



Land Compensation (Scotland) Act 1973

1973 CHAPTER 56

PART III **S**

PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

Rehousing

36 Duty to rehouse residential occupiers. **S**

- (1) Where a person is displaced from residential accommodation on any land in consequence of—
- (a) the acquisition of the land by an authority possessing compulsory purchase powers;
 - (b) the making, passing or acceptance of a housing order, resolution or undertaking in respect of a house or building on the land;
 - (c) where the land has been previously acquired by an authority possessing compulsory purchase powers or appropriated by a local authority and is for the time being held by the authority for the purposes for which it was acquired or appropriated, the carrying out of [^{F1}any improvement to a house or building on the land or of] redevelopment on the land,
 - [^{F2}(d) a requirement to remove the building containing the residential accommodation in pursuance of [^{F3}section 29] of the ^{M1}Building (Scotland) Act [^{F4}2003 (asp 8)] (dangerous buildings), or any other enactment which requires the demolition of the building on account of its condition,]

and suitable alternative residential accommodation on reasonable terms is not otherwise available to that person, then, subject to the provisions of this section, it shall be the duty of the relevant authority to secure that he will be provided with such other accommodation.

- (2) Subsection (1) above shall not by virtue of paragraph (a) thereof apply to a person if the acquisition is in pursuance of the service by him of a blight notice within the meaning of [^{F5}section 100 of the Town and Country Planning (Scotland) Act 1997].

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- (3) Subsection (1) above shall not apply to any person who is a trespasser on the land or who has been permitted to reside in any house or building on the land pending its demolition [^{F6}or improvement].
- (4) Subsection (1) above shall not apply to any person to whom money has been advanced—
- (a) under section 38 below;
 - (b) under the Small Dwellings Acquisition (Scotland) Acts 1899 to 1923 or section 49 of the ^{M2}Housing (Financial Provisions) (Scotland) Act 1968 ^{F7}...; or
 - (c) by a development corporation otherwise than under section 38 below,
- for the purpose of enabling him to obtain accommodation in substitution for that from which he is displaced as mentioned in that subsection.
- (5) Subsection (1)(a) above shall not apply to any acquisition of land in relation to which the Secretary of State has before 23rd May 1973 decided under paragraph 1 of Schedule 8 to the ^{M3}Housing (Scotland) Act 1966 that a housing scheme is not necessary.
- (6) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of any such acquisition [^{F8}improvement] or redevelopment as is mentioned in paragraph (a) or (c) of that subsection unless he was residing in the accommodation in question—
- (a) in the case of land acquired under a compulsory purchase order, at the time when notice was first published of the making of the order prior to its submission for confirmation or, where the order did not require confirmation, of the preparation of the order in draft;
 - (b) in the case of land acquired under an Act specifying the land as subject to compulsory acquisition, at the time when the provisions of the Bill for the Act specifying the land were first published;
 - (c) in the case of land acquired by agreement, at the time when the agreement was made;
- and a person shall not be treated as displaced in consequence of any such order, resolution [^{F9}undertaking or requirement as is mentioned in paragraph (b) or (d)] of that subsection unless he was residing in the accommodation in question at the time when the order was made, the resolution was passed [^{F9}the undertaking was accepted or he was required to remove.]
- (7) Subject to subsection (8) below, “the relevant authority” for the purposes of this section is the local authority having functions in relation to the district where the land is situated under Part [^{F10}] of the ^{M4}Housing (Scotland) Act [^{F10}1987].
- (8) Where the land is in an area designated as the site of a new town—
- (a) paragraph (c) of subsection (1) above shall apply if the land on which the redevelopment is carried out has been previously acquired by the development corporation and is for the time being held by that corporation;
 - (b) the development corporation shall, in a case falling within paragraph (a) or (c) of that subsection, be the relevant authority for the purposes of this section.
- (9) In this section “a housing order, resolution or undertaking” [^{F11}“improvement”] and “redevelopment” have the same meaning as in section 27 above.

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Textual Amendments

- F1** Words inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 44(1)**
- F2** S. 36(1)(d) inserted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\)](#), **Sch. 2 para. 14(a)**
- F3** Words in s. 36(1)(d) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **sch. 6 para. 7(4)(a)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F4** Words in s. 36(1)(d) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **sch. 6 para. 7(4)(b)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F5** Words in s. 26(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 21(4)**
- F6** Words added by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 44(2)**
- F7** Words in s. 36(4)(b) repealed (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 7** (with s. 193); S.S.I. 2009/122, art. 3
- F8** Word inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 44(3)**
- F9** Words substituted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\)](#), **Sch. 2 para. 14(b)**
- F10** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 19(5)(b)**
- F11** Word inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 44(4)**

Marginal Citations

- M1** 1959 c. 24.
- M2** 1968 c. 31.
- M3** 1966 c. 49.
- M4** 1987 c. 49.

