



# Land Compensation Act 1973

## 1973 CHAPTER 26

### PART IV

#### COMPULSORY PURCHASE

##### *Assessment of compensation*

#### 44 Compensation for injurious affection.

- (1) Where land is acquired or taken from any person for the purpose of works which are to be situated partly on that land and partly elsewhere, compensation for injurious affection of land retained by that person shall be assessed by reference to the whole of the works and not only the part situated on the land acquired or taken from him.
- (2) In this section “compensation for injurious affection” means compensation for injurious affection under section 63 or 121 of the <sup>M1</sup>Lands Clauses Consolidation Act 1845 or section 7 or 20 of the <sup>M2</sup>Compulsory Purchase Act 1965, and subsection (1) above shall apply with the necessary modifications to such compensation under the said section 7 as substituted by [<sup>F1</sup>paragraph 6 of Schedule 19 to the <sup>M3</sup>Highways Act 1980], [<sup>F2</sup>paragraph 7 of Schedule 3 to the Gas Act 1986][<sup>F3</sup>paragraph 3 of [<sup>F4</sup>Schedule 9 to the Water Industry Act 1991 or of Schedule 18 to the Water Resources Act 1991]] (compulsory acquisition of rights over land) or any corresponding enactment, including (except where otherwise provided) an enactment passed after this Act.

<sup>F5</sup>(3) .....

#### Textual Amendments

- F1** Words substituted by [Highways Act 1980](#) (c. 66), [Sch. 24 para. 13\(b\)](#)
- F2** Words substituted by [Gas Act 1986](#) (c. 44, SIF 44:2), s. 67(1), [Sch. 7 para. 14\(1\)](#)
- F3** Words inserted by [Water Act 1989](#) (c. 15, SIF 130), s. 190, [Sch. 25 para. 44\(1\)](#) (with ss. 58(7), 101(1), 141(6), 153(1), 155, 160(1)(2)(4), 163, 189(4)–(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

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- F4** Words in s. 44(2) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2, 4(2), **Sch. 1 para.23**
- F5** S. 44(3) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

#### Modifications etc. (not altering text)

- C1** S. 44 applied (with modifications) (2.12.2020) by [The Network Rail \(London to Corby\) \(Land Acquisition\) Order 2020 \(S.I. 2020/1259\)](#), arts. 1(1), 7(4), **Sch. 4 para. 3**
- C2** S. 44(1) modified (18.6.1992) by [Compulsory Purchase Act 1965 \(c. 56\)](#), as applied (with modifications) by [British Railways \(No. 2\) Act 1992 \(c. xi\)](#), s. 27, **Sch. 3 para.1**.  
S. 44(1) modified (10.11.1993) by 1965 c. 56, s. 7(2) (as modified by 1993 c. 28, s. 169, **Sch. 20 para.21**; S.I. 1993/2762, **art.3**).  
S. 44(1) modified (27.8.1998) by S.I. 1998/1936, art. 29(3), **Sch. 7 para. 2(1)(2)** (with art. 45)  
S. 44(1) modified (25.11.1998 for specified purposes and otherwise 3.7.2000) by 1965 c. 56, s. 7(2) (as modified by 1998 c. 45, s. 20, **Sch. 5 Pt. II para. 4**; S.I. 1998/2952, **art. 2(2)**; S.I. 2000/1173, **art. 2(2)(c)**)  
S. 44 applied (with modifications) (19.2.1999) by S.I. 1999/537, art. 7(2), **Sch. 2 para. 9**  
S. 44 applied (with modifications) (21.7.1999) by S.I. 1999/2129, art. 15(3), **Sch. 5 para. 2**  
S. 44 applied (with modifications) (23.8.1999) by S.I. 1999/2981, art. 17(3), **Sch. 7 para. 2**
- C3** S. 44(1) modified (12.1.2004) by [The Alconbury Airfield \(Rail Facilities and Connection to East Coast Main Line\) Order 2003 \(S.I. 2003/3364\)](#), art. 1, **Sch. 4 para. 2(2)**
- C4** S. 44(1) applied (with modifications) (8.10.2005) by [Leicestershire County Council \(Ashby de la Zouch Canal Extension\) Order 2005 \(S.I. 2005/2786\)](#), art. 1, **Sch. 7 para. 2(2)**
- C5** S. 44(1) applied (with modifications) (9.4.2013) by [The Lancashire County Council \(Torrisholme to the M6 Link \(A683 Completion of Heysham to M6 Link Road\)\) Order 2013 \(S.I. 2013/675\)](#), art. 1, **Sch. 10 para. 2(2)**
- C6** S. 44(1) modified (2.10.2014) by [The Clocaenog Forest Wind Farm Order 2014 \(S.I. 2014/2441\)](#), art. 1, **Sch. 7 para. 2(2)** (with art. 33)
- C7** S. 44(1) applied (with modifications) (2.10.2014) by [The Clocaenog Forest Wind Farm Order 2014 \(S.I. 2014/2441\)](#), art. 1, **Sch. 7 paras. 1, 2(2)** (with art. 33)
- C8** S. 44(1) modified (21.10.2014) by [The Central Bedfordshire Council \(Woodside Link Houghton Regis\) Development Consent Order 2014 \(S.I. 2014/2637\)](#), art. 1, **Sch. 8 para. 2(2)**
- C9** S. 44(1) modified (22.12.2017) by [The M20 Junction 10a Development Consent Order 2017 \(S.I. 2017/1202\)](#), art. 1, **Sch. 6 para. 3(2)** (with arts. 4, 37)
- C10** S. 44(1) modified (3.10.2018) by [The A19/A184 Testos Junction Alteration Development Consent Order 2018 \(S.I. 2018/994\)](#), art. 1, **Sch. 6 para. 3** (with arts. 3(3), 5)
- C11** S. 44(1) modified (11.6.2020) by [The M42 Junction 6 Development Consent Order 2020 \(S.I. 2020/528\)](#), art. 1, **Sch. 9 para. 3** (with art. 37)
- C12** S. 44(1) modified (6.8.2020) by [The A19 Downhill Lane Junction Development Consent Order 2020 \(S.I. 2020/746\)](#), art. 1, **Sch. 5 para. 3** (with art. 5)
- C13** S. 44(1) modified (23.9.2020) by [The Midland Metro \(Wednesbury to Brierley Hill Land Acquisition\) Order 2020 \(S.I. 2020/1067\)](#), **Sch. 2 para. 3**

#### Marginal Citations

- M1** 1845 c. 18.  
**M2** 1965 c. 56.  
**M3** 1980 c. 66.

## 45 Compensation for acquisition of dwelling specially adapted for disabled person.

- (1) This section applies to the assessment of compensation in respect of the compulsory acquisition of an interest in a dwelling which—

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- (a) has been constructed or substantially modified to meet the special needs of a disabled person; and
  - (b) is occupied by such a person as his residence immediately before the date when the acquiring authority take possession of the dwelling or was last so occupied before that date.
- (2) The compensation shall, if the person whose interest is acquired so elects, be assessed as if the dwelling were land which is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose.

#### **46 Compensation for disturbance where business carried on by person over sixty.**

- (1) Where a person is carrying on a trade or business on any land and, in consequence of the compulsory acquisition of the whole of that land, is required to give up possession thereof to the acquiring authority, then if—
- (a) on the date on which he gives up possession as aforesaid he has attained the age of sixty; and
  - (b) on that date the land is or forms part of a hereditament the annual value of which does not exceed the prescribed amount; and
  - (c) that person has not disposed of the goodwill of the whole of the trade or business and gives to the acquiring authority the undertakings mentioned in subsection (3) below,

the compensation payable to that person in respect of the compulsory acquisition of his interest in the land or, as the case may be, under section 121 of the <sup>M4</sup>Lands Clauses Consolidation Act 1845 or section 20 of the <sup>M5</sup>Compulsory Purchase Act 1965 (tenants from year to year etc.) shall, so far as attributable to disturbance, be assessed on the assumption that it is not reasonably practicable for that person to carry on the trade or business or, as the case may be, the part thereof the goodwill of which he has retained, elsewhere than on that land.

- (2) In subsection (1) above “the prescribed amount” means the amount which on the date mentioned in that subsection is the amount prescribed for the purposes of [<sup>F6</sup>section 149(3)(a) of the Town and Country Planning Act 1990] (interests qualifying for protection under planning blight provisions) and “annual value” and “hereditament” have the meanings given in [<sup>F7</sup>section 171] of that Act taking references to the date of service of a notice under [<sup>F8</sup>section 150] of that Act as references to the date mentioned in subsection (1) above.
- (3) The undertakings to be given by the person claiming compensation are—
- (a) an undertaking that he will not dispose of the goodwill of the trade or business, or, as the case may be, of the part thereof the goodwill of which he has retained; and
  - (b) an undertaking that he will not, within such area and for such time as the acquiring authority may require, directly or indirectly engage in or have any interest in any other trade or business of the same or substantially the same kind as that carried on by him on the land acquired.
- (4) If an undertaking given by a person for the purposes of this section is broken the acquiring authority may recover from him an amount equal to the difference between the compensation paid and the compensation that would have been payable if it had been assessed without regard to the provisions of this section.

