



# Land Compensation (Scotland) Act 1973

## 1973 CHAPTER 56

### PART III **S**

#### PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

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

- C1** Pt. III applied with modifications by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8\), s. 1, Sch. 2 para. 1\(1\)-\(4\)](#)

#### *Home loss payments*

### 27 **Right to home loss payment where person displaced from dwelling. **S****

- (1) Where a person is displaced from a dwelling on any land in consequence of—
- (a) the compulsory acquisition of an interest in the dwelling;
  - (b) the making, passing or acceptance of a housing order, resolution or undertaking in respect of the dwelling;
  - (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 [<sup>F1</sup>any improvement to the dwelling or of] redevelopment on the land,
  - [<sup>F2</sup>(d) the carrying out of any improvement to the dwelling or of redevelopment on the land by a housing association which has previously acquired the land and at the date of the displacement is registered,]
  - [<sup>F3</sup>(e) a requirement to remove from the building containing the dwelling in pursuance of [<sup>F4</sup>section 29] of the <sup>M1</sup>Building (Scotland) Act [<sup>F5</sup>2003 (asp 8)] (dangerous buildings) or any other enactment which requires the demolition of the building on account of its condition,]

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[<sup>F6</sup>(f) an order for recovery of possession of the dwelling under section [<sup>F7</sup>16(2) of the Housing (Scotland) Act 2001 (asp 10) on the ground set out in paragraph 10 of schedule 2] to that Act,]

he shall, subject to the provisions of this section and section 29 below, be entitled to receive a payment (hereafter referred to as a “home loss payment”) from

- [<sup>F8</sup>(i) where paragraph (a) above applies, the acquiring authority;
- (ii) where paragraph (b) above applies, the authority who made the order, <sup>F9</sup> . . . or accepted the undertaking; and
- (iii) where paragraph (c) above applies, the authority carrying out the improvement or redevelopment; <sup>F9</sup> . . .
- (iv) where paragraph (d) above applies, the housing association carrying out the improvement or redevelopment.][<sup>F10</sup>and]
- [<sup>F11</sup>(v) where paragraph (e) above applies the authority requiring the removal.]
- [<sup>F12</sup>(vi) where paragraph (f) above applies, the landlord.]

<sup>F13</sup>[(2) A person shall not be entitled to a home loss payment unless the following conditions have been satisfied throughout the period of one year ending with the date of displacement—

- (a) he has been in occupation of the dwelling, or a substantial part of it, as his only or main residence; and
- (b) he has been in such occupation by virtue of an interest or right to which this section applies,

but, if those conditions are satisfied on the date of displacement, a payment (referred to in this section and sections 29 and 30 below as a “discretionary payment”) may be made to him of an amount not exceeding the amount to which he would have been entitled if he had satisfied those conditions throughout that period.]

(3) For the purposes of this section a person shall not be treated as displaced from a dwelling in consequence of the compulsory acquisition of an interest therein if he gives up his occupation thereof before the date on which the acquiring authority were authorised to acquire that interest, but, subject to that, it shall not be necessary for the acquiring authority to have required him to give up his occupation of the dwelling.

[<sup>F14</sup>(3A) For the purposes of this section a person shall not be treated as displaced from a dwelling in consequence of [<sup>F15</sup>(a) the carrying out of any improvement to the dwelling [<sup>F16</sup>or; (b) a requirement to remove as mentioned in subsection (1)(e) above] unless he is permanently displaced from it in consequence of the carrying out of the improvement in question [<sup>F17</sup>or removal as the case may be.]]

(4) This section applies to the following interests and rights—

- (a) any interest in the dwelling;
- <sup>F18</sup>[(b) a right to occupy the dwelling-house—

  - (i) as a statutory tenant within the meaning of the Rent (Scotland) Act 1984; or
  - (ii) under a contract to which Part VII of that Act applies or would apply if the contract or dwelling-house were not excluded by section 63(3) to (5) or under section 64(3) respectively of that Act; and]

- [<sup>F19</sup>(bb) a right to occupy the dwelling as a statutory assured tenant within the meaning of the Housing (Scotland) Act 1988;]
- (c) a right to occupy the dwelling under a contract of employment.

<sup>F20</sup>(5) . . . . .

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- (6) Where an authority possessing compulsory purchase powers acquire the interest of any person in a dwelling by agreement, then, in relation to any other person who is displaced from the dwelling in consequence of the acquisition, subsections (1) to (4) above shall have effect as if the acquisition were compulsory and the authority (if not authorised to acquire the interest compulsorily) had been so authorised on the date of the agreement.
- (7) In this section “a housing order, resolution or undertaking” means—
- (a) a demolition or closing order under Part [F21 VI] of the Housing (Scotland) Act [F21 1987] [F22 or [F23 an HRA designation order under section 1 of the Housing (Scotland) Act 2006 (asp 1)]] ;
  - (b) a resolution under section [F24 125] of the said Act . . . F25 [F26 of 1987] ; . . . F27
  - (c) an undertaking accepted under section [F28 117(2)(a)] of the said Act . . . F29 [F26 of 1987] ; [F30 or
  - [F31 (d) a work notice under section 30 of the said Act of 2006.]
- F32 . . .

[ In this section  
F33 (7A) “improvement” includes alteration and enlargement; and “redevelopment” includes a change of use]

- (8) Where an interest in a dwelling is vested in trustees and a person beneficially entitled (whether directly or derivatively) under the trust is entitled or permitted by reason of his interest to occupy the dwelling, he shall be treated for the purposes of this section as occupying it by virtue of an interest in the dwelling.
- (9) [F34 Subject to subsection (2) above,] this section applies if the date of displacement is on or after 17th October 1972 [F35 except that, where the displacement is in consequence of the circumstances referred to in subsection (1)(e) above, it applies if the date of displacement is on or after the coming into force of paragraph 12 of Schedule 2 to the M2 Housing (Financial Provisions) (Scotland) Act 1978.]

