



Town and Country Planning (Scotland) Act 1947

1947 CHAPTER 53

PART V

PAYMENTS OUT OF CENTRAL FUNDS IN RESPECT OF DEPRECIATION OF LAND VALUES.

Payments for depreciation.

55 Payments for depreciation of land values.

- (1) Subject to the provisions of this Part of this Act, payments shall be made in accordance with a scheme to be made by the Treasury under this section, in respect of interests in land which are depreciated in value by virtue of the provisions of this Act. " " :
- (2) The aggregate amount of the payments to be made by virtue of this section shall be the amount apportioned to land in Scotland by order made by the Treasury under the Town and Country Planning Act, 1947, out of the sum of three hundred million pounds provided by that Act for making payments in respect of interests in land in Scotland and in England and Wales which are depreciated in value by virtue of the provisions of this Act or of that Act.
- (3) As soon as may be after they are sufficiently informed as to the development values of interests in land in respect of which claims are made for payments under this Part of this Act, the Treasury shall make a scheme providing for the distribution, as between those interests or such of them as may be prescribed by the scheme, of the sum apportioned as aforesaid to land in Scotland.
- (4) Without prejudice to the generality of the last foregoing subsection, any scheme made by the Treasury thereunder may provide for the ascertainment of the amount of the payments to be made under the scheme in respect of particular interests in land either by reference to the development values of those interests respectively or by reference to such other circumstances affecting those interests as may be prescribed by the scheme, or partly in the one way and partly in the other, and may contain such

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incidental and consequential provisions as appear to the Treasury to be necessary or expedient, including provision—

- (a) for applying, in relation to any payment made in accordance with the scheme, all or any of the provisions of sections twenty-four to twenty-six and twenty-eight to thirty of the War Damage Act, 1943 (which relate to the rights of heritable creditors and certain other persons as to payments for war damage) subject to such adaptations and modifications as may be prescribed by the scheme;
 - (b) for enabling any such payment falling to be made in respect of the interest of a vassal, or of an owner of land subject to a ground annual, or of a lessee under a lease, or any part of such a payment, to be made, in such cases and subject to such conditions as may be prescribed by the scheme, to the superior instead of to the vassal, or to the creditor in the ground annual instead of to the owner, or to the lessor instead of to the lessee, as the case may be, and for any consequential modifications of the liabilities of the vassal, the owner or the lessee, under the feu charter, the contract of ground annual or the lease, as the case may be;
 - (c) for the determination of questions arising under the scheme as to the right of any person to receive a payment, or any part of a payment, thereunder.
- (5) The power of the Treasury to make a scheme under this section shall include power to amend any such scheme by a subsequent scheme made thereunder.
- (6) A scheme made by the Treasury under this section shall be of no effect unless it is approved by resolution of each House of Parliament.

56 Additional payments in respect of certain war-damaged land.

- (1) Without prejudice to the provisions of the last foregoing section, the Treasury may make a scheme under this section providing for the making of payments of such amounts, in such cases, and subject to such conditions, as may be prescribed by the scheme, in respect of interests in land which are depreciated in value by virtue of the provisions of this Act, being land in the case of which it is shown—
- (a) that the land sustained war damage in such circumstances that the appropriate payment under the War Damage Act, 1943, in respect of a hereditament within the meaning of that Act which consists of or includes the whole or any part of the land is a value payment;
 - (b) that by reason of the prospects of development other than the making good of the war damage, the value of the hereditament in the state in which it was immediately after the occurrence of the damage is higher, and the amount of the value payment is accordingly lower, than it would be apart from the prospect of such development.
- (2) For the purposes of this section, a value payment shall be deemed to be the appropriate payment under the War Damage Act, 1943, in respect of a hereditament—
- (a) where such a payment would be appropriate thereunder, but no payment falls to be made because the value of the hereditament in the state in which it was immediately after the occurrence of the war damage is equal to or greater than its value in the state in which it was immediately before the occurrence of the damage; and