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- (5) This section shall apply to a trade or business carried on by two or more persons in partnership as if references to the person by whom it is carried on were references to all the partners and as if the undertakings mentioned in subsection (3) above were required to be given by all the partners.
- (6) This section shall apply to a trade or business carried on by a company—
- (a) as if subsection (1)(a) above required—
    - (i) each shareholder, other than a minority shareholder, to be an individual who has attained the age of sixty on the date there mentioned; and
    - (ii) each minority shareholder to be an individual who either has attained that age on that date or is the spouse of a shareholder who has attained that age on that date; and
  - (b) as if the undertakings mentioned in subsection (3)(b) above were required to be given both by the company and by each shareholder.
- In this subsection “shareholder” means a person who is beneficially entitled to a share or shares in the company carrying voting rights and “minority shareholder” means a person who is so entitled to less than 50 per cent, of those shares.
- (7) This section shall apply in relation to any disturbance payment assessed in accordance with section 38(1)(b) above as it applies in relation to the compensation mentioned in subsection (1) above, and shall so apply subject to the necessary modifications and as if references to the giving up of possession of land to the acquiring authority in consequence of its compulsory acquisition were references to displacement as mentioned in section 37 above.
- (8) ..... <sup>F9</sup>

#### Textual Amendments

- F6** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 29\(7\)\(a\)](#)
- F7** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 29\(7\)\(b\)](#)
- F8** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 29\(7\)\(c\)](#)
- F9** [Ss. 32\(9\), 34\(7\), 37\(8\), 41\(11\), 44\(3\), 46\(8\)](#) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), Sch. 2 Pt. I](#)

#### Marginal Citations

- M4** [1845 c. 18.](#)
- M5** [1965 c. 56.](#)

### [<sup>F10</sup>47] Compensation in respect of land subject to business tenancy

- (1) This section applies where—
- (a) in pursuance of an enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority—
    - (i) acquires the interest of the landlord in land subject to a tenancy, or
    - (ii) acquires the interest of the tenant in, or takes possession of, land subject to a tenancy, and

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- (b) before the authority acquired the interest or took possession of the land, the tenant under the tenancy was carrying on a trade or business on the land.
- (2) The principles in subsections (3) and (4) are to be applied in assessing the compensation payable by the authority to the landlord or the tenant in respect of the acquisition of the interest in or the taking of possession of the land or, as the case may be, under section 121 of the Lands Clauses Consolidation Act 1845 or section 20 of the Compulsory Purchase Act 1965 (tenants from year to year etc).
- (3) Regard must be had to—
- (a) the likelihood of the continuation or renewal of the tenancy,
  - (b) in the case of a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (security of tenure for business tenants) applies, the right of the tenant to apply for the grant of a new tenancy,
  - (c) the total period for which the tenancy may reasonably have been expected to continue, including after any renewal, and
  - (d) the terms and conditions on which a tenancy may reasonably have been expected to be renewed or continued.
- (4) It is to be assumed that neither the acquiring authority nor any other authority possessing compulsory purchase powers have acquired or propose to acquire any interest in the land.]

#### Textual Amendments

**F10** S. 47 substituted (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), ss. 35, 46(1); S.I. 2017/936, reg. 3(e) (with reg. 4)

## 48 Compensation in respect of agricultural holdings.

- (1) [<sup>F11</sup>Subject to subsection (1A) below] this section has effect where in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority—
- (a) acquire the interest of the landlord in an agricultural holding or any part of it; or
  - (b) acquire the interest of the tenant in, or take possession of, an agricultural holding or any part of it.

[<sup>F11</sup>(1A) This section does not have effect where the tenancy of the agricultural holding is a tenancy to which, by virtue of section 4 of the Agricultural Tenancies Act 1995, the Agricultural Holdings Act 1986 does not apply.]

- (2) In assessing the compensation payable by the acquiring authority to the landlord in connection with any such acquisition of an interest as is mentioned in subsection (1) (a) above—
- (a) there shall be disregarded any right of the landlord to serve a notice to quit, and any notice to quit already served by the landlord, which would not be or would not have been effective if—
    - (i) in [<sup>F12</sup>Case B in Part I of Schedule 3 to the Agricultural Holdings Act 1986] (land required for non-agricultural use for which planning permission has been granted etc.) the reference to the land being

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- required did not include a reference to its being required by an acquiring authority; and
- (ii) in [<sup>F13</sup>section 27(3)(f)] of that Act (proposed termination of tenancy for purpose of land's being used for non-agricultural use not falling within [<sup>F14</sup>the said Case B] the reference to the land's being used did not include a reference to its being used by an acquiring authority; and
- (b) if the tenant has quitted the holding or any part of it by reason of a notice to quit which is to be so disregarded, it shall be assumed that he has not done so.
- (3) In assessing the compensation payable by the acquiring authority to the tenant in connection with any such acquisition of an interest or taking of possession of land as is mentioned in subsection (1)(b) above (hereafter referred to as “the tenant’s compensation”), there shall be disregarded any right of the landlord to serve a notice to quit, and any notice to quit already served by the landlord, which would not be or would not have been effective if the said [<sup>F15</sup>Case B and section 27(3)(f)] were construed in accordance with subsection (2)(a)(i) and (ii) above.
- (4) Section 42 of the <sup>M6</sup>Agriculture (Miscellaneous Provisions) Act 1968 (tenant’s compensation to be assessed without regard to his prospects of remaining in possession after contractual date) and section 15(1) of that Act (effect on tenant’s compensation of provision enabling landlord to resume possession for non-agricultural use) shall cease to have effect.
- (5) The tenant’s compensation shall be reduced by an amount equal to any payment which the acquiring authority are liable to make to him, in respect of the acquisition or taking of possession in question, under section 12 of the said Act of 1968 (additional payments by acquiring authority in circumstances described in subsection (1)(b) above).
- (6) If the tenant’s compensation as determined in accordance with subsections (3) to (5) above is less than it would have been if those subsections had not been enacted, it shall be increased by the amount of the deficiency.
- [<sup>F16</sup>(6A) In assessing the tenant’s compensation no account shall be taken of any benefit which might accrue to the tenant by virtue of section 60(2)(b) of the Agricultural Holdings Act 1986 (additional payments by landlord for disturbance); and in this subsection the reference to the said section 60(2)(b) does not include a reference to it as applied by section 12 of the Agricultural (Miscellaneous Provisions) Act 1968.]

(7) ..... <sup>F17</sup>

#### Textual Amendments

**F11** S. 48(1A) and words in s. 48(1) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 24** (with s. 37)

**F12** Words substituted by **Agricultural Holdings Act 1986** (c. 5, SIF 2:3), s. 100, **Sch. 14 para. 53(2)(a)**

**F13** Words substituted by **Agricultural Holdings Act 1986** (c. 5, SIF 2:3), s. 100, **Sch. 14 para. 53(2)(b)**

**F14** Words substituted by **Agricultural Holdings (Notices to Quit) Act 1977** (c. 12), s. 13, **Sch. 1 para. 6(2)(b)** except in relation to notices to quit given before 7.4.1978: and **Agricultural Holdings (Notices to Quit) Act 1977** (c. 12), s. 14 and continued by virtue of **Agricultural Holdings Act 1986** (c. 5, SIF 2:3), s. 100, **Sch. 14 para. 53(2)**

**F15** Words substituted by **Agricultural Holdings Act 1986** (c. 5, SIF 2:3), s. 100, **Sch. 14 para. 53(3)**

**F16** S. 48(6A) inserted by **Agricultural Holdings Act 1986** (c. 5, SIF 2:3), s. 100, **Sch. 14 para. 53(4)**

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**F17** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)

**Modifications etc. (not altering text)**

**C14** The text of Ss. 47(2), (3), 48(4), 86, Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**C15** “The said Act of 1968” means the [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34\)](#)

**Marginal Citations**

**M6** [1968 c. 34.](#)

**49** ..... **F18**

**Textual Amendments**

**F18** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)

**50 Compensation where occupier is rehoused.**

- (1) The amount of compensation payable in respect of the compulsory acquisition of an interest in land shall not be subject to any reduction on account of the fact that the acquiring authority have provided, or undertake to provide or arrange for the provision of, or another authority will provide, residential accommodation under any enactment for the person entitled to the compensation.
- (2) In assessing the compensation payable in respect of the compulsory acquisition of an interest in land which on the date of service of the notice to treat is subject to a tenancy, there shall be left out of account any part of the value of that interest which is attributable to, or to the prospect of, the tenant giving up possession after that date in consequence of being provided with other accommodation by virtue of section 39(1) (a) above; and for the purpose of determining the date by reference to which that compensation is to be assessed the acquiring authority shall be deemed, where the tenant gives up possession as aforesaid, to have taken possession on the date on which it is given up by the tenant.
- (3) Subsection (1) above shall apply in relation to any payment to which a person is entitled under Part III of this Act as it applies in relation to the compensation mentioned in that subsection taking references to the acquiring authority as references to the authority responsible for making that payment.
- (4) Subsection (2) above shall apply in relation to a case where a notice to treat is deemed to have been served by virtue of [<sup>F19</sup>Part III of the Compulsory Purchase (Vesting Declarations) Act 1981] (general vesting declarations) as it applies in relation to a case where a notice to treat is actually served.

