(iii)

⁴ Words substituted by Planning (Consequential Provisions) Act 1990 (c.11), s. 4, Sch. 2 para. 29(2)(c)


⁵ Repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I

Commencement

Pt I s. 5: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 5(1)-(6): England, Wales

 Law In Force

6.— Reduction of compensation where land is benefited.

(1) The compensation payable on a claim shall be reduced by an amount equal to any increase in the value of—

(a) the claimant's interest in the land in respect of which the claim is made; and

(b) any interest in other land contiguous or adjacent to the land mentioned in paragraph (a) above to which the claimant was entitled in the same capacity on the relevant date, which is attributable to the existence of or the use or prospective use of the public works to which the claim relates.

(2) Sections 4 and 5 above shall not apply to the assessment, for the purposes of subsection (1) above, of the value of the interest mentioned in paragraph (a) of that subsection.

(3) Where, for the purpose of assessing compensation on a claim in respect of any interest in land, an increase in the value of an interest in other land has been taken into account under subsection (1) above, then, in connection with any subsequent acquisition to which this subsection applies, that increase shall not be left out of account by virtue of [section 6A of the Land Compensation Act 1961]¹ or taken into account by virtue of [section 6B]² of that Act or any corresponding enactment, in so far as it was taken into account in connection with that claim.

(4) Subsection (3) above applies to any subsequent acquisition, not being an acquisition of the land in respect of which the claim is made, where either—

(a) the interest acquired by the subsequent acquisition is the same as the interest previously taken into account (whether the acquisition extends to the whole of the land in which that interest previously subsisted or only to part of that land); or

(b) the person entitled to the interest acquired is, or directly or indirectly derives title to that interest from, the person who at the time of the claim mentioned in that subsection was entitled to the interest previously taken into account;

and in this subsection “the interest previously taken into account” means the interest the increased value of which was taken into account as mentioned in the said subsection (3).

(5) For the purposes of this section a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—

(a) to both of them beneficially; or

(b) to both of them as trustee of one particular trust; or

(c) to both of them as personal representative of one particular person;

and in this section references to a person deriving title from another person include references to any successor in title of that other person.

(6) In subsection (3) above “corresponding enactment” has the same meaning as in section 8 of the said Act of 1961.

(7) [...]³

Notes

¹ Words substituted by Neighbourhood Planning Act 2017 c. 20 Pt 2 c.2 s.32(5)(a) (September 22, 2017: substitution has effect subject to transitional provisions specified in SI 2017/936 reg.4)

² Words substituted by Neighbourhood Planning Act 2017 c. 20 Pt 2 c.2 s.32(5)(b) (September 22, 2017: substitution has effect subject to transitional provisions specified in SI 2017/936 reg.4)

³ Repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I

Commencement

Pt I s. 6: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 6(1)-(7): England, Wales

✓ Law In Force

7. Exclusion of minimal compensation.

Compensation shall not be payable on any claim unless the amount of the compensation exceeds £50.

¹

Notes

¹ Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2

Commencement

Pt I s. 7: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 7: England, Wales

✓ Law In Force

8.— Other restrictions on compensation.

(1) Where a claim has been made in respect of depreciation of the value of an interest in land caused by the use of any public works and compensation has been paid or is payable on that claim, compensation shall not be payable on any subsequent claim in relation to the same works and the same land or any part thereof (whether in respect of the same or a different interest) except that, in the case of land which is a dwelling, this subsection shall not preclude the payment of compensation both on a claim in respect of the fee simple and on a claim in respect of a tenancy.

(2) Where a person is entitled to compensation in respect of the acquisition of an interest in land by an authority possessing compulsory purchase powers, or would be so entitled if the acquisition were compulsory, and—

(a) the land is acquired for the purposes of any public works; and

(b) that person retains land which, in relation to the land acquired, constitutes other land or lands within the meaning of section 63 of the Lands Clauses Consolidation Act 1845 or section 7 of the Compulsory Purchase Act 1965 (compensation for acquisition to include compensation for injurious affection of other land retained),

then, whether or not any sum is paid or payable in respect of injurious affection of the land retained, compensation shall not be payable under this Part of this Act on any claim in relation to those works made after the date of service of the notice to treat (or, if the acquisition is by agreement, the date of the agreement) in respect of any interest in the land retained.