#### Textual Amendments

- F1** Words inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 42(1)(a)**
- F2** S. 27(1)(d) substituted by [Housing Rents and Subsidies \(Scotland\) Act 1975 \(c. 28\)](#), **Sch. 3 para. 9(1)**
- F3** S. 27(1)(e) inserted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\)](#), **Sch. 2 para. 12(a)(i)**
- F4** Words in s. 27(1)(e) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **sch. 6 para. 7(2)(a)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F5** Words in s. 27(1)(e) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **sch. 6 para. 7(2)(b)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F6** S. 27(1)(f) inserted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), s. 20(2)(a)
- F7** Words in s. 27(1)(f) substituted (30.9.2002) by [2001 asp 10](#), s. 112, **Sch. 10 para. 3(a)**; S.S.I. 2002/321, art. 2, **Sch.** (subject to transitional provisions and savings in arts. 3-5)
- F8** Paras. (i) to (iv) substituted for words by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 42(1)(b)**
- F9** Words in s. 27(1)(ii) and 'and' following para. (iii) repealed (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(2), **Sch. 2 Pt. II**) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, 84(6), **Sch. 17, Pt. II, para. 20(2)**, **Sch. 19, Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F10** Word after s. 27(1)(iv) inserted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(2), **Sch. 2, Pt. II**) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, **Sch. 17, Pt. II, para. 20(2)(c)** (with s. 84(5)); S.I. 1991/2092, **art. 3**

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- F11** Para. (v) added by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 12(a)(ii)**
- F12** S. 27(1)(vi) inserted by Housing (Scotland) Act 1986 (c. 65, SIF 61), **s. 20(2)(b)**
- F13** S. 27(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), **s. 71(1)(9)** (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F14** S. 27(3A) inserted by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 42(2)**
- F15** Word inserted by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 12(b)(i)**
- F16** Words inserted by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 12(b)(ii)**
- F17** Words added by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 12(b)(iii)**
- F18** S. 27(4)(b) substituted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(2), Sch. 2, Pt. II) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 79, **Sch. 17**, Pt. II, para. 20(3) (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F19** S. 27(4)(bb) inserted by Housing (Scotland) Act 1988 (c. 43, SIF 61), s. 72(2), **Sch. 9 para. 1**
- F20** S. 27(5) repealed (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(2), **Sch. 2**, Pt. II) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), ss. 71(2)(9), 84(6), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F21** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(2)**
- F22** Words added by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), **Sch. 2 para. 39**
- F23** Words in s. 27(7)(a) substituted (1.4.2009) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), **sch. 6 para. 3(a)** (with s. 193); S.S.I. 2009/122, art. 3 (with art. 7)
- F24** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(2)(b)**
- F25** Words repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(2)(b)**
- F26** Words in s. 27(7)(b)(c) inserted (1.4.2009) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), **sch. 6 para. 3(b)** (with s. 193); S.S.I. 2009/122, art. 3 (with art. 7)
- F27** Word repealed by Housing (Scotland) Act 1974 (c. 45), **Sch. 5**
- F28** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(2)(c)**
- F29** Words repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(2)(c)**
- F30** S. 27(7)(d) inserted by Housing (Scotland) Act 1974 (c. 45, SIF 61), **Sch. 3 para. 48**
- F31** S. 27(7)(d) substituted (1.4.2009) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), **sch. 6 para. 3(c)** (with s. 193); S.S.I. 2009/122, art. 3 (with art. 7)
- F32** Words repealed by Housing Act 1974 (c. 44), s. 130, **Sch. 15**
- F33** S. 27(7A) inserted by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 42(3)**
- F34** Words inserted by Housing Rents and Subsidies (Scotland) Act 1975 (c. 28), **Sch. 3 para. 9(3)**
- F35** Words added by Housing (Financial Provisions) (Scotland) Act 1978 (c. 14, SIF 61), **Sch. 2 para. 12(c)**

#### Marginal Citations

- M1** 1959 c. 24.  
**M2** 1978 c. 14.

#### [27A] <sup>F36C</sup>Spouses having statutory occupancy rights. **S**

- (1) This section applies where, by reason of the entitlement of one spouse (“A”) to occupy a dwelling by virtue of an interest or right to which section 27 above applies, the other spouse (“B”) acquires occupancy rights (within the meaning of the <sup>M3</sup>Matrimonial Homes (Family Protection) (Scotland) Act 1981).
- (2) So long as—

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- (a) those occupancy rights continue;
- (b) B is in occupation of the dwelling and A is not; and
- (c) B is not, apart from this section, treated as occupying the dwelling by virtue of an interest or right to which that section applies,

B shall be treated for the purposes of that section as occupying the dwelling by virtue of such an interest (but not an owner's interest within the meaning of section 28 below).

- (3) References in this section to a dwelling include a reference to a substantial part of it.]