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### Textual Amendments

**F19** Words substituted by [Compulsory Purchase \(Vesting Declarations\) Act 1981 \(c. 66, SIF 28:1\)](#), [Sch. 3 para. 1](#)

## 51 Compensation where land is in area designated as site of new town for purpose of public development.

- (1) Where the Secretary of State proposes to make an order under section 1 of the [<sup>F20</sup>New Towns Act 1981] designating any area as—
- (a) the site of a new town; or
  - (b) an extension of the site of a new town,
- and the purpose or main purpose, or one of the main purposes, for which the order is proposed to be made is the provision of housing or other facilities required in connection with or in consequence of the carrying out of any public development, he may, before making the order, give a direction specifying that development for the purposes of this section in relation to that area.
- (2) Where the area mentioned in paragraph 3 or 3A in the first column of Schedule 1 to the <sup>M7</sup>Land Compensation Act 1961 (cases where land acquired forms part of site of new town or extension of site of new town) is an area to which a direction under this section relates, then, in the circumstances described in that paragraph—
- (a) the increase or diminution in value to be left out of account by virtue of section 6 of that Act (compensation to be assessed without regard to development attributable to designation of new town) or any rule of law relating to the assessment of compensation in respect of compulsory acquisition; and
  - (b) the increase in value to be taken into account by virtue of section 7 of that Act (reduction of compensation where other land benefited by such development),
- shall respectively include any increase or diminution in value, and any increase in value, which is attributable to the carrying out or the prospect of the public development specified in the direction.
- (3) No direction shall be given under this section in relation to any area until the Secretary of State has prepared a draft of the order under section 1 of the said [<sup>F21</sup>Act of 1981] in respect of that area and has published the notice required by paragraph 2 of Schedule 1 to that Act.
- (4) Any direction under this section shall be given by order; and any order containing such a direction may be varied or revoked by a subsequent order.
- (5) The power to make orders under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “public development” means development (whether or not in the area designated under section 1 of the said [<sup>F22</sup>Act of 1981]) in the exercise of statutory powers by—
- (a) a government department;
  - (b) any statutory undertakers within the meaning of [<sup>F23</sup>the Town and Country Planning Act 1990] or any body deemed by virtue of any enactment to be statutory undertakers for the purposes of, or of any provision of, that Act; or



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(c) without prejudice to paragraph (b) above, any body having power to borrow money with the consent of a Minister,  
and includes such development which has already been carried out when the direction in respect of it is given as well as such development which is then proposed.

(7) ..... F24

#### Textual Amendments

- F20** Words substituted by [New Towns Act 1981 \(c. 64, SIF 123:3\)](#), **Sch. 12 para. 9(a)**
- F21** Words substituted by [New Towns Act 1981 \(c. 64, SIF 123:3\)](#), **s. 81(a)**, Sch. 12 para. 9(b)
- F22** Words substituted by [New Towns Act 1981 \(c. 64, SIF 123:3\)](#), **s. 81(a)**, Sch. 12 para. 9(b)
- F23** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 29(8)**
- F24** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

#### Modifications etc. (not altering text)

- C16** S. 51 extended by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 25 para. 1(2)(xviii)** (with ss. 58(7), 101(1), 141(6), 153(1), 155, 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- C17** S. 51 extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 1(1)(xxv), Sch. 17 paras. 33, **35(1)**
- C18** S. 51 extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 2(1)(xxvii), **Sch. 8 para. 33**  
S. 51 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xx)**; S.I. 1996/218, **art. 2**

#### Marginal Citations

- M7** 1961 c. 33.

### *Advance payment of compensation*

## 52 Right to advance payment of compensation.

[<sup>F25</sup>(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.]

[<sup>F26</sup>(2) A request for advance payment must be made in writing by the person entitled to it (“the claimant”) and must include—

- (a) details of the claimant's interest in the land, and

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- (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) Subject to subsection (6) below, the amount of any advance payment under this section shall be equal to 90 per cent. of the following amount, that is to say—
- (a) if the acquiring authority and the claimant have agreed on the amount of the compensation, the agreed amount;
  - (b) in any other case, an amount equal to the compensation as estimated by the acquiring authority.
- [<sup>F27</sup>(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, <sup>F28</sup> ...
    - (ii) received any further information required under subsection (2A)
    - (b)[<sup>F29</sup>, or
    - (iii) received any further information required under section 52ZC(2)(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, <sup>F30</sup> ...
    - (ii) received any further information required under subsection (2A)
    - (b)[<sup>F31</sup>, or
    - (iii) received any further information required under section 52ZC(2)(b).]
- <sup>F32</sup>[(4A) Where, at any time after an advance payment has been made on the basis of the acquiring authority's estimate of the compensation, it appears to the acquiring authority that their estimate was too low, they shall, if a request in that behalf is made in accordance with subsection (2) above, pay to the claimant the balance of the amount of the advance payment calculated as at that time.
- <sup>F33</sup>(5) .....]
- [<sup>F34</sup>(6) If the land is subject to a mortgage sections 52ZA and 52ZB apply.]
- (7) Any advance payment on account of compensation in respect of an interest which is settled land for the purposes of the <sup>M8</sup>Settled Land Act 1925 shall be made to the persons entitled to give a discharge for capital money and shall be treated as capital money arising under that Act.
- (8) [<sup>F35</sup>Before] an acquiring authority make an advance payment under this section on account of compensation in respect of any interest in land they shall deposit with the council of the district or London borough [<sup>F36</sup>or Welsh county or county borough] in

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which the land is situated particulars of the payment [<sup>F37</sup>to be made], the compensation and the interest in land to which it relates;. . . <sup>F38</sup>

[<sup>F39</sup>(8A) Any particulars deposited pursuant to subsection (8) above shall be a local land charge and for the purposes of the <sup>M9</sup> 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. ]

(9) [<sup>F40</sup>Where a local land charge is registered in the <sup>F41</sup>... local land charges register pursuant to subsection (8A) above and the advance payment to which the charge relates is made to the claimant, then if thereafter]

- [<sup>F42</sup>(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.]

(10) Where an advance payment has been made under this section on account of any compensation—

- (a) section 76 of the <sup>M10</sup>Lands Clauses Consolidation Act 1845 and section 9 of the <sup>M11</sup>Compulsory Purchase Act 1965 (refusal of owner to convey on tender of compensation) shall have effect as if references to the compensation were references to the balance thereof remaining unpaid <sup>F43</sup> . . .

<sup>F44</sup>(11) . . . . .

(12) This section shall apply to compensation for the compulsory acquisition of a right over land as it applies to compensation for the compulsory acquisition of an interest in land, and shall so apply with the necessary modifications and as if references to taking possession of the land were references to first entering it for the purpose of exercising the right.

<sup>F45</sup>(13) . . . . .

#### Textual Amendments

- F25** S. 52(1)-(1B) substituted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 195(2)(a)**, 216(3); S.I. 2018/251, [reg. 4\(f\)](#) (with [reg. 6](#))
- F26** S. 52(2)(2A) substituted for s. 52(2) (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 194(2)**, 216(3); S.I. 2018/251, [reg. 4\(e\)](#) (with [reg. 6](#))
- F27** S. 52(4)(4ZA) substituted for s. 52(4) (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 195(2)(b)**, 216(3); S.I. 2018/251, [reg. 4\(f\)](#) (with [reg. 6](#))
- F28** Word in s. 52(4)(b) omitted (6.4.2018) by virtue of [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 38(2)(a)(i)**, 46(1); S.I. 2018/252, [reg. 3](#) (with [reg. 4](#))
- F29** S. 52(4)(b)(iii) and word inserted (6.4.2018) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 38(2)(a)(ii)**, 46(1); S.I. 2018/252, [reg. 3](#) (with [reg. 4](#))
- F30** Word in s. 52(4ZA)(b) omitted (6.4.2018) by virtue of [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 38(2)(b)(i)**, 46(1); S.I. 2018/252, [reg. 3](#) (with [reg. 4](#))
- F31** S. 52(4ZA)(b)(iii) and word inserted (6.4.2018) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 38(2)(b)(ii)**, 46(1); S.I. 2018/252, [reg. 3](#) (with [reg. 4](#))