(3) Subsection (2) above applies whether the acquisition is before, on or after the date on which this Part of this Act comes into force (hereafter referred to as “the commencement date”) and, where it is on or after that date, the public works for the purposes of which the land is acquired shall be taken to be those specified in the relevant particulars registered under subsection (4) below.

(4) Where on or after the commencement date an authority possessing compulsory purchase powers acquires land for the purposes of any public works and the person from whom the land is acquired retains land which, in relation to the land acquired, constitutes other land or lands within the meaning

of the sections mentioned in subsection (2) above, the authority shall deposit particulars of the land retained and the nature and extent of those works with the council of the district or London borough [or Welsh county or county borough]¹ in which the land retained is situated; [...]²

[(4A) Any particulars deposited pursuant to subsection (4) above shall be a local land charge and for the purposes of the Local Land Charges Act 1975 the council with whom any such particulars are deposited shall be treated as the originating authority as respects the charge thereby constituted.]³

(5) In a case in which compensation for injurious affection fell or falls to be assessed otherwise than in accordance with section 44 below, subsection (2) above shall not preclude the payment of compensation under this Part of this Act in respect of depreciation by public works so far as situated elsewhere than on the land acquired.

(6) Where after a claim has been made in respect of any interest in land the whole or part of the land in which that interest subsists is compulsorily acquired, then, if—

- (a) the value of that land has been diminished by the public works to which the claim relates; but
- (b) the compensation in respect of the compulsory acquisition falls to be assessed without regard to the diminution,

the compensation in respect of the acquisition shall be reduced by an amount equal to the compensation paid or payable on the claim or, if the acquisition extends only to part of the land, to so much of the last mentioned compensation as is attributable to that part.

(7) Without prejudice to the foregoing provisions of this section, compensation shall not be payable in respect of the same depreciation both under this Part of this Act and under any other enactment.

(8) [...]⁴

Notes

¹ Words inserted by Local Government (Wales) Act 1994 c. 19 Sch.16 para.40(1) (April 1, 1996)

² Words repealed by Local Land Charges Act 1975 (c. 76), s. 19, Sch. 1

³ S. 8(4A) inserted by Local Land Charges Act 1975 (c. 76), s. 19, Sch. 1


⁴ Repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I

Commencement

Pt I s. 8: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 8(1)-(8): England, Wales

 Law In Force

9.— Alterations to public works and changes of use.

(1) This section has effect where, whether before, on or after the commencement date—

- (a) the carriage way of a highway has been altered after the highway has been open to public traffic;
- (b) any public works other than a highway have been reconstructed, extended or otherwise altered after they have been first used; or

(c) there has been a change of use in respect of any public works other than a highway or aerodrome.

(2) If and so far as a claim in respect of the highway or other public works relates to depreciation that would not have been caused but for the alterations or change of use, this Part of this Act shall, subject to subsection (3) below, have effect in relation to the claim as if the relevant date (instead of being the date specified in section 1(9) above) were—

(a) the date on which the highway was first open to public traffic after completion of the alterations to the carriage way;

(b) the date on which the other public works were first used after completion of the alterations; or

(c) the date of the change of use,

as the case may be.

(3) Subsection (2) above shall not by virtue of any alterations to an aerodrome apply to a claim in respect of physical factors caused by aircraft unless the alterations are runway or apron alterations.

(4) Where a claim relates to such depreciation as is mentioned in subsection (2) above the notice of claim shall specify, in addition to the matters mentioned in section 3 above, the alterations or change of use alleged to give rise to the depreciation; and if and so far as the claim relates to such depreciation—

(a) section 6 above shall have effect as if the increase in value to be taken into account were any increase that would not have been caused but for the alterations or change of use in question;

(b) subsection (1) of section 8 above shall not preclude the payment of compensation unless the previous claim was in respect of depreciation that would not have been caused but for the same alterations or change of use, and subsection (2) of that section shall not preclude the payment of compensation unless the works for which the land was acquired were works resulting from the alterations, or works used for the purpose, to which the claim relates.