**Textual Amendments**

**F36** S. 27A inserted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2 Pt. II**) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 72 (with s. 84(5)); S.I. 1991/2092, art. 3

**Marginal Citations**

**M3** 1981 c. 59.

[28 <sup>F37</sup> **Amount of home loss payment.** **S**

- (1) In the case of a person who on the date of displacement is occupying, or is treated for the purposes of section 27 above as occupying, the dwelling by virtue of an interest in it which is an owner's interest, the amount of the home loss payment shall be 10 per cent. of the market value of his interest in the dwelling or, as the case may be, the interest in the dwelling vested in trustees, subject to a maximum of £15,000 and a minimum of £1,500.
- (2) In any other case, the amount of the home loss payment shall be £1,500.
- (3) For the purposes of this section and section 29 below the market value of an interest in a dwelling—
  - (a) in a case where the interest is compulsorily acquired, is the amount assessed for the purposes of the acquisition as the value of the interest; and
  - (b) in any other case, is the amount which, if the interest were being compulsorily acquired in pursuance of a notice to treat served on the date of displacement, would be assessed for the purposes of the acquisition as the value of the interest,and any dispute as to the amount referred to in paragraph (b) above shall be determined by the Lands Tribunal.
- (4) In determining for the purposes of this section and section 29 below the market value of an interest in a dwelling, the dwelling shall be taken to include any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that dwelling.
- (5) The Secretary of State may from time to time by regulations prescribe a different maximum or minimum for the purposes of subsection (1) above and a different amount for the purposes of subsection (2) above.
- (6) The power to make regulations under subsection (5) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section "owner's interest" means the interest of a person who is an owner as defined in section 45(1) of the Land Compensation (Scotland) Act 1963.]

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### Textual Amendments

**F37** S. 28 substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 71\(3\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2092](#), [art.3](#)

## 29 Supplementary provisions about home loss payments. **S**

- [<sup>F38</sup>(1) No home loss payment or discretionary payment shall be made except on a claim in writing made by the person entitled thereto (“the claimant”) giving such particulars as the authority responsible for making the payment may reasonably require for the purpose of determining whether the payment should be made and, if so, its amount.
- (2) Where a person is entitled to a home loss payment, the payment shall be made on or before the latest of the following dates—
- (a) the date of displacement;
  - (b) the last day of the period of three months beginning with the making of the claim; and
  - (c) where the amount of the payment is to be determined in accordance with section 28(1) above, the day on which the market value of the interest in question is agreed or finally determined.
- (2A) Where the amount of the payment is to be determined in accordance with section 28(1) above—
- (a) the acquiring authority may at any time make a payment in advance; and
  - (b) if, on the later of the dates referred to in subsection (2)(a) and (b) above, the market value of the interest in question has not been agreed or finally determined, the acquiring authority shall make a payment in advance (where they have not already done so).
- (2B) The amount of the payment in advance shall be the lesser of—
- (a) the maximum amount for the purposes of section 28(1) above,
  - (b) 10 per cent. of the amount agreed to be the market value of the interest in question or, if there is no such agreement, 10 per cent. of the acquiring authority’s estimate of that amount.
- (2C) Where the amount of a payment in advance differs from the amount of the home loss payment, the shortfall or excess shall be paid by or, as the case may be, repaid to the acquiring authority when the market value of the interest in question is agreed or finally determined.
- (3) Where the claimant has satisfied, throughout any period, the conditions mentioned in section 27(2) above, that period shall be treated for the purposes of that subsection as including any immediately preceding period throughout which—
- (a) he has resided in the dwelling as his only or main residence but without satisfying those conditions, and
  - (b) another person or other persons have satisfied those conditions,
- and references in this subsection and subsection (3A) below to a dwelling include a reference to a substantial part of it.
- (3A) Where the claimant has satisfied, throughout any period, the conditions mentioned in section 27(2) above, that period (or that period as extended under subsection (3) above) shall be treated for the purposes of section 27(2) above as including any immediately

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preceding period, or successive periods, throughout which he satisfied the conditions mentioned in section 27(2) above in relation to another dwelling or, as the case may be, other dwellings (applying subsection (3) above to determine the length of any period or periods).]

- (4) [<sup>F39</sup>Where a person (“the deceased”) entitled to a home loss payment dies without having claimed it, a claim to the payment may be made] by any person, not being a person under the age of eighteen, who—
- (a) throughout a period of not less than [<sup>F40</sup>one year] ending with the date of displacement of the deceased, has resided in the dwelling, or a substantial part of it, as his only or main residence; and
  - (b) is entitled to benefit by virtue of—
    - (i) a testamentary disposition or any other deed with testamentary effect taking effect on, or the law of intestate succession as applied to, the death of the deceased; or
    - (ii) a right to *jus relictii*, *jus relictiae* or *legitim* out of the deceased’s estate.
- (5) Where the claimant has successively been in occupation of or resided in different dwellings in the same building, being dwellings consisting of a room or rooms not constructed or structurally adapted for use as a separate dwelling, section 27(2) above and subsections [<sup>F41</sup>(3) to (4)] above shall have effect as if those dwellings were the same dwelling.
- (6) Where there are two or more persons entitled to make a claim to a home loss payment in respect of the same dwelling (whether by virtue of joint occupation or of subsection (4) above) the payment to be made on each claim shall be equal to the whole amount of the home loss payment divided by the number of such persons.
- (7) Where an interest in a dwelling is acquired by agreement by an authority possessing compulsory purchase powers, the authority may, in connection with the acquisition, make to the person from whom the interest is acquired a payment corresponding to any home loss payment [<sup>F42</sup>or discretionary payment] which they would be required [<sup>F42</sup>or authorised] to make to him if the acquisition were compulsory and the authority had been authorised to acquire that interest before he gave up occupation of the dwelling.

[<sup>F43</sup>(7A) Section 6 of the Prescription and Limitation (Scotland) Act 1973 (extinction of obligations by prescriptive periods of five years) shall apply to an obligation to make a home loss payment, and in relation to such obligation the appropriate date for the purposes of subsection (1) of the said section 6 shall be the date of displacement.]

