



Land Compensation (Scotland) Act 1973

1973 CHAPTER 56

PART IV

COMPULSORY PURCHASE

Severance of land

50 Effect of counter-notice under section 49.

- (1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 49 above agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal; and on any such reference the Tribunal shall determine whether the claim in the counter-notice is justified and declare the counter-notice valid or invalid in accordance with its determination of that question.
- (2) Where a counter-notice is accepted as, or declared to be, valid under subsection (1) above the acquiring authority shall be deemed—
 - (a) to be authorised to acquire compulsorily, under the enactment by virtue of which they are empowered to acquire the land in respect of which the notice to treat was served, the claimant's interest in the land to which the requirement in the counter-notice relates; and
 - (b) to have served a notice to treat in respect of that land on the date on which the first-mentioned notice to treat was served.
- (3) A claimant may withdraw a counter-notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the counter-notice has been determined by the Lands Tribunal or at any time before the end of six weeks beginning with the date on which the compensation is so determined; and where a counter-notice is withdrawn by virtue of this subsection any notice to treat deemed to have been served in consequence thereof shall be deemed to have been withdrawn.
- (4) Without prejudice to subsection (3) above, the power conferred by section 39 of the ^{M1}Land Compensation (Scotland) Act 1963 to withdraw a notice to treat shall not be

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exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.

- (5) The compensation payable in respect of the acquisition of an interest in land in pursuance of a notice to treat deemed to have been served by virtue of this section shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) above.
- (6) Where by virtue of this section the acquiring authority become, or will become, entitled to a lease of any land but not to the interest of the lessor—
- (a) the authority shall offer to renounce the lease to the lessor on such terms as the authority consider reasonable;
 - (b) the question of what terms are reasonable may be referred to the Lands Tribunal by the authority or the lessor and, if at the expiration of three months after the date of the offer mentioned in paragraph (a) above, the authority and the lessor have not agreed on that question and that question has not been referred to the Tribunal by the lessor, it shall be so referred by the authority;
 - (c) if that question is referred to the Tribunal the lessor shall be deemed to have accepted the renunciation of the lease at the expiration of one month after the date of the determination of the Tribunal or on such other date as the Tribunal may direct and to have agreed with the authority on the terms of renunciation which the Tribunal has held to be reasonable.

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

- (7) Where the lessor refuses to accept any sum payable to him by virtue of subsection (6) above, or refuses or fails to make out his title to the satisfaction of the acquiring authority, they may pay into the Bank within the meaning of section 3 of the ^{M2}Lands Clauses Consolidation (Scotland) Act 1845 any sum payable to the lessor by virtue of that subsection; and the following provisions of the said Act of 1845 shall apply to that sum with the necessary modifications—
- (a) section 75 so far as it relates to the opening of an account,
 - (b) section 76 so far as it relates to the giving of a receipt,
 - (c) section 77,
 - (d) section 79.
- (8) Where an acquiring authority who become entitled to the lease of any land as mentioned in subsection (6) above are a body incorporated by or under any enactment the corporate powers of the authority shall, if they would not otherwise do so, include power to farm that land.

Marginal Citations

M1 1963 c. 51.

M2 1845 c. 19.

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