(5) For the purposes of this section the carriage way of a highway is altered if, and only if—

(a) the location, width or level of the carriage way is altered (otherwise than by re-surfacing); or

(b) an additional carriageway is provided for the highway beside, above or below an existing one;

and the reference in subsection (2) above to depreciation that would not have been caused but for alterations to the carriageway of a highway is a reference to such depreciation by physical factors which are caused by the use of, and the source of which is situated on, the length of carriageway which has been altered as mentioned in paragraph (a) above or, as the case may be, the additional carriageway and the corresponding length of the existing one mentioned in paragraph (b) above.

(6) In this section “runway or apron alterations” means —

(a) the construction of a new runway, the major re-alignment of an existing runway or the extension or strengthening of an existing runway; or

(b) a substantial addition to, or alteration of, a taxiway or apron, being an addition or alteration whose purpose or main purpose is the provision of facilities for a greater number of aircraft.

(7) For the avoidance of doubt it is hereby declared that references in this section to a change of use do not include references to the intensification of an existing use.

Notes

- ¹ Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2

Commencement

Pt I s. 9: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 9(1)-(7): England, Wales

✓ Law In Force

10.— Mortgages, [trusts of land]¹ and settlements.

- (1) Where an interest is subject to a mortgage—
- (a) a claim may be made by any mortgagee of the interest as if he were the person entitled to that interest but without prejudice to the making of a claim by that person;
 - (b) no compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage);
 - (c) any compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall in either case be applied by him as if it were proceeds of sale.
- (2) Where the interest is [subject to a trust of land]² the compensation shall be dealt with as if it were proceeds of sale arising under the trust.
- (3) Where the interest is settled land for the purposes of the Settled Land Act 1925 the compensation shall be treated as capital money arising under that Act.
- (4) Where an interest in land is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Act 1925) and a person beneficially entitled (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the land, section 2 above shall have effect as if occupation by that person were occupation by the trustees in right of the interest vested in them.
- (5) [...] ³

Notes

- ¹ Words substituted in the sidenote by Trusts of Land and Appointment of Trustees Act 1996 c. 47 Sch.3 para.13 (January 1, 1997)
- ² Words substituted by Trusts of Land and Appointment of Trustees Act 1996 c. 47 Sch.3 para.13 (January 1, 1997)
- ³ Repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I

Commencement

Pt I s. 10: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 10(1)-(5): England, Wales

✔ Law In Force

11.— Interests acquired by inheritance.

(1) So much of section 2(1) above as requires an interest qualifying for compensation under this Part of this Act to have been acquired by the claimant before the relevant date shall not apply to any interest acquired by him by inheritance from a person who acquired that interest, or a greater interest out of which it is derived, before the relevant date.

(2) For the purposes of this section an interest is acquired by a person by inheritance if it devolves on him by virtue only of testamentary dispositions taking effect on, or the law of intestate succession or the right of survivorship between joint tenants as applied to, the death of another person or the successive deaths of two or more other persons.

(3) For the purposes of subsection (2) above a person who acquires an interest by appropriation of it in or towards satisfaction of any legacy, share in residue or other share in the estate of a deceased person shall be treated as a person on whom the interest devolves by direct bequest.

(4) Where an interest is settled land for the purposes of the Settled Land Act 1925 and on the death of a tenant for life within the meaning of that Act a person becomes entitled to the interest in accordance with the settlement, or by any appropriation by the personal representatives in respect of the settled land, subsection (2) above shall apply as if the interest had belonged to the tenant for life absolutely and the trusts of the settlement taking effect after his death had been trusts of his will.

(5) Subsection (4) above shall apply, with any necessary modifications, where a person becomes entitled to an interest on the termination of a settlement as it would apply if he had become entitled in accordance with the terms of the settlement.