37 Duty to rehouse certain caravan dwellers. **S**

- (1) Section 36 above shall, so far as applicable, have effect in relation to a person residing in a caravan on a caravan site who is displaced from that site as it has effect in relation to a person displaced from residential accommodation on any land but shall so have effect subject to the following modifications.
- (2) Subsection (1) of the said section 36 shall have effect—
- (a) as if for the words preceding paragraph (a) there were substituted the words “Where a person residing in a caravan on a caravan site is displaced from that site in consequence of”; and
- (b) as if for the words following paragraph (c) there were substituted the words “and neither suitable residential accommodation nor a suitable alternative site for stationing a caravan is available to that person on reasonable terms, then, subject to the provisions of this section, it shall be the duty of the relevant authority to secure that he will be provided with suitable residential accommodation.”.
- (3) Subsection (6) of the said section 36 shall have effect as if in the words preceding paragraph (a) for the words “unless he was residing in the accommodation in question” there were substituted the words “unless he was residing in a caravan on the caravan site in question”.
- (4) The said section 36 shall have effect as if in any provision not modified as aforesaid for any reference to land there were substituted a reference to a caravan site.
- (5) In this section “caravan site” has the same meaning as in section 30 above.

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38 Power of relevant authority to make advances repayable on maturity to displaced residential owner-occupiers. S

- (1) Where a person displaced from a dwelling in consequence of any of the matters mentioned in subsection (1)(a), (b) or (c) of section 36 above—
 - (a) is an owner-occupier of the dwelling; and
 - (b) wishes to acquire or construct another dwelling in substitution for that from which he is displaced,
 the relevant authority for the purposes of that section may advance money to him for the purpose of enabling him to acquire or construct the other dwelling.
- (2) The power conferred by this section shall be exercisable subject to such conditions as may be approved by the Secretary of State and the following provisions shall apply with respect to any advance made in the exercise of that power.
- (3) The advance shall be made—
 - (a) on terms providing for the payment of the principal—
 - (i) at the end of a fixed period, with or without a provision allowing the authority to extend that period; or
 - (ii) upon notice given by the authority,
 subject, in either case, to a provision for earlier repayment on the happening of a specified event;
 - (b) on such other terms as the authority may think fit having regard to all the circumstances.
- (4) An advance for the construction of a dwelling may be made by instalments from time to time as the works of construction progress.
- (5) The principal of the advance, together with interest thereon, shall be secured by a heritable security of the borrower's interest in the dwelling, and the amount of the principal shall not exceed the value which, in accordance with a valuation duly made on behalf of the relevant authority, it is estimated that the borrower's interest will bear or, as the case may be, will bear when the dwelling has been constructed.
- (6) Before advancing money under this section the relevant authority shall satisfy themselves that the dwelling to be acquired meets or will meet the tolerable standard as determined for the purposes of the ^{F12M5}Housing (Scotland) Act ^{F13}1987] by section ^{F1386}] of that Act.
- (7) While the payment of the principal of an advance made by a local authority under this section is not required in accordance with the terms of the advance, the local authority may suspend, with respect to so much of any sum borrowed by them as is referable to the advance, any periodical provision for repayment that may be required by any enactment.
- (8) The power conferred by this section on a relevant authority is without prejudice to any power to advance money exercisable by the authority under any other enactment.
- (9) In this section “owner-occupier” in relation to any dwelling, means a person who occupies it on the date of displacement and either—
 - (a) occupies it on that date in right of an owner's interest or a lease of which not less than three years remain unexpired or by virtue of a tenancy or other interest to which the ^{M6}Crofters (Scotland) Acts 1955 ^{M7} and 1961 or the Small Landholders (Scotland) Acts 1886 to 1931 apply; or

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- (b) if the displacement is in consequence of the matters mentioned in paragraph (c) of section 36(1) above, occupied it in right of such an interest or lease or by virtue of such a tenancy or interest on the date on which the land was acquired or appropriated as mentioned in that paragraph.
- (10) In this section references to the construction of a dwelling include references to the acquisition of a building and its conversion into a dwelling and to the conversion into a dwelling of a building previously acquired.