[<sup>F44</sup>(7AA) If a landlord recovers possession of a dwelling by agreement—

- (a) after serving notice under section [<sup>F45</sup>14 of the Housing (Scotland) Act 2001 (asp 10) on the tenant specifying the ground set out in paragraph 10 of schedule 2] to that Act; or
- (b) where, but for that agreement, it would have served such notice on him specifying that ground,

it may, in connection with the recovery, make to him a payment corresponding to any home loss payment [<sup>F42</sup>or discretionary payment] which it would be required [<sup>F42</sup>or authorised] to make to him if the recovery were by order under section [<sup>F46</sup>16(2)] of that Act.]

- (8) . . . . . <sup>F47</sup>



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### Textual Amendments

- F38** S. 29(1)-(3A) substituted (25.9.1991) for s. 29(1)-(3) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 71\(4\)\(9\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F39** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [s. 114\(3\)\(6\)](#) except in cases where the date of displacement was more than 6 months before 13.11.1980
- F40** Words in s. 29(4) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 71\(5\)\(9\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F41** Words in s. 29(5) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 71\(6\)\(9\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F42** Words in s. 29(7)(7AA) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), [s. 71\(7\)\(9\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F43** S. 29(7A) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [s. 114\(5\)\(6\)](#) except in cases where the date of displacement was more than 6 months before 13.11.1980
- F44** S. 29(7AA) inserted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), [s. 20\(3\)](#)
- F45** Words in s. 29(7AA) substituted (30.9.2002) by 2001 asp 10, s. 112, [Sch. 10 para. 3\(b\)\(i\)](#); S.S.I. 2002/321, [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in arts. 3-5)
- F46** Word in s. 29(7AA) substituted (30.9.2002) by 2001 asp 10, s. 112, [Sch. 10 para. 3\(b\)\(ii\)](#); S.S.I. 2002/321, [art. 2](#), [Sch.](#) (subject to transitional provisions and savings in arts. 3-5)
- F47** S. 29(8) repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 34 Pt. XII](#)

## 30 Home loss payments for certain caravan dwellers. **S**

- (1) Sections 27 to 29 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 they have effect in relation to a person displaced from a dwelling on any land but shall so have effect subject to the following modifications.
- (2) No home loss payment [<sup>F48</sup>or discretionary payment] shall be made to any person by virtue of this section except where no suitable alternative site for stationing a caravan is available to him on reasonable terms.
- (3) Subsection (1) of section 27 above shall have effect 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 subsection (2) of that section shall have effect as if for paragraphs (a) and (b) there were substituted—
- <sup>F49</sup>(a) he has been in occupation of the caravan site by using a caravan stationed on it as his only or main residence; and
- (b) he has been in such occupation of the site by virtue of an interest or right to which this section applies”
- [<sup>F50</sup>(4) Section 28 above shall have effect as if the references to a person occupying a dwelling by virtue of an interest in it and to his interest in the dwelling were to a person occupying a caravan site by virtue of an interest in it and to that interest.]
- (5) Section 29 above shall have effect—
- [<sup>F51</sup>(a) as if in subsections (3) and (3A) the references to a dwelling were to a caravan site;]
- (b) as if in subsection (4) for the words “resided in the dwelling, or a substantial part of it” there were substituted the words “resided in a caravan on the caravan site”; and
- (c) as if for subsection (5) there were substituted—



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- “(5) Where any land comprises two or more caravan sites and the claimant has successively been in occupation of or resided in a caravan on different caravan sites on that land, section 27(2) above and subsections [F52(3) to (4)] above shall have effect as if those sites were the same site”.
- (6) Sections 27 to 29 above shall have effect as if in any provision not modified as aforesaid for any reference to a dwelling or land there were substituted a reference to a caravan site.
- (7) In this section “caravan site” means land on which a caravan is stationed for the purpose of human habitation and land which is used in conjunction with land on which a caravan is so stationed.

#### Textual Amendments

- F48** Words in s. 30(2) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 71(8)(a)(9) (with s. 84(5)); S.I. 1991/2092, art. 3
- F49** Words in s. 30(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 71(8)(b)(9) (with s. 84(5)); S.I. 1991/2092, art. 3
- F50** S. 30(4) (which was repealed (1.4.1989) by S.I. 1989/47, reg. 3) is expressed to be substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 71(8)(c)(9) (with s. 84(5)); S.I. 1991/2092, art. 3
- F51** S. 30(5)(a) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 71(8)(d)(9) (with s. 84(5)); S.I. 1991/2092, art. 3
- F52** Words in s. 30(5)(c) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 71(8)(9) (with s. 84(5)); S.I. 1991/2092, art. 3

### *Farm loss payments*

## **31 Right to farm loss payment where person displaced from agricultural unit. S**

- (1) Where land constituting or included in an agricultural unit is land in respect of which the person in occupation of the unit has an owner’s interest, then if—
- <sup>F53</sup>(a) in consequence of the compulsory acquisition of his interest in the whole, or a sufficient part, of that land, he is displaced from the land acquired;
- (b) not more than three years after the date of displacement he begins to farm another agricultural unit (“the new unit”) elsewhere in Great Britain,
- he shall, subject to the provisions of this section and section 33 below, be entitled to receive a payment (hereafter referred to as a “farm loss payment”) from the acquiring authority.
- (2) In subsection (1) above “owner’s interest” means the interest of an owner or a lessee under a lease [<sup>F54</sup>where his interest is as a lessee for a year or from year to year or a greater interest,], or the interest of a crofter or a landholder [<sup>F55</sup>, and “sufficient part” means not less than 0.5 hectares or such other area as the Secretary of State may by order specify].