(6) [...]¹
₂

Notes

¹ Repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I

² Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2

Commencement

Pt I s. 11: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 11(1)-(6): England, Wales

✓ Law In Force

12.— Tenants entitled to enfranchisement or extension under Leasehold Reform Act 1967.

(1) This section has effect where a person is entitled under Part I of the Leasehold Reform Act 1967 to acquire the freehold or an extended lease of a house by virtue of any tenancy (“the qualifying tenancy”) and—

- (a) has on or before the relevant date given notice under that Act to the landlord of his desire to have the freehold or an extended lease; and
- (b) has not acquired the freehold or an extended lease before that date.

(2) The qualifying tenancy shall be treated as an owner's interest as defined in section 2(4) above whether or not the unexpired term on the date of service of the notice of claim is of the length there specified.

(3) If no claim is made in respect of the qualifying tenancy before the claimant has ceased to be entitled to it by reason of his acquisition of the freehold or an extended lease he may make a claim in respect of the qualifying tenancy as if he were still entitled to it.

(4) No claim shall be made by virtue of subsection (3) above after the claimant has ceased to be entitled to the freehold or extended lease but such a claim may be made before [the first claim day]¹ if it is made before the claimant has disposed of the freehold or extended lease and after he has made a contract for disposing of it.

(5) Compensation shall not be payable before [the first claim day]¹ on any claim made by virtue of subsection (4) above.

(6) Any notice of a claim made by virtue of this section shall contain, in addition to the matters mentioned in section 3 above, a statement that it is made in respect of a qualifying tenancy as defined in this section and, if made by virtue of subsection (3) or (4) above, sufficient particulars to show that it falls within that subsection.

(7) In relation to a claim made by virtue of subsection (3) above section 4(4)(a) above shall have effect as if the reference to the date of service of notice of the claim were a reference to the relevant date.

²

Notes

¹ Words substituted by Local Government, Planning and Land Act 1980 (c.65), s. 112(4)(9) except in cases where the relevant date was more than 3 years before 13.11.1980


² Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2

Commencement

Pt I s. 12: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 12(1)-(7): England, Wales

 Law In Force With Amendments Pending

[12A.— Tenants participating in collective enfranchisement, or entitled to individual lease extension, under Part I of Leasehold Reform, Housing and Urban Development Act 1993.

- (1) A tenancy to which subsection (2) or (3) below applies (“a qualifying tenancy”) shall be treated as an owner's interest as defined in section 2(4) above whether or not the unexpired term on the date of service of the notice of claim is of the length there specified.
- (2) This subsection applies to a tenancy if the tenant, on the relevant date—
- (a) is in respect of the tenancy a qualifying tenant for the purposes of Chapter I of Part I of the 1993 Act (collective enfranchisement); and
 - (b) by virtue of the tenancy, either—
 - (i) is a participating tenant in relation to a claim to exercise the right to collective enfranchisement under that Chapter; or
 - (ii) is one of the participating tenants on whose behalf the acquisition by the nominee purchaser has been made in pursuance of such a claim.
- (3) This subsection applies to a tenancy if the tenant, on the relevant date and in respect of the tenancy, is a qualifying tenant for the purposes of Chapter II of Part I of the 1993 Act (individual right to acquire new lease) who—
- (a) has on or before that date given notice under section 42 of that Act (notice by qualifying tenant of claim to exercise right); and
 - (b) has not acquired a new lease before that date.
- (4) If no claim is made in respect of a qualifying tenancy before the claimant has ceased to be entitled to it in consequence of a lease being granted to him by the nominee purchaser or, as the case may be, under Chapter II of Part I of the 1993 Act, the claimant may make a claim in respect of the qualifying tenancy as if he were still entitled to it.
- (5) No claim shall be made by virtue of subsection (4) above after the claimant has ceased to be entitled to the lease referred to in that subsection, but such a claim may be made before the first claim day if it is made before the claimant has disposed of that lease and after he has made a contract for disposing of it.
- (6) Compensation shall not be payable before the first claim day on any claim made by virtue of subsection (5) above.
- (7) Any notice of a claim made by virtue of this section shall contain, in addition to the matters mentioned in section 3 above, a statement that it is made in respect of a qualifying tenancy as defined in this section and, if made by virtue of subsection (4) or (5) above, sufficient particulars to show that it falls within that subsection.
- (8) In relation to a claim made by virtue of subsection (4) above, section 4(4)(a) above shall have effect as if the reference to the date of service of notice of the claim were a reference to the relevant date.
- (9) In this section—
- (a) “the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993; and
 - (b) “participating tenant” , “nominee purchaser” and “the acquisition by the nominee purchaser” shall be construed in accordance with sections 14, 15 and 38(2) of that Act respectively.

