



Land Compensation (Scotland) Act 1973

1973 CHAPTER 56

PART II

MITIGATION OF INJURIOUS EFFECT OF PUBLIC WORKS

Powers of highway authorities

20 Acquisition of land in connection with highways

- (1) Subject to subsection (3) below, a highway authority may acquire land compulsorily or by agreement for the purpose of mitigating any adverse effect which the existence or use of a highway constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the highway.
- (2) Subject to subsection (3) below, a highway authority may acquire by agreement—
 - (a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or improvement of a highway ;
 - (b) land the enjoyment of which is seriously affected by the use of a highway which the authority have constructed or improved,if the interest of the vendor is one which falls within section 181(3) to (5) of the Town and Country Planning (Scotland) Act 1972 (interests qualifying for protection under blight provisions) taking references to the date of service of a notice under section 182 of that Act as references to the date on which the purchase agreement is made.
- (3) The powers conferred by subsection (2) (b) above shall not be exercisable unless the date on which the highway or, as the case may be, the improved highway is first open to public traffic falls on or after 17th October 1971 and the powers conferred by subsections (1) and (2)(a) above shall not be exercisable unless that date falls on or after 17th October 1972; and—
 - (a) if that date falls not later than one year after 23rd May 1973.—
 - (i) the powers conferred by subsection (1) above to acquire land compulsorily and the powers conferred by subsection (2) (a) above

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- shall not be exercisable unless the acquisition is begun before the end of one year after 23rd May 1973 ;
- (ii) the powers conferred by subsection (1) above to acquire land by agreement and the powers conferred by subsection (2) (b) above shall not be exercisable unless the acquisition is begun before the end of one year after 23rd May 1973 or one year after that date, whichever ends later;
- (b) if that date falls more than one year after 23rd May 1973.—
- (i) the powers mentioned in paragraph (a)(i) above shall not be exercisable unless the acquisition is begun before that date;
- (ii) the powers mentioned in paragraph (a)(ii) above shall not be exercisable unless the acquisition is begun before the end of one year after that date.
- (4) Where under the powers of this section a highway authority have acquired, or propose to acquire, land forming part of a common or open space and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land compulsorily or by agreement.
- (5) A power to acquire land compulsorily conferred by this section on a local highway authority shall be exercisable in any particular case on their being authorised by the Secretary of State to exercise it; and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall have effect—
- (a) in relation to the compulsory acquisition of land under this section by a local highway authority, as if this section had been in force immediately before the commencement of that Act;
- (b) in relation to the compulsory acquisition of land under this section by the Secretary of State, as if this section had been in force immediately before the commencement of that Act and as if this section were included among the enactments specified in section 1(1)(b) of that Act.
- (6) For the purposes of subsection (3) above the acquisition of any land is begun—
- (a) if it is compulsory, on the date on which the notice required by paragraph 3(1) (a) of Schedule 1 to the said Act of 1947 is first published ;
- (b) if it is by agreement, on the date on which the agreement is made;
- and where the compulsory acquisition of any land under subsection (1) is begun within the time limited by subsection (3) above but is not proceeded with, any subsequent compulsory acquisition of that land under subsection (1) above shall be treated for the purposes of this section as begun within that time.
- (7) For the purpose of assessing the compensation payable on the compulsory acquisition of land under this section—
- (a) the land shall be treated as if it were being acquired for the construction of the highway or, as the case may be, the improvement in question ;
- (b) section 35(3) of the Roads (Scotland) Act 1970 (matters to be taken into account by Lands Tribunal) shall, so far as applicable, apply as it does in relation to compulsory acquisition under the provisions there mentioned.
- (8) In section 5(2) of the Trunk Roads Act 1946 (delegation of functions relating to trunk roads) after the words " section 29(4) of the Roads (Scotland) Act 1970 " there shall be inserted the words " or under section 20 of the Land Compensation (Scotland) Act 1973. " .

- (9) In this section references to the construction or improvement of a highway include references to the construction or improvement of a highway by virtue of an order under section 3 or 14 of the Special Roads Act 1949 or section 15 of the Roads (Scotland) Act 1970.

21 Execution of works in connection with highways

- (1) A highway authority may carry out—
- (a) on land acquired by them under section 20 above;
 - (b) on any other land belonging to them ;
 - (c) on any highway for which they are the highway authority;
 - (d) on any highway which they have been authorised to improve or construct by virtue of an order under section 3 or 14 of the Special Roads Act 1949 or section 15 of the Roads (Scotland) Act 1970,
- works for mitigating any adverse effect which the construction, improvement, existence or use of a highway has or will have on the surroundings of the highway.
- (2) Without prejudice to the generality of subsection (1) above, the works that may be carried out under that subsection include the planting of trees, shrubs or plants of any other description and the laying out of any area as grassland.
- (3) A highway authority may develop or redevelop any land acquired by them under section 20 above, or any other land belonging to them, for the purpose of improving the surroundings of a highway in a manner which they think desirable by reason of its construction, improvement, existence or use.

22 Agreements as to use of land near highways

- (1) For the purpose of mitigating any adverse effect which the construction, improvement, existence or use of a highway has or will have on the surroundings of the highway, the highway authority may enter into an agreement with any person interested in land adjoining or in the vicinity of the highway for restricting or regulating the use of the land either permanently or during such period as may be specified in the agreement; and any such agreement may, in particular, make provision for the planting and maintenance of trees, shrubs or plants of any other description on the land and for restricting the lopping or removal of trees, shrubs or other plants on the land.
- (2) An agreement under this section may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the highway authority to be necessary or expedient for the purposes of the agreement.
- (3) Subject to subsection (4) below, the provisions of any agreement made under this section with any person interested in land shall be binding on persons deriving title from that person in respect of the land.
- (4) No provision shall be enforceable by virtue of subsection (3) above against a third party who shall have in good faith and for value acquired right (whether completed by infetment or not) to land prior to the agreement being recorded in the Register of Sasines, or against any person deriving title from such third party.
- (5) This section is without prejudice to section 50 of the Town and Country Planning Act (Scotland) 1972 (agreements regulating development or use of land).

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23 Advances for exercise of powers by highway authorities

The purposes for which advances may be made by the Secretary of State under section 8 of the Development and Road Improvement Funds Act 1909 shall include the exercise by a highway authority of any powers conferred by sections 20 to 22 above.