<sup>F56</sup>[(2A) The power to make an order under subsection (2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

*Changes to legislation: There are currently no known outstanding effects for the  
 Land Compensation (Scotland) Act 1973, Part III. (See end of Document for details)*

(3) For the purposes of this section a person is displaced from land in consequence of the compulsory acquisition of his interest therein if, and only if, he gives up possession thereof—

- (a) on being required to do so by the acquiring authority [<sup>F57</sup>or on any date after the making or confirmation of the compulsory purchase order but before being required to do so by the acquiring authority];
- (b) on completion of the acquisition; or
- [<sup>F58</sup>(c) where the acquiring authority permit him to remain in possession of the land under a lease, or a right or permission relating to land but not amounting to an estate or interest therein, of a kind not making him—
  - (i) where the owner’s interest for the purposes of subsections (1) and (2) above was that of tenant under a lease constituting a short limited duration tenancy [<sup>F59</sup>, a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy] within the meaning of the [Agricultural Holdings \(Scotland\) Act 2003 \(asp 11\)](#), a tenant of such a tenancy with a duration not less than that of the unexpired term of the tenancy which constituted the owner’s interest as at the date on which he gave up possession; or
  - (ii) in any other case, a tenant of a lease constituting a 1991 Act tenancy within the meaning of that Act,]

and references in this section and section 32 below to the date of displacement are references to the date on which the person concerned gives up possession as aforesaid.

(4) No farm loss payment shall be made to any person unless on the date on which he begins to farm the new unit he is in occupation of the whole of that unit in right of an interest as owner thereof or a lease thereof, not having been entitled to any such interest or lease before the date on which the acquiring authority were authorised to acquire his interest in the land acquired.

(5) No farm loss payment shall be made by virtue of the displacement of a person from any land if he is entitled to a payment under section 12 of the <sup>M4</sup>Agriculture (Miscellaneous Provisions) Act 1968 in consequence of the acquisition of an interest in, or the taking of possession of, that land.

<sup>F60</sup>(6) .....

(7) This section applies if the date of displacement is on or after 17th October 1972.

#### Textual Amendments

- F53** S. 31(1)(a) substituted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt.1) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, **Sch. 17**, Pt. I, para. 14(2) (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F54** Words in s. 31(2) substituted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt. I) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, **Sch. 17**, Pt. I, para. 14(3)(a) (with s. 84(5)); S.I. 1991/2092, **art.3**
- F55** Words in s. 31(2) inserted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt. I) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, **Sch. 17**, Pt. I, para. 14(3)(b) (with s. 84(5)); S.I. 1991/2092, **art.3**
- F56** S. 31(2A) inserted (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt. I) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 79, **Sch. 17**, Pt. I, para. 14(4) (with s. 84(5)); S.I. 1991/2092, **art. 3**

*Changes to legislation: There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Part III. (See end of Document for details)*

- F57** Words in s. 31(3)(a) added (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt. 1) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 79, **Sch. 17**, Pt. I para. 14(5) (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F58** S. 31(3)(c) substituted (27.11.2003) by The Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003 (S.S.I. 2003/583), art. 1, **sch. para. 8(a)**
- F59** Words in s. 31(3)(c)(i) substituted (30.11.2017) by The Land Reform (Scotland) Act 2016 (Supplementary, Consequential, Transitory and Saving Provisions) Regulations 2017 (S.S.I. 2017/416), reg. 1(1), **sch. 1 para. 2(2)** (with sch. 2 para. 2(a))
- F60** S. 31(6) repealed (25.9.1991) (subject to limitation referred to in S.I. 1991/2092, art. 4(1), **Sch. 2**, Pt. I) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), ss. 79, 84(6), **Sch. 17**, Pt. I, para. 14(6), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art. 3**

#### Marginal Citations

- M4** 1968 c. 34.

## 32 Amount of farm loss payment. **S**

- (1) Subject to the provisions of this section, the amount of any farm loss payment shall be equal to the average annual profit derived from the use for agricultural purposes of the agricultural land comprised in the land acquired; and that profit shall be computed by reference to the profits for the three years ending with the date of displacement or, if the person concerned has then been in occupation for a shorter period, that period.
- (2) Where accounts have been made up in respect of the profits of the person concerned for a period or consecutive periods of twelve months and that period or the last of them ends not more than one year before the date of displacement, subsection (1) above shall have effect as if the date on which that period or the last of those periods ends were the date of the displacement.
- (3) Where the date of displacement is determined in accordance with section 31(3)(c) above and the person concerned has on that date been in occupation for more than three years, he may elect that the average annual profit shall, instead of being computed by reference to the profits for the years mentioned in subsection (1) above, be computed by reference to the profits for—
  - (a) any three consecutive periods of twelve months for which accounts in respect of his profits have been made up, being periods for which he has been in occupation and the last of which ends on or after the date of completion of the acquisition; or
  - (b) if there are no such periods as aforesaid, any three consecutive years for which he has been in occupation and the last of which ends on or after the date mentioned in paragraph (a) above.
- (4) In calculating the profits mentioned in subsection (1) above there shall be deducted a sum equal to the rent that might reasonably be expected to be payable in respect of the agricultural land comprised in the land acquired if it were let for agricultural purposes to a tenant responsible for rates, repairs and other outgoings; and that deduction shall be made whether or not the land is in fact let and, if it is, shall be made to the exclusion of any deduction for the rent actually payable.
- (5) In calculating the profits mentioned in subsection (1) above there shall be left out of account profits from any activity if a sum in respect of loss of profits from that activity would fall to be included in the compensation, so far as attributable to disturbance, for the acquisition of the interest in the land acquired.