] ¹**Notes**

¹ Added by Leasehold Reform, Housing and Urban Development Act 1993 c. 28 Sch.21 para.5 (November 1, 1993 subject to savings specified in SI 1993/2134 Sch.1)

Amendments Pending

Pt I s. 12A(2)(b)(i): words substituted by Commonhold and Leasehold Reform Act 2002 c. 15 Sch. 8 para. 1(2)(a) (date to be appointed)

Pt I s. 12A(2)(b)(ii): words substituted by Commonhold and Leasehold Reform Act 2002 c. 15 Sch. 8 para. 1(2)(b) (date to be appointed)

Pt I s. 12A(4): words substituted by Commonhold and Leasehold Reform Act 2002 c. 15 Sch. 8 para. 1(3) (date to be appointed)


Pt I s. 12A(9)(a): word repealed by Commonhold and Leasehold Reform Act 2002 c. 15 Sch. 14 para. 1 (date to be appointed: commencement order)

Pt I s. 12A(9)(b): s.12(9)(b)-(c) substituted for s.12(9)(b) by Commonhold and Leasehold Reform Act 2002 c. 15 Sch. 8 para. 1(4) (date to be appointed)

Pt I s. 12A(9)(c): s.12(9)(b)-(c) substituted for s.12(9)(b) by Commonhold and Leasehold Reform Act 2002 c. 15 Sch. 8 para. 1(4) (date to be appointed)

Extent

Pt I s. 12A(1)-(9)(b): England, Wales

 Law In Force

13.— Ecclesiastical property.

[(1) [Any compensation payable under this Part of this Act in respect of land which is ecclesiastical property shall be paid to the Diocesan Board of Finance for the diocese in which the land is situated and shall be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising, or disposing of the proceeds of, such a sale.] ²] ¹

(2) In this section “ecclesiastical property” means land belonging to an ecclesiastical benefice of the Church of England, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese of the Church of England or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction [...] ³ . [...] ³

Notes

¹ Words substituted by Planning and Compensation Act 1991 c. 34 Sch.15(II) para.20(a) (September 25, 1991)

² Words substituted for s.13(1)(a) and (b) by Church of England (Miscellaneous Provisions) Measure 2006 No. 1 Sch.5 para.18(1) (October 1, 2006 as jointly appointed by the Archbishops of Canterbury and York in an instrument dated September 11, 2006)

³ Words repealed by Church of England (Miscellaneous Provisions) Measure 2006 No. 1 Sch.5 para.18(2) (October 1, 2006 as jointly appointed by the Archbishops of Canterbury and York in an instrument dated September 11, 2006)

Commencement

Pt I s. 13: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 13(1)-(2): England, Wales


 Repealed

14. [...]¹
2

Notes

¹ Repealed by Local Government, Planning and Land Act 1980 (c. 65), Sch. 34 Pt. XII

² Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2

 Law In Force

15.— Information for ascertaining relevant date.

(1) The responsible authority in relation to a highway or other public works shall keep a record and, on demand, furnish a statement in writing of—

- (a) the date on which the highway was first open to public traffic, or was first open to public traffic after completion of any particular alterations to the carriageway of the highway;
- (b) the date on which the public works were first used after completion, or were first used after completion of any particular alterations to those works;
- (c) in the case of public works other than a highway or aerodrome, the date on which there was a change of use in respect of the public works.

(2) A certificate by the Secretary of State stating that runway or apron alterations have or have not been carried out at an aerodrome and the date on which an aerodrome at which any such alterations have been carried out was first used after completion of the alterations shall be conclusive evidence of the facts stated.