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- F32** S. 52(4A)(5) substituted for s. 52(5) (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, **art. 4**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), **s. 63(1)** (with s. 84(5)); S.I. 1991/2067, **art. 3**.
- F33** S. 52(5) omitted (6.4.2018) by virtue of Housing and Planning Act 2016 (c. 22), **ss. 197(3)**, 216(3); S.I. 2018/251, **reg. 4(h)** (with **reg. 6**)
- F34** S. 52(6) substituted (31.10.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **s. 104(2)(b)**; S.I. 2004/2593, **art. 2(a)**
- F35** Word substituted by Local Land Charges Act 1975 (c. 76), s. 19, **Sch. 1**
- F36** Words in s. 52(8) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 40(3)** (with **ss. 54(5)(7)**, **55(5)**, **66(7)**, **Sch. 17 paras. 22(1)**, **23(2)**); S.I. 1996/396, **art. 4**, **Sch. 2**
- F37** Words inserted by Local Land Charges Act 1975 (c. 76), s. 19, **Sch. 1**
- F38** Words repealed by Local Land Charges Act 1975 (c. 76), s. 19, **Sch. 1**
- F39** S. 52(8A) inserted by Local Land Charges Act 1975 (c. 76), s. 19, **Sch. 1**
- F40** Words substituted by Local Land Charges Act 1975 (c. 76), s. 19, **Sch. 1**
- F41** Word in s. 52(9) omitted (12.4.2015) by virtue of Infrastructure Act 2015 (c. 7), s. 57(5)(e), **Sch. 5 para. 33** (with **Sch. 5 Pt. 4**)
- F42** Words in s. 52(9) substituted (6.4.2018) by Housing and Planning Act 2016 (c. 22), **ss. 197(4)**, 216(3); S.I. 2018/251, **reg. 4(h)** (with **reg. 6**)
- F43** Words in s. 52(10) repealed (25.09.1991 subject to the restrictions referred to in S.I. 1991/2067, **art. 4**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), **ss. 70**, **84(6)**, **Sch. 15 para. 24(b)**, **Sch. 19 Pt. III** (with s. 84(5)); S.I. 1991/2067, **art. 3**.
- F44** S. 52(11) omitted (6.4.2018) by virtue of Housing and Planning Act 2016 (c. 22), **ss. 195(2)(c)**, 216(3); S.I. 2018/251, **reg. 4(f)** (with **reg. 6**)
- F45** S. 52(13) repealed by Land Compensation (Scotland) Act 1973 (c. 56), **Sch. 2 Pt. I**

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#### Marginal Citations

- M8** 1925 c. 18.  
**M9** 1975 c. 76.  
**M10** 1845 c. 18.  
**M11** 1965 c. 56.

#### [<sup>F46</sup>52AZ] 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”),

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- (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.]

#### Textual Amendments

**F46** S. 52AZA inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), ss. 197(5), 216(3); S.I. 2018/251, reg. 4(h) (with reg. 6)

#### [<sup>F47</sup>52ZA Advance payments: land subject to mortgage

- [<sup>F48</sup>(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 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.]
- (2) The advance payment made to the claimant must be reduced by the amount the acquiring authority think will be required by them to secure the release of the interest of the mortgagee (or all the mortgagees if there is more than one).
- (3) The acquiring authority must pay to the mortgagee the amount the acquiring authority think will be required by them to secure the release of the mortgagee's interest, if—
- (a) the claimant so requests, and
  - (b) the mortgagee consents to the making of the payment.
- (4) If there is more than one mortgagee—
- (a) subsection (3) applies to each mortgagee individually, but
  - (b) payment must not be made to a mortgagee before the interest of each mortgagee whose interest has priority to his interest is released.
- (5) The amount of the advance payment made to the claimant under section 52 and the amount of the payments made to mortgagees under this section must not in aggregate exceed 90% of the relevant amount.
- (6) Subsection (7) applies if—
- (a) the acquiring authority estimated the compensation,

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- (b) it appears to the acquiring authority that their estimate was too low and they revise the estimate, and
  - (c) a request is made by the claimant in accordance with section 52(2).
- (7) The provisions of subsections (2) to (5) must be re-applied on the basis of the revised estimate.

#### Textual Amendments

- F47** Ss. 52ZA-52ZC inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. **104(3)**; S.I. 2004/2593, art. 2(a)
- F48** S. 52ZA(1) substituted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), ss. **195(3)**, 216(3); S.I. 2018/251, reg. 4(f) (with reg. 6)

### **52ZB Advance payments: land subject to mortgage exceeding 90% threshold**

- [<sup>F49</sup>(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.]
- (2) No advance payment is to be made to the claimant.
- (3) But the acquiring authority must pay to the mortgagee the amount found under subsection (4), if—
- (a) the claimant so requests, and
  - (b) the mortgagee consents to the making of the payment.
- (4) The amount is whichever is the lesser of—
- (a) 90% of the value of the land;
  - (b) the principal of the mortgagee's mortgage.
- (5) The value of the land is the value—
- (a) agreed by the claimant and the acquiring authority, or (failing such agreement)
  - (b) estimated by the acquiring authority.
- (6) For the purposes of subsection (5) the value of the land is to be calculated in accordance with rule 2 of section 5 of the Land Compensation Act 1961 (market value), whether or not compensation is or is likely to be assessed in due course in accordance with rule 5 of that section (equivalent re-instatement).
- (7) If there is more than one mortgagee, payment must not be made to a mortgagee until the interest of each mortgagee whose interest has priority to his interest is released.
- (8) But the total payments under subsection (3) must not in any event exceed 90% of the value of the land.
- (9) Subsection (10) applies if—
- (a) the acquiring authority estimated the compensation,

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- (b) it appears to the acquiring authority that their estimate was too low and they revise the estimate,
  - (c) the condition in [<sup>F50</sup>section 52ZA(1)(c)] would have been satisfied if the revised estimate had been used instead of their estimate, and
  - (d) a request is made by the claimant in accordance with section 52(2).
- (10) The provisions of section 52ZA(2) to (5) must be applied on the basis of the revised estimate.
- (11) If—
- (a) the acquiring authority estimated the value of the land,
  - (b) it appears to the acquiring authority that their estimate was too low and they revise the estimate, and
  - (c) a request is made by the claimant in writing,
- any balance found to be due to a mortgagee on the basis of the revised estimate is payable in accordance with this section.

#### Textual Amendments

- F47** Ss. 52ZA-52ZC inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. [104\(3\)](#); S.I. 2004/2593, art. 2(a)
- F49** S. 52ZB(1) substituted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), ss. [195\(4\)\(a\)](#), 216(3); S.I. 2018/251, reg. 4(f) (with reg. 6)
- F50** Words in s. 52ZB(9)(c) substituted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), ss. [195\(4\)\(b\)](#), 216(3); S.I. 2018/251, reg. 4(f) (with reg. 6)

### 52ZC Land subject to mortgage: supplementary

- (1) This section applies for the purposes of sections 52ZA and 52ZB.
- [<sup>F51</sup>(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.]
- (3) A request under section 52ZA(3) or 52ZB(3) must be made in writing and must be accompanied by the written consent of the mortgagee.
- [ In a case where the compulsory acquisition to which the request relates is one to which
- <sup>F52</sup>(3A) 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), <sup>F53</sup>...
    - (ii) received any further information required under subsection (2)]<sup>F54</sup>, or
    - (iii) received any further information required under section 52(2A)(b).]
- (3B) In all other cases, the authority must make any payment under section 52ZA or 52ZB—

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- (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),<sup>F55</sup> ...
  - (ii) received any further information required under subsection (2)<sup>F56</sup>, or
  - (iii) received any further information required under section 52(2A)(b).]]
- (4) Subsections<sup>F57</sup> ... (8) to (9) of section 52 apply to a payment which may be or is made under section 52ZA or 52ZB as they apply to a payment which may be or is made under section 52.
- (5) The relevant amount is the amount of the compensation agreed or estimated as mentioned in section 52(3).
- (6) If the land is subject to more than one mortgage, the reference in sections 52ZA(1)(c) and 52ZB(1)(c) to the principal is to the aggregate of the principals of all of the mortgagees.
- (7) A payment made to a mortgagee under section 52ZA or 52ZB—
  - (a) must be applied by the mortgagee in or towards the discharge of the principal, interest and costs and any other money due under the mortgage;
  - (b) must be taken to be a payment on account of compensation and treated for the purposes of section 52(10) as if it were an advance payment made under section 52;
  - (c) must be taken, with effect from the date of the payment, to reduce by the amount of the payment the amount in respect of which interest accrues for the purposes of section 11(1) of the Compulsory Purchase Act 1965 [<sup>F58</sup>or any bond under] section 85 of the Lands Clauses Compensation Act 1845;
  - (d) must be taken into account for the purposes of determining any payments (or payments into court) which may be made for the purposes of sections 14 to 16 of the Compulsory Purchase Act 1965.
- (8) If the amount, or aggregate amount, of any payments under—
  - (a) sections 52 and 52ZA, or
  - (b) section 52ZB,
 on the basis of the acquiring authority's estimate of the compensation exceed the compensation as finally determined or agreed, the excess must be repaid by the claimant.
- (9) No payment must be made to a mortgagee—
  - (a) if any of the circumstances mentioned in subsection (10) applies, or
  - (b) if the compulsory acquisition is only of a right over land.
- (10) The circumstances are—
  - (a) payment has been made under section 14(2) of the Compulsory Purchase Act 1965;
  - (b) a notice under section 14(3) of that Act has been given;
  - (c) there is an agreement under section 15(1) or 16(1) of that Act or the matter has been referred to the [<sup>F59</sup>Upper Tribunal] under that section.
- (11) The claimant in relation to settled land for the purposes of the Settled Land Act 1925 is the persons entitled to give a discharge for capital money.]