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*Changes to legislation: There are currently no known outstanding effects for the  
Land Compensation (Scotland) Act 1973, Part III. (See end of Document for details)*

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- (6) Where the value of the agricultural land comprised in the land acquired exceeds the value of the agricultural land comprised in the new unit the amount of the farm loss payment shall be proportionately reduced.
- (7) For the purposes of subsection (6) above the value of any land shall be assessed—
- (a) on the basis of its value as land used solely for agriculture and as for an interest as owner thereof with vacant possession;
  - (b) by reference to the condition of the land and its surroundings and to prices current—
    - (i) in the case of the land comprised in the land acquired, on the date of displacement;
    - (ii) in the case of land comprised in the new unit, on the date on which the person concerned begins to farm the new unit;
  - (c) in accordance with rules (2) to (4) of the rules set out in section 12 of the <sup>M5</sup>Land Compensation (Scotland) Act 1963;
  - (d) without regard to the principal dwelling, if any, comprised in the same agricultural unit as that land.
- (8) The amount of a farm loss payment shall not be greater than the amount, if any, by which—
- (a) that payment, calculated apart from this subsection, together with compensation for the acquisition of the interest in the land acquired assessed on the assumptions mentioned in section 5(2), (3) and (4) above, (including any sum included as compensation for disturbance), exceeds
  - (b) the compensation actually payable for the acquisition of that interest.
- (9) Any dispute as to the amount of a farm loss payment shall be referred to and determined by the Lands Tribunal.

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**Marginal Citations**

**M5** 1963 c. 51.

### 33 **Supplementary provisions about farm loss payments.** S

- (1) Subject to subsection (7) below, no farm loss payment shall be made except on a claim in that behalf made by the person entitled thereto before the expiration of the period of one year beginning with the date on which the requirement in section 31(1)(b) above is complied with, and any such claim shall be in writing and shall be accompanied or supplemented by such particulars as the acquiring authority may reasonably require to enable them to determine whether that person is entitled to a payment and, if so, its amount.
- (2) Where the agricultural unit containing the land acquired is occupied for the purposes of a partnership firm sections 31 and 32 above shall have effect in relation to the firm and not the partners individually (any interest of a partner in the land acquired being treated as an interest of the firm) except that the requirements in section 31 as to the new unit shall be treated as complied with in relation to the firm as soon as they are complied with by any one of the persons who were members of the firm.

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*Changes to legislation: There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Part III. (See end of Document for details)*

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- (3) Where a person dies before the expiration of the period for making a claim to a farm loss payment and would have been entitled to such a payment if he had made a claim within that period, a claim to that payment may be made, before the expiration of that period, by his personal representative.
- (4) Where an interest in land is acquired by agreement by an authority possessing compulsory purchase powers, the authority may, in connection with the acquisition, make to the person from whom the interest is acquired a payment corresponding to any farm loss payment which they would be required to make to him if the acquisition were compulsory and the authority (if not authorised to acquire the interest compulsorily) had been so authorised on the date of the agreement.
- (5) Where a farm loss payment is made to any person the authority making the payment shall also pay any reasonable valuation or legal expenses incurred by that person for the purposes of the preparation and prosecution of his claim to the payment; but this subsection is without prejudice to the powers of the Lands Tribunal in respect of the expenses of proceedings before the Tribunal by virtue of section 32(9) above.
- (6) A farm loss payment shall carry interest, at the rate for the time being prescribed under section 40 of the <sup>M6</sup>Land Compensation (Scotland) Act 1963, from the date mentioned in subsection (1) above until payment.
- (7) Where the date mentioned in subsection (1) above is before 23rd May 1973 the period within which a claim to a farm loss payment can be made shall be the period of one year beginning with 23rd May 1973.

**Marginal Citations**

**M6** 1963 c. 51.

*Disturbance payments*

**34 Disturbance payments for persons without compensatable interests. S**

- (1) Where a person is displaced from 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 [<sup>F61</sup>any improvement to a house or building on the land or of] redevelopment on the land,
  - [<sup>F62</sup>(d) the carrying out of any improvement to a house or building on the land or of redevelopment on the land by a housing association which has previously acquired the land and at the date of the displacement is registered,]
  - [<sup>F63</sup>(e) a requirement to remove from a building on the land in pursuance of [<sup>F64</sup>section 29] of the <sup>M7</sup>Building (Scotland) Act [<sup>F65</sup>2003 (asp 8)] (dangerous buildings) or any other enactment which requires the demolition of the building on account of its condition,]

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*Changes to legislation: There are currently no known outstanding effects for the  
Land Compensation (Scotland) Act 1973, Part III. (See end of Document for details)*

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he shall, subject to the provisions of this section, be entitled to receive a payment (hereafter referred to as a “disturbance payment”) from

- [<sup>F66</sup>(i) where paragraph (a) above applies, the acquiring authority;
- (ii) where paragraph (b) above applies, the authority who made the order, passed the resolution or accepted the undertaking;
- (iii) where paragraph (c) above applies, the authority carrying out the improvement or redevelopment; and
- (iv) where paragraph (d) above applies; the housing association carrying out the improvement or redevelopment.]
- [<sup>F67</sup>(v) where paragraph (e) above applies; the authority requiring the removal]

(2) A person shall not be entitled to a disturbance payment—

- (a) in any case, unless he is in lawful possession of the land from which he is displaced;
- (b) in a case within subsection (1)(a) above, unless either—
  - (i) he has no interest in the land for the acquisition or extinguishment of which he is (or if the acquisition or extinguishment were compulsory would be) entitled to compensation under any other enactment; or
  - (ii) he has such an interest as aforesaid but the compensation is subject to a site value provision and he is not (or if the acquisition were compulsory would not be) entitled in respect of that acquisition to an owner-occupier’s supplement;
- (c) in a case within subsection (1)(b) above, if he is entitled to an owner-occupier’s supplement by reference to the order, resolution or undertaking.
- [<sup>F68</sup>(d) in a case within subsection (1)(d) above, unless the <sup>M8</sup>displacement occurred on or after 31st July 1974 (on which date the Housing Act 1974 was passed).]