(3) In this section references to alterations to the carriageway of a highway, to runway or apron alterations and to a change of use shall be construed in the same way as in section 9 above; and subsection (1) above shall not apply unless the date in question falls on or after the commencement date.

1

Notes

¹ Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2

Commencement

Pt I s. 15: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 15(1)-(3): England, Wales

✓ Law In Force

16.— Disputes.

(1) Any question of disputed compensation under this Part of this Act shall be referred to and determined by the [Upper Tribunal]¹ [...]².

(2) No such question arising out of a claim made before [the first claim day]³ shall be referred to [The Tribunal]⁴ before [that day]³.

Notes

- ¹ Words substituted by Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009/1307 Sch.1 para.103 (June 1, 2009)
- ² Words repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I
- ³ Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 112(4)(9) except in cases where the relevant date was more than 3 years before 13.11.1980
- ⁴ Words substituted by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. II

Commencement

Pt I s. 16: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 16(1)-(2): England, Wales

✓ Law In Force

17. Action for nuisance following unsuccessful claim where responsible authority have disclaimed statutory immunity.

Where, in resisting a claim under this Part of this Act, a responsible authority contend that no enactment relating to the works in question confers immunity from actions for nuisance in respect of the use to which the claim relates, then if—

- (a) compensation is not paid on the claim; and
- (b) an action for nuisance in respect of the matters which were the subject of the claim is subsequently brought by the claimant against the authority,

no enactment relating to those works, being an enactment in force when the contention was made, shall afford a defence to that action in so far as it relates to those matters.

¹

Notes


- ¹ Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2

Commencement

Pt I s. 17: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 17(a)-(b): England, Wales

 Law In Force

18.— Interest on compensation.

(1) Compensation under this Part of this Act shall carry interest, at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961, from—

(a) the date of service of the notice of claim; or

(b) if that date is before [the first claim day]¹, from [the first claim day]¹,

until payment.

(2) [...] ²

^{3 4}

Notes

¹ Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 112(4)(9) except in cases where the relevant date was more than 3 years before 13.11.1980

² Repealed by Local Government, Planning and Land Act 1980 (c. 65), Sch. 34 Pt. XII

³ Pt. I amended by Local Government, Planning and Land Act 1980 (c. 65), s. 113 Pt. I modified by Channel Tunnel Act 1987 (c.53), ss. 6, 45, Sch. 2 Pt. III para. 27(1), Sch. 7 Pt. VI para. 2


⁴ S. 18(1) modified by Local Government, Planning and Land Act 1980 (c. 65), s. 113(9)

Commencement

Pt I s. 18: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 18(1)-(2): England, Wales

 Law In Force

19.— Interpretation of Part I.

(1) In this Part of this Act—

“the appropriate highway authority” means—

(a) except where paragraph (b) below applies, the highway authority who constructed the highway to which the claim relates [or any other authority to which the functions of that authority in relation to that highway are transferred by virtue of the Local Government Act 1985]¹ [or the Local Government (Wales) Act 1994]²;

(b) if and so far as the claim relates to depreciation that would not have been caused but for alterations to the carriageway of a highway, the highway authority who carried out the alterations [or any other authority to which the functions of that

authority in relation to that highway are transferred by virtue of [either of those Acts]⁴]³;

“claim” means a claim under this Part of this Act and “the claimant” means the person making such a claim;

[...]⁵

“commencement date” means the date on which this Part of this Act comes into force;

[“the first claim day” has the meaning given in section 3(2) above;]⁶

“highway” includes part of a highway and, [...]⁷ means a highway or part of a highway maintainable at the public expense as defined in [section 329(1) of the Highways Act 1980]⁸ [...]⁷

[...]⁹

“public works” and “responsible authority” have the meaning given in section 1 above;

“the relevant date” has the meaning given in sections 1(9) and 9(2) above.

(2) For the purposes of sections 2(1), 11(1) and 14(2) above an interest acquired or disposed of, or a tenancy granted, pursuant to a contract shall be treated as acquired, disposed of or granted when the contract was made.