Textual Amendments

- F12** Words substituted by [Housing \(Scotland\) Act 1974 \(c. 45\)](#), s. 50, **Sch. 3 para. 50**
- F13** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 19(6)**

Marginal Citations

- M5** 1987 c. 45.
- M6** 1955 c. 21.
- M7** 1961 c. 58.

39 Duty of displacing authority to indemnify rehousing or lending authority for net losses. **S**

- (1) Where a relevant authority within the meaning of section 36 above provide or secure the provision of accommodation for any person in pursuance of subsection (1)(a) or (c) of that section, then, if—
- (a) the authority providing the accommodation (“the rehousing authority”) are not the same as the authority by whom the land in question is acquired or redeveloped (“the displacing authority”); and
- (b) the displacing authority are not an authority having functions under Part ^[F14] of the ^{M8}Housing (Scotland) Act ^[F14]1987
- the displacing authority shall make to the rehousing authority periodical payments, or if the rehousing authority so require a lump sum payment, by way of indemnity against any net loss in respect of the rehousing authority’s provision of that accommodation which may be incurred by that authority in any year during the period of ten years commencing with the year in which the accommodation is first provided.
- (2) For the purposes of subsection (1) above a local authority incur a net loss in respect of their provision of accommodation for a person whom they are rehousing—
- (a) if they rehouse him in a house provided by them under Part ^[F14] of the said Act of 1987, for the purpose of rehousing him; or
- (b) if—
- (i) they rehouse him in a house to which the housing revenue account relates not so provided, and
- (ii) provide under the said Part ^[F14] in the year immediately preceding that in which he first occupies it, or in the period of three years commencing with the year in which he first occupies it, a house of a similar type or size.
- (3) Where money has been advanced to a person as mentioned in section 36(4) above, then if—

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- (a) the authority making the advance (“the lending authority”) are not the same as the displacing authority; and
 - (b) the lending authority incur a net loss in respect of the making of the advance, the displacing authority shall make to the lending authority a lump sum payment by way of indemnity against that loss.
- (4) For the purposes of subsection (3) above, a lending authority incur a net loss in respect of the making of an advance to any person if—
- (a) he does not fully discharge his liability to the authority in respect of principal, interest and expenses in accordance with the terms on which the advance is made; and
 - (b) the deficiency exceeds the net proceeds arising to the authority on a sale of the interest on which the principal and interest is secured.
- (5) The Secretary of State may—
- (a) for the purposes of subsection (1) above from time to time determine a method to be used generally in calculating net losses incurred by rehousing authorities;
 - (b) for the purposes of that subsection or subsection (3) above, determine the net loss incurred by a rehousing authority or lending authority in any particular case;
 - (c) give directions as to the manner in which any payment under this section is to be made.
- (6) Subsection (2) above shall be construed as one with the Housing [F15(Scotland) Act 1987].

Textual Amendments

- F14** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 19(7)(a)**
- F15** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 19(7)(b)**

Marginal Citations

- M8** 1987 c. 26.

40 Power of relevant authority to defray expenses in connection with acquisition of new dwellings. **S**

- (1) Where a person displaced from a dwelling in consequence of [F16any of the events specified in paragraphs (a) to (c) of section 36(1) above]
- (a) has no interest in the dwelling or no greater interest therein than as tenant for a year or from year to year; and
 - (b) wishes to acquire another dwelling in substitution for that from which he is displaced,
- [F16then, according to the nature of the event in consequence of which he was displaced, the acquiring authority, the authority who made the order, passed the resolution or accepted the undertaking or the authority carrying out the improvement or redevelopment] may pay any reasonable expenses incurred by him in connection with the acquisition, other than the purchase price.

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- (2) No payment shall be made under this section in respect of expenses incurred by any person in connection with the acquisition of a dwelling unless the dwelling is acquired not later than one year after the displacement and is reasonably comparable with that from which he is displaced.
- (3) For the purposes of subsection (2) above a dwelling acquired pursuant to a contract shall be treated as acquired when the contract is made.
- (4) Subsections (3) and (6) of section 36 above shall have effect in relation to subsection (1) above and to [^{F17}any provision of subsection (1)] of that section as applied thereby.

Textual Amendments

- F16** Words substituted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 45\(1\)](#)
- F17** Words substituted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 45\(2\)](#)

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