In this subsection “site value provision” means [<sup>F69</sup>section 121 <sup>F70</sup>... the Housing (Scotland) Act 1987 and “owner occupier’s supplement” means a payment under sections 308 to 311 of that Act.]

(3) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of any such acquisition [<sup>F71</sup>improvement or redevelopment as is mentioned in paragraph (a), (c) or (d)] of that subsection unless he was in lawful possession of the land—

- (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 compulsory purchase 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 that 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 [<sup>F72</sup>undertaking or requirement to remove as is mentioned in paragraph (b) or (c)] of that subsection unless he was in lawful possession as aforesaid at the time when the order was made, the resolution was passed [<sup>F72</sup>the undertaking was accepted or he was required to remove.]



*Changes to legislation: There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Part III. (See end of Document for details)*

- [<sup>F73</sup>(3) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of [<sup>F74</sup>(a)] the carrying out of any improvement to a house or building [<sup>F75</sup>or; (a) a requirement to remove as mentioned in subsection (1)(e) above] unless he is permanently displaced in consequence of the carrying out of the improvement in question][<sup>F76</sup>or removal as the case may be.]
- (4) Where a person is displaced from any land as mentioned in subsection (1) above but is not entitled, as against the authority there mentioned, to a disturbance payment or to compensation for disturbance under any other enactment, the authority may, if they think fit, make a payment to him determined in accordance with section 35(1) to (3) below.
- (5) A disturbance payment shall carry interest, at the rate for the time being prescribed under section 40 of the <sup>M9</sup>Land Compensation (Scotland) Act 1963, from the date of displacement until payment.
- (6) This section does not apply to any land which is used for the purposes of agriculture.
- (7) In section 71(4) of the <sup>M10</sup>Housing (Financial Provisions)(Scotland) Act 1972 (financial assistance towards tenants' removal expenses) for the words from "160" to the end there shall be substituted the words " 34 of the Land Compensation (Scotland) Act 1973 (disturbance payments for persons without compensatable interests) ".
- (8) In this section "a housing order, resolution or undertaking"[<sup>F77</sup>"improvement"] and "redevelopment" have the same meaning as in section 27 above.
- (9) [<sup>F78</sup>Subject to subsection (2)(d) above,] this section applies if the date of displacement is on or after 17th October 1972 [<sup>F79</sup>except that, where the displacement is in consequence of the circumstances referred to in subsection (1)(e) above, it applies if the date of displacement is on or after the coming into force of paragraph 13 of Schedule 2 to the <sup>M11</sup>Housing (Financial Provisions) (Scotland) Act 1978.]

#### Textual Amendments

- F61** Words inserted by [Housing Act 1974 \(c. 44\)](#), s. 30, **Sch. 13 para. 43(1)(a)**
- F62** S. 34(1)(d) substituted by [Housing Rents and Subsidies \(Scotland\) Act 1975 \(c. 28\)](#), **Sch. 3 para. 10(1)**
- F63** S. 34(1)(e) inserted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\)](#), **Sch. 2 para. 13(a)(i)**
- F64** Words in s. 34(1)(e) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **sch. 6 para. 7(3)(a)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F65** Words in s. 34(1)(e) substituted (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **sch. 6 para. 7(3)(b)** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F66** Paras. (i) to (iv) substituted for words by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 43(1)(c)**
- F67** Para. (v) added by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\)](#), **Sch. 2 para. 13(a)(ii)**
- F68** S. 34(2)(d) added by [Housing Rents and Subsidies \(Scotland\) Act 1975 \(c. 28\)](#), **Sch. 3 para. 10(2)**
- F69** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 19(4)**
- F70** Words in s. 34(2) 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
- F71** Words substituted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 43(2)**
- F72** Words substituted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\)](#), **Sch. 2 para. 13(b)**
- F73** S. 34(3) inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 43(3)**
- F74** Word inserted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\)](#), **Sch. 2 para. 13(c)(i)**



*Changes to legislation: There are currently no known outstanding effects for the  
 Land Compensation (Scotland) Act 1973, Part III. (See end of Document for details)*

- F75** Words inserted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\), Sch. 2 para. 13\(c\)\(ii\)](#)  
**F76** Words added by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\), Sch. 2 para. 13\(c\)\(iii\)](#)  
**F77** Word inserted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 43\(4\)](#)  
**F78** Words inserted by [Housing Rents and Subsidies \(Scotland\) Act 1975 \(c. 28\), Sch. 3 para. 10\(3\)](#)  
**F79** Words added by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\), Sch. 2 para. 13\(d\)](#)

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

- C2** S. 34(3)(a) applied with modifications by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8\), s. 1, Sch. 2 para. 1](#)  
**C3** The text of Ss. 18(10), 34(7), 61, 62, 71(2)(3)(4), 72, 77(2)(3), Sch.2 pt.1 and pt.II 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.

**Marginal Citations**

- M7** 1959 c. 24.  
**M8** 1974 c. 44.  
**M9** 1963 c. 51.  
**M10** 1972 c. 46.  
**M11** 1978 c. 14.