[(2A) For the purposes of the Limitation Act 1939, a person's right of action to recover compensation under this Part of this Act shall be deemed to have accrued on the first claim day.]¹⁰

(3) In the application of this Part of this Act to a highway which has not always since 17th October 1969 been a highway maintainable at the public expense as defined above—

(a) references to its being open to public traffic shall be construed as references to its being so open whether or not as a highway so maintainable;

(b) for references to the highway authority who constructed it there shall be substituted references to the highway authority for the highway;

and no claim shall be made if the relevant date falls at a time when the highway was not so maintainable and the highway does not become so maintainable within three years of that date[...]¹¹.

(4) [...]¹²

Notes

¹ Words inserted by Local Government Act 1985 (c.51), s. 8, Sch. 4 Pt. II para. 51(a)

² Words inserted by Local Government (Wales) Act 1994 c. 19 Sch.16 para.40(2)(a) (April 1, 1996)

³ Words inserted by Local Government Act 1985 (c.51), s. 8, Sch. 4 Pt. II para. 51(b)

⁴ Words substituted by Local Government Reorganisation (Wales) (Consequential Amendments) Order 1996/525 Sch.1(I) para.1 (April 1, 1996)

⁵ Definition repealed by Local Government, Planning and Land Act 1980 (c. 65), s. 112(5)(9), Sch. 34 Pt. XII except in cases where the relevant date was more than 3 years before 13.11.1980

⁶ Definition inserted by Local Government, Planning and Land Act 1980 (c. 65), s. 112(5)(9) except in cases where the relevant date was more than 3 years before 13.11.1980

⁷ Words repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I

⁸ Words substituted by Highways Act 1980 (c. 66), Sch. 24 para. 23(a)

⁹ Definitions repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I

¹⁰ S. 19(2A) inserted by Local Government, Planning and Land Act 1980 (c. 65) s. 112(6)(9) except in cases where the relevant date was more than 3 years before 13.11.1980

¹¹ Words repealed by Local Government, Planning and Land Act 1980 (c. 65), s. 112(8)(9), Sch. 34 Pt. XII except in cases where the relevant date was more than 3 years before 13.11.1980

¹² Repealed by Land Compensation (Scotland) Act 1973 (c. 56), Sch. 2 Pt. I


Commencement

Pt I s. 19: June 23, 1973 (1973 c. 26 Pt VI s. 89(2))

Extent

Pt I s. 19(1)-(4): England, Wales

PART II**MITIGATION OF INJURIOUS EFFECT OF PUBLIC WORKS***Insulation against noise*

 Law In Force

20.— Soundproofing of buildings affected by public works.

(1) The Secretary of State may make regulations imposing a duty or conferring a power on responsible authorities to insulate buildings against noise caused or expected to be caused by the construction or use of public works or to make grants in respect of the cost of such insulation.

(2) Regulations under this section may—

- (a) make provision as to the level of noise giving rise to a duty or power under the regulations and the area in which a building must be situated if a duty or power is to arise in respect of it;
- (b) specify the classes of public works and of buildings in respect of which a duty or power is to arise, and the classes of persons entitled to make claims, under the regulations;
- (c) specify the nature and extent of the work which is to be undertaken under the regulations and the expenditure in respect of which and the rate at which grants are to be made under the regulations;
- (d) make the carrying out of work or the making of grants under the regulations dependent upon compliance with conditions;
- (e) make provision as to the funds out of which expenses incurred by responsible authorities under the regulations are to be defrayed;
- (f) make provision for the settlement of disputes arising under the regulations.

(3) Without prejudice to the generality of paragraph (a) of subsection (2) above, regulations made by virtue of that paragraph may provide for the relevant level of noise or the relevant area in a particular case to be determined by reference to a document published by or on behalf of the Secretary of State or by any other authority or body or in such other manner as may be provided in the regulations.

(4) If regulations under this section impose a duty or confer a power to carry out, or make a grant in respect of the cost of, work in respect of a building which is subject to a tenancy on a claim in that behalf made by the landlord or the tenant, provision may also be made by the regulations for