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### Textual Amendments

- F47** Ss. 52ZA-52ZC inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. [104\(3\)](#); S.I. 2004/2593, art. 2(a)
- F51** S. 52ZC(2) substituted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), ss. [194\(3\)](#), 216(3); S.I. 2018/251, reg. 4(e) (with reg. 6)
- F52** S. 52ZC(3A)(3B) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), ss. [195\(5\)\(a\)](#), 216(3); S.I. 2018/251, reg. 4(f) (with reg. 6)
- F53** Word in s. 52ZC(3A)(b) omitted (6.4.2018) by virtue of [Neighbourhood Planning Act 2017 \(c. 20\)](#), ss. [38\(3\)\(a\)\(i\)](#), 46(1); S.I. 2018/252, reg. 3 (with reg. 4)
- F54** S. 52ZC(3A)(b)(iii) and word inserted (6.4.2018) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), ss. [38\(3\)\(a\)\(ii\)](#), 46(1); S.I. 2018/252, reg. 3 (with reg. 4)
- F55** Word in s. 52ZC(3B)(b) omitted (6.4.2018) by virtue of [Neighbourhood Planning Act 2017 \(c. 20\)](#), ss. [38\(3\)\(b\)\(i\)](#), 46(1); S.I. 2018/252, reg. 3 (with reg. 4)
- F56** S. 52ZC(3B)(b)(iii) and word inserted (6.4.2018) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), ss. [38\(3\)\(b\)\(ii\)](#), 46(1); S.I. 2018/252, reg. 3 (with reg. 4)
- F57** Words in s. 52ZC(4) omitted (6.4.2018) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), ss. [195\(5\)\(b\)](#), 216(3); S.I. 2018/251, reg. 4(f) (with reg. 6)
- F58** Words in s. 52ZC(7)(c) substituted (13.7.2016) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 16 para. 11](#); S.I. 2016/733, reg. 3(j)
- F59** Words in s. 52ZC(10)(c) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 108](#) (with Sch. 5)

### [<sup>F60</sup>52ZDMaking 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.]

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#### Textual Amendments

**F60** S. 52ZD inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 194(4)**, 216(3); S.I. 2018/251, reg. 4(e)

#### [<sup>F61</sup> 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.]

#### Textual Amendments

**F61** S. 52ZE inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 198**, 216(3); S.I. 2018/251, reg. 4(i) (with reg. 6)

#### [<sup>F62</sup> 52A Right to interest where advance payment made.

- (1) This section applies where the compensation to be paid by the acquiring authority for the compulsory acquisition of any interest in land would (apart from this section) carry interest under section 11(1) of the Compulsory Purchase Act 1965 or any bond under <sup>F63</sup>... section 85 of the Lands Clauses Consolidation Act 1845.
- [<sup>F64</sup>(2) If the authority make a payment under section 52(1) [<sup>F65</sup>after the date of entry] to any person on account of the compensation—

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- (a) they must at the same time make a payment to that person of accrued interest, for the period beginning with the date of entry, on the amount of the compensation agreed or estimated under section 52(3) (the total amount), and
  - (b) the difference between the paid amount and the total amount is an unpaid balance for the purposes of this section.
- (2A) The paid amount is—
- (a) the amount of the payment under section 52(1), or
  - (b) if the land is subject to a mortgage, the aggregate of that amount and the amount of any payment made under section 52ZA(3).]
- (3) If the authority make a payment under section 52(4A) above to any person on account of the compensation, they shall at the same time make a payment to him of accrued interest, for the period beginning with the date of entry, on—
- (a) the amount by reference to which the payment under section 52(4A) above was calculated; less
  - (b) the amount by reference to which the preceding payment under section 52(1) or (4A) above was calculated.
- (4) Where the authority make a payment under section 52(4A) above on account of the compensation, the difference between—
- (a) the amount of the payment; and
  - (b) the amount by reference to which it was calculated less the amount by reference to which the preceding payment under section 52(1) or (4A) above was calculated,
- is an unpaid balance for the purposes of this section.
- (5) If, on an anniversary of the date on which the authority made a payment to any person under section 52(1) above on account of the compensation—
- (a) the amount of accrued interest on the unpaid balance under subsection (2) above or, as the case may be,
  - (b) the aggregate amount of the accrued interest on any unpaid balances,
- exceeds £1,000, the authority shall make a payment to the claimant of the amount or aggregate amount.
- (6) The acquiring authority shall, on paying the outstanding compensation, pay the amount of the accrued interest on the unpaid balance under subsection (2) above or, as the case may be, the aggregate amount of the accrued interest on any unpaid balances.
- (7) For the purposes of subsections (5) and (6) above, interest accrues on any unpaid balance for the period beginning with—
- (a) the making of the payment under section 52(1) or, as the case may be, 52(4A) above; or
  - (b) if any payment has already been made in respect of that balance under subsection (5) above, the date of the preceding payment under that subsection.
- (8) For the purposes of this section—
- (a) interest accrues at the rate prescribed under section 32 of the Land Compensation Act 1961 or, in the case of a bond under section 85 of the Lands Clauses Consolidation Act 1845, at the rate specified in section 85; and

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- (b) the amount by reference to which a payment under section 52(1) or (4A) was calculated is the amount referred to in section 52(3)(a) or (b) for the purposes of that calculation.
- (9) Where any payment has been made under section 52(1) above on account of any compensation, the acquiring authority is not required to pay interest under section 11(1) of the Compulsory Purchase Act 1965 or any bond<sup>F66</sup>... under section 85 of the Lands Clauses Consolidation Act 1845.
- (10) Where the amount, or aggregate amount, of any payment under section 52 above made on the basis of the acquiring authority's estimate of the compensation is greater than the compensation as finally determined or agreed and, accordingly, the interest paid under this section is excessive, the excess shall be repaid.
- (11) If after any interest has been paid to any person under this section on any amount it is discovered that he was not entitled to the amount, the interest shall be recoverable by the acquiring authority.
- (12) The Secretary of State may from time to time by order substitute another sum for the sum specified in subsection (5) above; and the power to make orders under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F62** S. 52A inserted (25.09.1991 subject to the restrictions referred to in [S.I. 1991/2067, art. 4](#)) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\), s. 63\(2\)](#) (with s. 84(5)); [S.I. 1991/2067, art. 3](#).
- F63** Words in s. 52A(1) omitted (13.7.2016) by virtue of [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 16 para. 12\(a\)](#); [S.I. 2016/733, reg. 3\(j\)](#)
- F64** S. 52A(2)(2A) substituted for s. 52A(2) (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 104\(4\)](#); [S.I. 2004/2593, art. 2\(a\)](#)
- F65** Words in s. 52A(2) inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\), ss. 196\(2\)\(a\), 216\(3\)](#); [S.I. 2018/251, reg. 4\(g\)](#) (with reg. 6)
- F66** Words in s. 52A(9) omitted (13.7.2016) by virtue of [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 16 para. 12\(b\)](#); [S.I. 2016/733, reg. 3\(j\)](#)

#### Modifications etc. (not altering text)

- C19** S. 52A modified by 1961 c. 33, s. 5A(5)(6) (as inserted (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 103\(2\)](#); [S.I. 2004/2593, art. 2\(a\)](#))

### <sup>F67</sup>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.

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- (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.]

#### Textual Amendments

**F67** S. 52B inserted (6.4.2017 for specified purposes) by [Housing and Planning Act 2016 \(c. 22\)](#), ss. [196\(3\)](#), [216\(3\)](#); S.I. 2017/281, reg. 4(k)

### *Severance of land*

#### **53 Notice to treat in respect of part of agricultural land.**

- (1) Where an acquiring authority serve notice to treat in respect of any agricultural land on a person (whether in occupation or not) having a greater interest in the land than as tenant for a year or from year to year, and that person has such an interest in other agricultural land comprised in the same agricultural unit as that to which the notice relates, the person on whom the notice is served (hereafter referred to as “the claimant”) may, within the period of two months beginning with the date of service of the notice to treat, serve on the acquiring authority a counter-notice—
  - (a) claiming that the other land is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
  - (b) requiring the acquiring authority to purchase his interest in the whole of the other land.
- (2) Where a counter-notice is served under subsection (1) above the claimant shall also, within the period mentioned in that subsection, serve a copy thereof on any other person who has an interest in the land to which the requirement in the counter-notice relates, but failure to comply with this subsection shall not invalidate the counter-notice.
- (3) Subject to subsection (4) below, “other relevant land” in subsection (1) above means—
  - (a) land comprised in the same agricultural unit as the land to which the notice to treat relates, being land in which the claimant does not have such an interest as is mentioned in that subsection; and
  - (b) land comprised in any other agricultural unit occupied by him on the date of service of the notice to treat, being land in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.
- (4) Where an acquiring authority have served a notice to treat in respect of any of the other agricultural land mentioned in subsection (1) above or in respect of other relevant land as defined in subsection (3) above [<sup>F68</sup>or such a notice is deemed to have been served by virtue of sections 137 to 144 of the Town and Country Planning Act 1990], then, unless and until that notice to treat is withdrawn, this section and section 54 below

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shall have effect as if that land did not form part of that other agricultural land or did not constitute other relevant land, as the case may be.

