



Land Compensation (Scotland) Act 1973

1973 CHAPTER 56

PART IV

COMPULSORY PURCHASE

Assessment of compensation

43 Compensation for disturbance where business carried on by person over sixty.

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

the compensation payable to that person in respect of the compulsory acquisition of his interest in the land or, as the case may be, under section 114 of the^{M1}Lands Clauses Consolidation (Scotland) Act 1845 (tenants from year to year etc.) shall, so far as attributable to disturbance, be assessed on the assumption that it is not reasonably practicable for that person to carry on the trade or business or, as the case may be, the part thereof the goodwill of which he has retained, elsewhere than on that land.

- (2) In subsection (1) above “the prescribed amount” means the amount which on the date mentioned in that subsection is the amount prescribed for the purposes of [F1section 100(3)(a) of the Town and Country (Scotland) Planning Act 1997] (interests qualifying for protection under planning blight provisions) and “annual value” and “hereditament” have the meanings given in [F1section 122] of that Act taking references to the date of service of a notice under [F1section 101] of that Act as references to the date mentioned in subsection (1) above.

Changes to legislation: There are currently no known outstanding effects for the Land Compensation (Scotland) Act 1973, Section 43. (See end of Document for details)

- (3) The undertakings to be given by the person claiming compensation are—
- (a) an undertaking that he will not dispose of the goodwill of the trade or business, or, as the case may be, of the part thereof the goodwill of which he has retained; and
 - (b) an undertaking that he will not, within such area and for such time as the acquiring authority may require, directly or indirectly engage in or have any interest in any other trade or business of the same or substantially the same kind as that carried on by him on the land acquired.
- (4) If an undertaking given by a person for the purposes of this section is broken the acquiring authority may recover from him an amount equal to the difference between the compensation paid and the compensation that would have been payable if it had been assessed without regard to the provisions of this section.
- (5) This section shall apply to a trade or business carried on by two or more persons in partnership as if references to the person by whom it is carried on were references to all the partners and as if the undertakings mentioned in subsection (3) above were required to be given by all the partners.
- (6) This section shall apply to a trade or business carried on by a company—
- (a) as if subsection (1)(a) above required—
 - (i) each shareholder, other than a minority shareholder, to be an individual who has attained the age of sixty on the date there mentioned; and
 - (ii) each minority shareholder to be an individual who either has attained that age on that date or is the spouse of a shareholder who has attained that age on that date; and
 - (b) as if the undertakings mentioned in subsection (3)(b) above were required to be given both by the company and by each shareholder.
- In this subsection “shareholder” means a person who is beneficially entitled to a share or shares in the company carrying voting rights and “minority shareholder” means a person who is so entitled to less than 50 per cent. of those shares.
- (7) This section shall apply in relation to any disturbance payment assessed in accordance with section 35(1)(b) above as it applies in relation to the compensation mentioned in subsection (1) above, and shall so apply subject to the necessary modifications and as if references to the giving up of possession of land to the acquiring authority in consequence of its compulsory acquisition were references to displacement as mentioned in section 34 above.

Textual Amendments

F1 Words in s. 43(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 21(5)**

Marginal Citations

M1 1845 c. 19.

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