**35 Amount of disturbance payment. S**

- (1) The amount of a disturbance payment shall be equal to—
- (a) the reasonable expenses of the person entitled to the payment in removing from the land from which he is displaced; and
  - (b) if he was carrying on a trade or business on that land, the loss he will sustain by reason of the disturbance of that trade or business consequent upon his having to quit the land.

- (2) In estimating the loss of any person for the purposes of subsection (1)(b) above, regard shall be had to the period for which the land occupied by him may reasonably have been expected to be available for the purposes of his trade or business and to the availability of other land suitable for that purpose.

This subsection has effect subject to section 43(7) below.

- (3) Where the displacement is from a dwelling in respect of which structural modifications have been made for meeting the special needs of a disabled person (whether or not the person entitled to the disturbance payment) then, if—
- (a) a local authority having duties under section 12 of the <sup>M12</sup>Social Work (Scotland) Act 1968 [<sup>F80</sup>or section 23 of the Children (Scotland) Act 1995], provided assistance, or
  - (b) such an authority would, if an application had been made, have provided assistance,

for making those modifications, the amount of the disturbance payment shall include an amount equal to any reasonable expenses incurred by the person entitled to the payment in making, in respect of a dwelling to which the disabled person removes, comparable modifications which are reasonably required for meeting the disabled person's special needs.

- (4) Any dispute as to the amount of a disturbance payment shall be referred to and determined by the Lands Tribunal.

*Changes to legislation:* There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Part III. (See end of Document for details)

#### Textual Amendments

**F80** Words in s. 35(3)(a) inserted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 21(2)** (with Sch. 3 paras. 4, 6); S.I. 1996/3201, **art. 3(7)**

#### Marginal Citations

**M12** 1968 c. 49.

### Rehousing

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

- (1) Where a person is displaced from residential accommodation on any land in consequence of—
- the acquisition of the land by an authority possessing compulsory purchase powers;
  - the making, passing or acceptance of a housing order, resolution or undertaking in respect of a house or building on the land;
  - 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 <sup>F81</sup>any improvement to a house or building on the land or of] redevelopment on the land,
  - <sup>F82</sup>(d) a requirement to remove the building containing the residential accommodation in pursuance of <sup>F83</sup>section 29] of the <sup>M13</sup>Building (Scotland) Act <sup>F84</sup>[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 <sup>F85</sup>[section 100 of the Town and Country Planning (Scotland) Act 1997].
- (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 <sup>F86</sup>[or improvement].
- (4) Subsection (1) above shall not apply to any person to whom money has been advanced—
- under section 38 below;
  - under the Small Dwellings Acquisition (Scotland) Acts 1899 to 1923 or section 49 of the <sup>M14</sup>Housing (Financial Provisions) (Scotland) Act 1968 <sup>F87</sup>...; or
  - 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.

*Changes to legislation: There are currently no known outstanding effects for the  
 Land Compensation (Scotland) Act 1973, Part III. (See end of Document for details)*

- (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 <sup>M15</sup>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 [<sup>F88</sup>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 [<sup>F89</sup>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 [<sup>F89</sup>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 [<sup>F90</sup>I] of the <sup>M16</sup>Housing (Scotland) Act [<sup>F90</sup>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” [<sup>F91</sup>“improvement”] and “redevelopment” have the same meaning as in section 27 above.

#### Textual Amendments

- F81** Words inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 44(1)**
- F82** S. 36(1)(d) inserted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\)](#), **Sch. 2 para. 14(a)**
- F83** 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)
- F84** 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)
- F85** Words in s. 26(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 21(4)**
- F86** Words added by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 44(2)**
- F87** 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
- F88** Word inserted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 44(3)**
- F89** Words substituted by [Housing \(Financial Provisions\) \(Scotland\) Act 1978 \(c. 14\)](#), **Sch. 2 para. 14(b)**

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**F90** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 19(5)(b)**

**F91** Word inserted by Housing Act 1974 (c. 44), s. 130, **Sch. 13 para. 44(4)**

#### Marginal Citations

**M13** 1959 c. 24.

**M14** 1968 c. 31.

**M15** 1966 c. 49.

**M16** 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.

### 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.

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- (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 [<sup>F92M17</sup>Housing (Scotland) Act [<sup>F93</sup>1987] by section [<sup>F93</sup>86]] 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 <sup>M18</sup>Crofters (Scotland) Acts 1955 <sup>M19</sup> and 1961 or the Small Landholders (Scotland) Acts 1886 to 1931 apply; or
  - (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**

**F92** Words substituted by [Housing \(Scotland\) Act 1974 \(c. 45\), s. 50, Sch. 3 para. 50](#)

**F93** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\), ss. 335, 339\(2\), Sch. 23 para. 19\(6\)](#)

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#### Marginal Citations

- M17 1987 c. 45.
- M18 1955 c. 21.
- M19 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 [F94I] of the <sup>M20</sup>Housing (Scotland) Act [F94 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 [F94I] 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 [F94I] 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—
  - (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—



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- (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 [F95(Scotland) Act 1987].

#### Textual Amendments

**F94** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 19(7)(a)**

**F95** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 19(7)(b)**

#### Marginal Citations

**M20** 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 [F96]any 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,
- [F96]then, 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.
- (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 [F97]any provision of subsection (1)] of that section as applied thereby.

#### Textual Amendments

**F96** Words substituted by [Housing Act 1974 \(c. 44\)](#), s. 130, **Sch. 13 para. 45(1)**



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**F97** Words substituted by [Housing Act 1974 \(c. 44\), s. 130, Sch. 13 para. 45\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Part III.