- (5) This section shall have effect in relation to a case where a notice to treat is deemed to have been served by virtue of any of the provisions of <sup>F69</sup>[<sup>F70</sup>Part III of the Compulsory Purchase (Vesting Declarations) Act 1981] (general vesting declarations) as it has effect in relation to a case where a notice to treat is actually served, and section 54 below shall have effect accordingly.
- (6) This section is without prejudice to the rights conferred by sections 93 and 94 of the <sup>M12</sup>Lands Clauses Consolidation Act 1845, <sup>F71</sup> or section 8(2) and (3) of the <sup>M13</sup>Compulsory Purchase Act 1965 (provisions as to divided land).

#### Textual Amendments

- F68** Words inserted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 29\(9\)\(a\)](#)
- F69** Words repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), ss. 3, 4, [Sch. 1 Pt. I, Sch. 2 para. 29\(9\)\(b\)](#)
- F70** Words substituted by [Compulsory Purchase \(Vesting Declarations\) Act 1981 \(c. 66, SIF 28:1\)](#), s. 16(1), [Sch. 3 para. 1](#)
- F71** Words repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)

#### Modifications etc. (not altering text)

- C20** [Ss. 53-56](#) excluded (16.3.1992) by [Aire and Calder Navigation Act 1992 \(c. iv\)](#), [s. 25\(1\)](#).

#### Marginal Citations

- M12** [1845 c. 18](#).
- M13** [1965 c. 56](#).

## 54 Effect of counter-notice under section 53.

- (1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 53 above agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the [<sup>F72</sup>Upper Tribunal]; and on any such reference the Tribunal shall determine whether the claim in the counter-notice is justified and declare the counter-notice valid or invalid in accordance with its determination of that question.
- (2) Where a counter-notice is accepted as, or declared to be, valid under subsection (1) above the acquiring authority shall be deemed—
- to be authorised to acquire compulsorily, under the enactment by virtue of which they are empowered to acquire the land in respect of which the notice to treat was served, the claimant’s interest in the land to which the requirement in the counter-notice relates; and
  - to have served a notice to treat in respect of that land on the date on which the first-mentioned notice to treat was served.
- (3) A claimant may withdraw a counter-notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the counter-notice has been determined by the [<sup>F73</sup>Upper Tribunal] or at any time before the end of six weeks beginning with the date on which the compensation is so determined; and where a

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counter-notice is withdrawn by virtue of this subsection any notice to treat deemed to have been served in consequence thereof shall be deemed to have been withdrawn.

- (4) Without prejudice to subsection (3) above, the power conferred by section 31 of the <sup>M14</sup>Land Compensation Act 1961 to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.
- (5) The compensation payable in respect of the acquisition of an interest in land in pursuance of a notice to treat deemed to have been served by virtue of this section shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) above.
- (6) Where by virtue of this section the acquiring authority become, or will become, entitled to a lease of any land but not to the interest of the lessor—
  - (a) the authority shall offer to surrender the lease to the lessor on such terms as the authority consider reasonable;
  - (b) the question of what terms are reasonable may be referred to the [<sup>F74</sup>Upper Tribunal] by the authority or the lessor and, if at the expiration of three months after the date of the offer mentioned in paragraph (a) above, the authority and the lessor have not agreed on that question and that question has not been referred to the Tribunal by the lessor, it shall be so referred by the authority;
  - (c) if that question is referred to the Tribunal, the lessor shall be deemed to have accepted the surrender of the lease at the expiration of one month after the date of the determination of the Tribunal or on such other date as the Tribunal may direct and to have agreed with the authority on the terms of surrender which the Tribunal has held to be reasonable.

For the purposes of this subsection any terms as to surrender contained in the lease shall be disregarded.

- (7) Where the lessor refuses to accept any sum payable to him by virtue of subsection (6) above, or refuses or fails to make out his title to the satisfaction of the acquiring authority, they may pay into court any sum payable to the lessor by virtue of that subsection; and subsections (2) and (5) of section 9 of the <sup>M15</sup>Compulsory Purchase Act 1965 (deposit of compensation in cases of refusal to convey etc.) shall apply to that sum with the necessary modifications.
- (8) Where an acquiring authority who become entitled to the lease of any land as mentioned in subsection (6) above are a body incorporated by or under any enactment the corporate powers of the authority shall, if they would not otherwise do so, include power to farm that land.
- (9) .....

F75

#### Textual Amendments

- F72** Words in s. 54(1) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 109** (with Sch. 5)
- F73** Words in s. 54(3) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 109** (with Sch. 5)
- F74** Words in s. 54(6)(b) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 109** (with Sch. 5)
- F75** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

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#### Modifications etc. (not altering text)

**C21** Ss. 53-56 excluded (16.3.1992) by [Aire and Calder Navigation Act 1992 \(c. iv\), s. 25\(1\)](#).

#### Marginal Citations

**M14** 1961 c. 33.

**M15** 1965 c. 56.

### 55 Notice of entry in respect of part of agricultural holding.

- (1) Where an acquiring authority serve notice of entry under section 11(1) of the <sup>M16</sup>Compulsory Purchase Act 1965 on the person in occupation of an agricultural holding, being a person having no greater interest therein than as tenant for a year or from year to year, and the notice relates to part only of that holding, the person on whom the notice is served (hereafter referred to as “the claimant”) may, within the period of two months beginning with the date of service of the notice of entry, serve on the acquiring authority a counter-notice—
- (a) claiming that the remainder of the holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
  - (b) electing to treat the notice of entry as a notice relating to the entire holding.
- (2) Where a counter-notice is served under subsection (1) above the claimant shall also, within the period mentioned in that subsection, serve a copy thereof on the landlord of the holding, but failure to comply with this subsection shall not invalidate the counter-notice.
- (3) Subject to subsection (4) below, “other relevant land” in subsection (1) above means—
- (a) land comprised in the same agricultural unit as the agricultural holding; and
  - (b) land comprised in any other agricultural unit occupied by the claimant on the date of service of the notice of entry, being land in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.
- (4) Where an acquiring authority have served a notice to treat in respect of land in the agricultural holding other than that to which the notice to entry relates or in respect of other relevant land as defined in subsection (3) above, then, unless and until that notice to treat is withdrawn, this section and section 56 below shall have effect as if that land did not form part of the holding or did not constitute other relevant land, as the case may be.
- (5) ..... <sup>F76</sup>

#### Textual Amendments

**F76** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\), Sch. 2 Pt. I](#)

#### Modifications etc. (not altering text)

**C22** Ss. 53-56 excluded (16.3.1992) by [Aire and Calder Navigation Act 1992 \(c. iv\), s. 25\(1\)](#).

#### Marginal Citations

**M16** 1965 c. 56.



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## 56 Effect of counter-notice under section 55.

- (1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 55 above agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the [<sup>F77</sup>Upper Tribunal]; and on any such reference the Tribunal shall determine whether the claim in the counter-notice is justified and declare the counter-notice valid or invalid in accordance with its determination of that question.
- (2) Where a counter-notice is accepted as, or declared to be, valid under subsection (1) above then, if before the end of twelve months after it has been so accepted or declared the claimant has given up possession of every part of the agricultural holding to the acquiring authority—
  - (a) the notice of entry shall be deemed to have extended to the part of the holding to which it did not relate; and
  - (b) the acquiring authority shall be deemed to have taken possession of that part in pursuance of that notice on the day before the expiration of the year of the tenancy which is current when the counter-notice is so accepted or declared.
- (3) Where the claimant gives up possession of an agricultural holding to the acquiring authority as aforesaid but the authority have not been authorised to acquire the landlord's interest in, or in any of, the part of the holding to which the notice of entry did not relate (“the land not subject to compulsory purchase”)—
  - (a) neither the claimant nor the authority shall be under any liability to the landlord by reason of the claimant giving up possession of the land not subject to compulsory purchase or the authority taking or being in possession of it;
  - (b) immediately after the date on which the authority take possession of the land not subject to compulsory purchase they shall give up to the landlord, and he shall take, possession of that land;
  - (c) the tenancy shall be treated as terminated on the date on which the claimant gives up possession of the holding to the acquiring authority or (if he gives up possession of different parts at different times) gives up possession as aforesaid of the last part, but without prejudice to any rights or liabilities of the landlord or the claimant which have accrued before that date;
  - (d) any rights of the claimant against, or liabilities of the claimant to, the landlord which arise on or out of the termination of the tenancy by virtue of paragraph (c) above (whether under the contract of tenancy, under the [<sup>F78</sup>Agricultural Holdings Act 1986] or otherwise) shall be rights and liabilities of the authority, and any question as to the payment to be made in respect of any such right or liability shall be referred to and determined by the [<sup>F79</sup>Upper Tribunal];
  - (e) any increase in the value of the land not subject to compulsory purchase which is attributable to the landlord's taking possession of it under paragraph (b) above shall be deducted from the compensation payable in respect of the acquisition of his interest in the remainder of the holding.
- (4) Where a tenancy is terminated by virtue of subsection (3)(c) above, [<sup>F80</sup>section 72 of the Agricultural Holdings Act 1986] (landlord's right to compensation for deterioration of holding) shall have effect as if [<sup>F80</sup>subsection (4) of that section] required the landlord's notice of intention to claim compensation to be served on the acquiring authority and to be so served within three months after the termination of the tenancy.

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(5) ..... F81

#### Textual Amendments

- F77** Words in s. 56(1) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 110** (with Sch. 5)
- F78** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 54(2)**
- F79** Words in s. 56(3)(d) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 110** (with Sch. 5)
- F80** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 54(3)**
- F81** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

#### Modifications etc. (not altering text)

- C23** Ss. 53–56 excluded (16.3.1992) by [Aire and Calder Navigation Act 1992 \(c. iv\)](#), **s. 25(1)**.

### 57 Other procedures for taking possession of part of agricultural holding.

- (1) Before taking possession of part only of an agricultural holding under section 85 of the <sup>M17</sup>Lands Clauses Consolidation Act 1845 <sup>F82</sup>... or under [<sup>F83</sup>Part III of the Compulsory Purchase (Vesting Declarations) Act 1981] (alternative procedures for taking possession of land) the acquiring authority shall serve notice of their intention to do so on the person in occupation of the holding, and sections 55 and 56 above shall have effect, subject to any necessary modifications, as if possession were being obtained pursuant to a notice of entry under section 11(1) of the said Act of 1965.
- (2) Sections 55 and 56 above shall have effect, subject to any necessary modifications, in relation to a notice of entry under paragraph 4 of Schedule 6 to the [<sup>F84</sup>New Towns Act 1981] (provisions applicable to compulsory acquisitions under that Act) as they have effect in relation to a notice of entry under section 11(1) of the said Act of 1965.
- (3) Sections 55 and 56(1) and (2) above shall have effect, subject to any necessary modifications, in relation to a notice under [<sup>F85</sup>section 584 of the Housing Act 1985 (power to enter and determine short tenancies of land acquired or appropriated for certain purposes of that Act)] as they have effect in relation to a notice of entry under section 11(1) of the said Act of 1965.

(4) ..... F86

#### Textual Amendments

- F82** Words in s. 57(1) omitted (13.7.2016) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 16 para. 13**; S.I. 2016/733, reg. 3(j)
- F83** Words substituted by [Compulsory Purchase \(Vesting Declarations\) Act 1981 \(c. 66, SIF 28:1\)](#), s. 16(1), **Sch. 3 para. 1**
- F84** Words substituted by [New Towns Act 1981 \(c. 64, SIF 123:3\)](#), **s. 81(a)**, Sch. 12 para. 10
- F85** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 4, **Sch. 2 para. 24(7)**
- F86** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

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## Marginal Citations

M17 1845 c. 18.

## 58 Determination of material detriment where part of house etc. proposed for compulsory acquisition.

(1) In determining under <sup>F87</sup> ... <sup>F88</sup> ... [<sup>F89</sup>section 166(2) of the Town and Country Planning Act 1990] whether—

- (a) part of a house, building or manufactory can be taken without material detriment or damage to the house, building or manufactory; or
- (b) part of a park or garden belonging to a house can be taken without seriously affecting the amenity or convenience of the house,

the [<sup>F90</sup>Upper Tribunal] shall take into account not only the effect of the severance but also the use to be made of the part proposed to be acquired and, in a case where the part is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.

<sup>F91</sup>(2) .....

<sup>F92</sup>(3) .....

## Textual Amendments

- F87** Words in s. 58(1) omitted (3.2.2017) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 17 para. 5\(a\)](#); S.I. 2017/75, reg. 3(g) (with reg. 5)
- F88** Words repealed by [Compulsory Purchase \(Vesting Declarations\) Act 1981 \(c. 66, SIF 28:1\)](#), s. 16(3), [Sch. 5](#)
- F89** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 29\(10\)](#)
- F90** Words in s. 58(1) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 111](#) (with Sch. 5)
- F91** S. 58(2) omitted (3.2.2017) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 17 para. 5\(b\)](#); S.I. 2017/75, reg. 3(g) (with reg. 5)
- F92** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [Sch. 2 Pt. I](#)

## Modifications etc. (not altering text)

- C24** S. 58(1) modified (18.6.1992) by [Compulsory Purchase Act 1965 \(c. 56\)](#), as applied (with modifications) by [British Railways \(No. 2\) Act 1992 \(c. xi\)](#), s. 27, [Sch. 3 para. 2](#).  
S. 58 modified (10.11.1993) by 1965 c. 56, s. 8(4) (as substituted by 1993 c. 28, s. 169, [Sch. 20 para. 22](#); S.I. 1993/2762, [art. 3](#)).  
S. 58(1) modified (27.8.1998) by S.I. 1998/1936, art. 29(3), [Sch. 7 para. 2\(1\)\(3\)](#) (with art. 45)  
S. 58 applied (with modifications) (19.2.1999) by S.I. 1999/537, art. 7(2), [Sch. 2 para. 10](#)  
S. 58 applied (with modifications) (21.7.1999) by S.I. 1999/2129, art. 15(3), [Sch. 5 para. 2](#)  
S. 58 applied (with modifications) (23.8.1999) by S.I. 1999/2981, art. 17(3), [Sch. 7 paras. 1, 2](#)
- C25** S. 58(1) modified (12.1.2004) by [The Alconbury Airfield \(Rail Facilities and Connection to East Coast Main Line\) Order 2003 \(S.I. 2003/3364\)](#), art. 1, [Sch. 4 para. 2\(3\)](#)
- C26** S. 58(1) applied (with modifications) (8.10.2005) by [Leicestershire County Council \(Ashby de la Zouch Canal Extension\) Order 2005 \(S.I. 2005/2786\)](#), art. 1, [Sch. 7 para. 2\(3\)](#)

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- C27** S. 58(1) applied (with modifications) (9.4.2013) by [The Lancashire County Council \(Torrisholme to the M6 Link \(A683 Completion of Heysham to M6 Link Road\)\) Order 2013 \(S.I. 2013/675\)](#), art. 1, **Sch. 10 para. 2(3)**
- C28** S. 58(1) applied (with modifications) (2.10.2014) by [The Clocaenog Forest Wind Farm Order 2014 \(S.I. 2014/2441\)](#), art. 1, **Sch. 7 paras. 1, 2(3)** (with art. 33)
- C29** S. 58(1) modified (2.10.2014) by [The Clocaenog Forest Wind Farm Order 2014 \(S.I. 2014/2441\)](#), art. 1, **Sch. 7 para. 2(3)** (with art. 33)
- C30** S. 58(1) modified (21.10.2014) by [The Central Bedfordshire Council \(Woodside Link Houghton Regis\) Development Consent Order 2014 \(S.I. 2014/2637\)](#), art. 1, **Sch. 8 para. 2(3)**

### *Miscellaneous*

## **59 Notice to quit agricultural holding: right to opt for notice of entry compensation.**

(1) This section has effect where the person in occupation of an agricultural holding, being a person having no greater interest therein than as tenant for a year or from year to year, is served with a notice to quit the holding, and—

- (a) the notice is served after an acquiring authority have served notice to treat on the landlord of the holding or, being an authority possessing compulsory purchase powers, have agreed to acquire his interest in the holding; and
- (b) either—

- (i) [<sup>F93</sup>section 26(1) of the Agricultural Holdings Act 1986] does not apply to the notice by virtue of [<sup>F93</sup>Case B in Part I of Schedule 3 to that Act] (land required for non-agricultural use for which planning permission has been granted etc.); or
- (ii) the [<sup>F94</sup>appropriate tribunal] have consented to the operation of the notice and stated in the reasons for their decision that they are satisfied as to the matter mentioned in [<sup>F95</sup>section 27(3)(f)] of that Act (land required for non-agricultural use not falling within [<sup>F96</sup>the said Case B]).

[<sup>F97</sup>(1A) For the purposes of subsection (1), “appropriate tribunal” means—

- (a) where the holding (or the greater part of the holding) is in England, the First-tier Tribunal; and
- (b) where the holding (or the greater part of the holding) is in Wales, the Agricultural Land Tribunal.]

(2) If the person served with the notice to quit elects that this subsection shall apply to the notice and gives up possession of the holding to the acquiring authority on or before the date on which his tenancy terminates in accordance with the notice—

- (a) section 20 of the <sup>M18</sup>Compulsory Purchase Act 1965 (compensation for tenants from year to year etc.) and section 12 of the <sup>M19</sup>Agriculture (Miscellaneous Provisions) Act 1968 shall have effect as if the notice to quit had not been served and the acquiring authority had taken possession of the holding in pursuance of a notice of entry under section 11(1) of the said Act of 1965 on the day before that on which the tenancy terminates in accordance with the notice to quit; and
- (b) the provisions of the [<sup>F98</sup>Agricultural Holdings Act 1986 relating to compensation to a tenant on the termination of his tenancy] shall not have effect in relation to the termination of the tenancy by reason of the notice to quit.

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- (3) No election under subsection (2) above shall be made or, if already made, continue to have effect in relation to any land (whether the whole or part of the land to which the notice to quit relates) if, before the expiration of that notice, an acquiring authority take possession of that land in pursuance of an enactment providing for the taking of possession of land compulsorily.
- (4) Any election under subsection (2) above shall be made by notice in writing served on the acquiring authority not later than the date on which possession of the holding is given up.
- (5) This section shall have effect in relation to a notice to quit part of an agricultural holding as it has effect in relation to a notice to quit an entire holding and references to a holding and the termination of the tenancy shall be construed accordingly.
- (6) A person served with a notice to quit part of an agricultural holding shall not be entitled, in relation to that notice, both to make an election under this section and to give a counter-notice under <sup>F99</sup>section 32 of the Agricultural Holdings Act 1986] (tenant's right to cause notice to quit part of holding to operate as notice to quit entire holding).
- (7) The reference in subsection (1)(a) above to a notice to treat served by an acquiring authority includes a reference to a notice to treat deemed to have been so served under any of the provisions mentioned in section 53(5) above <sup>F100</sup>and the reference in that subsection to an authority possessing compulsory purchase powers includes a person or body of persons who would be an authority possessing compulsory purchase powers if the landlord's interest were not an interest in Crown land (as defined by section 293 of the Town and Country Planning Act 1990).]
- (8) ..... <sup>F101</sup>

**Textual Amendments**

- F93** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 55(2)(a)**
- F94** Words in s. 59(1)(b)(ii) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 201(a)** (with Sch. 3)
- F95** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 55(2)(b)**
- F96** Words substituted by [Agricultural Holdings \(Notices to Quit\) Act 1977 \(c. 12\)](#), **Sch. 1 para. 6(4)(d)** except in relation to notices to quit given before 7.4.1978:and [Agricultural Holdings \(Notices to Quit\) Act 1977 \(c. 12\)](#), s. 14 and continued by virtue of [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 55(2)**
- F97** S. 59(1A) inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 201(b)** (with Sch. 3)
- F98** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 55(3)**
- F99** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), s. 100, **Sch. 14 para. 54(4)**
- F100** Words in s. 59(7) inserted (25.09.1991) subject to the restrictions referred to in [S.I. 1991/2067](#), **art. 4** by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70, **Sch. 15 para.7** (with s. 84(5)); [S.I. 1991/2067](#),art. 3.
- F101** S. 59(8) repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**Marginal Citations**

- M18** 1965 c. 56.
- M19** 1968 c. 34.

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60 ..... F102

**Textual Amendments**

**F102** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by Land Compensation (Scotland) Act 1973 (c. 56), **Sch. 2 Pt. I**

**61 Notice to quit part of agricultural holding: right to claim notice of entry compensation for remainder of holding.**

- (1) Where a notice to quit in respect of which a person is entitled to make an election under section 59 above relates to part only of an agricultural holding and that person makes such an election within the period of two months beginning with the date of service of that notice, or, if later, the decision of the [<sup>F103</sup>appropriate tribunal referred to in subsection (1)(b)(ii) of that section], he may also within that period serve a notice on the acquiring authority claiming that the remainder of the holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit.
- (2) If the acquiring authority do not within the period of two months beginning with the date of service of a notice under subsection (1) above agree in writing to accept the notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the [<sup>F104</sup>Upper Tribunal], and on any such reference the Tribunal shall determine whether the claim in the notice is justified and declare the notice valid or invalid in accordance with its determination of that question.
- (3) Where a notice under subsection (1) above is accepted as, or declared to be, valid under subsection (2) above then, if before the end of twelve months after it has been so accepted or declared the claimant has given up to the acquiring authority possession of the part of the holding to which the notice relates, section 20 of the <sup>M20</sup>Compulsory Purchase Act 1965 and section 12 of the <sup>M21</sup>Agriculture (Miscellaneous Provisions) Act 1968 shall have effect as if the acquiring authority had taken possession of that part in pursuance of a notice of entry under section 11(1) of the said Act of 1965 on the day before the expiration of the year of the tenancy which is current when the notice is so accepted or declared.
- (4) Subsections (2) to (4) of section 55 and subsection (3) of section 56 above shall apply in relation to subsections (1) to (3) above and to a notice under subsection (1) above as they apply in relation to those sections and a counter-notice under subsection (1) of section 55, and shall so apply with the necessary modifications and as if any reference to the notice of entry were a reference to the notice to quit.
- (5) Where an election under section 59 above ceases to have effect in relation to any land by virtue of subsection (3) of that section any notice served by virtue of this section shall also cease to have effect in relation thereto.
- (6) ..... <sup>F105</sup>

**Textual Amendments**

**F103** Words in s. 61(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 202** (with Sch. 3)

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- F104** Words in s. 61(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 112** (with Sch. 5)
- F105** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**Marginal Citations**

- M20** 1965 c. 56.  
**M21** 1968 c. 34.

**62** ..... **F106**

**Textual Amendments**

- F106** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**63** **Interest on compensation for injurious affection where no land taken.**

- (1) Compensation under section 68 of the <sup>M22</sup>Lands Clauses Consolidation Act 1845 or section 10 of the Compulsory Purchase Act 1965 (compensation for injurious affection where no land taken) shall carry interest, at the rate for the time being prescribed under section 32 of the <sup>M23</sup>Land Compensation Act 1961, from the date of the claim until payment.

(2) ..... **F107**

**Textual Amendments**

- F107** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**

**Marginal Citations**

- M22** 1845 c. 18.  
**M23** 1961 c. 33.

**64** **Extension of grounds for challenging validity of compulsory purchase order.**

..... **F108**

**Textual Amendments**

- F108** S. 64 repealed by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), **Sch. 6 Pt. I**

**65**— ..... **F109**  
**67.**

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### Textual Amendments

**F109** Ss. 48(7), 49, 51(7), 52(13), 54(9), 55(5), 56(5), 57(4)–(6), 58(3), 59(8), 60, 61(6), 62, 63(2), 65–67 repealed by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), **Sch. 2 Pt. I**



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**Changes and effects yet to be applied to :**

- s. 52B heading word inserted by [2017 c. 20 s. 40\(2\)](#)

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

- Act applied (with modifications) by [S.I. 2024/174 Sch. 8 para. 12](#)
- Act applied (with modifications) by [S.I. 2024/230 Sch. 9 para. 12](#)
- Act applied (with modifications) by [S.I. 2024/360 Sch. 5 para. 13](#)
- Act applied (with modifications) by [S.I. 2024/393 Sch. 10 para. 12](#)
- Act applied (with modifications) by [S.I. 2024/436 Sch. 9 para. 13](#)
- Act modified by [S.I. 2020/1297 Sch. 5 para. 3](#) (This amendment not applied to legislation.gov.uk. S.I. 2020/1297 was withdrawn following a request from the Department of Transport dated 9th August 2021 which followed the decision of the High Court of Justice to quash this Order in the judgement dated 2nd August 2021 (High Court of Justice — Planning Court — The Queen (on the application of Save Stonehenge World Heritage Site) v. Secretary of State for Transport — Case No. CO/4844/2020))
- Act modified by [S.I. 2021/51 Sch. 6 para. 3](#) (This amendment not applied to legislation.gov.uk. S.I. 2021/51 removed from the website by request from the Department of Transport dated 12th July 2021 which followed the decision of the High Court of Justice to quash these Regulations in the judgement dated 8th July 2021 (High Court of Justice — Planning Court — The Queen (on the application of Mair Bain) v. Secretary of State for Transport — Case No. CO/642/2021).)

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

- s. 12A(9)(b)(c) substituted for s. 12A(9)(b) by [2002 c. 15 Sch. 8 para. 1\(4\)](#)
- s. 52A(2B) inserted by [2016 c. 22 s. 196\(2\)\(b\)](#)
- s. 52A(2B) words substituted by [2017 c. 20 s. 39](#)