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- (b) where a value payment falls to be made under any provision of the said Act in substitution for a payment of cost of works which, but for that provision, would be the appropriate payment.
- (3) Any scheme made under this section may contain such incidental and consequential provisions as appear to the Treasury to be necessary or expedient, including provision for the matters specified in paragraphs (a) to (c) of subsection (4) of the last foregoing section.
- (4) Any scheme made under this section shall be laid before Parliament immediately after it is made, and if either House within the period of forty days after the scheme is so laid before it, resolves that the scheme be annulled, it shall thereupon cease to have effect, but Without prejudice to the validity of anything previously done thereunder or to the making of a new scheme.
- (5) In reckoning for the purposes of the last foregoing subsection any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

57 Establishment of claims for payments.

- (1) Any claim for a payment under a scheme made under this Part of this Act shall be made to the Central Land Board in such manner, within such period, and accompanied by such particulars and verified by such evidence, as may be prescribed by regulations made for the purposes of this section, or as may be required by the Board in accordance with such regulations.
- (2) Provision may be made by regulations under this Act for regulating the making of claims for payments under a scheme made under this Part of this Act and for the ascertainment, in the case of interests in land in respect of which claims are so made, of the development values of those interests and of such other particulars as may be required for the purposes of the preparation of a scheme under section fifty-five of this Act or for the purposes of a scheme made under the last foregoing section; and without prejudice to the generality of the foregoing provision, such regulations may provide—
 - (a) for requiring the development values of interests in land to be determined by such authority, in such manner and within such period as may be prescribed by the regulations, and for the settlement of any dispute arising in relation to such determinations by an arbiter appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, or by a special tribunal constituted in accordance with the regulations;
 - (b) for regulating the practice and procedure to be followed in connection with the making of any such determination and the settlement of any such dispute, and the time within which, and the manner in which proceedings may be taken in respect of any alleged irregularity in-connection therewith;
 - (c) for rendering the right torn payment under this Part of this Act conditional upon compliance with the provisions of the regulations with respect to the making of claims;
 - (d) for any matters incidental to or consequential on the matters aforesaid.
- (3) A claim for a payment under a scheme made under this Part of this Act may be made in respect of any interest in land being the interest of the superior, or of the creditor in a ground annual, or of the person who is the proprietor of the *dominium utile* or,

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in the case of land other than feudal land, is the owner of the land, or of the lessee under a lease.

- (4) Subject as hereinafter provided, a claim for a payment Under a scheme made under this Part of this Act may be made in respect of such land as the claimant thinks fit, and different claims may be made in respect of the interest of the same person in different parcels of land:

Provided that the Central Land Board may direct that any two or more claims in respect of the interest of the same person in different parcels of land shall be dealt with together and treated as if they were one claim in respect of the interest of that person in the whole of the land included in the claims.

58 Ascertainment of development values of land.

- (1) For the purposes of this Part of this Act and of any scheme made thereunder, an interest in land shall be deemed to be depreciated in value by virtue of the provisions of this Act if the restricted value of that interest on the appointed day, calculated in accordance with the provisions of this and the next following section, is less than the unrestricted value of that interest on that day as so calculated; and references in this Part of this Act to the development value of an interest in land shall be construed as references to the difference between those values.
- (2) Subject to the following provisions of this section—
- (a) the restricted value of an interest in land on the appointed day shall be taken to be the value of that interest as it subsists on that day, calculated on the assumption that planning permission would be granted for development of any class specified in the Third Schedule to this Act, but would not be so granted for any other development; and
 - (b) the unrestricted value of an interest in land on the appointed day shall be taken to be the value which that interest would have had as it subsists on that day if the provisions of this Act (other than this and the next following section) had not passed.
- (3) Where land is used on the appointed day for the display of advertisements, no account shall be taken, in calculating the restricted value of any interest therein, of any power to require the discontinuance of that use by virtue of regulations made under the provisions of Part II of this Act with respect to the control of advertisements.
- (4) Where any permission to develop land granted on an application made in that behalf under an interim development order has been revoked or modified before the appointed day under section four of the Town and Country Planning (Interim Development) (Scotland) Act, 1943, the unrestricted value of any interest in that land shall be calculated without regard to the revocation or modification of that permission:

Provided that—

- (a) in calculating the unrestricted value of the interest no account shall be taken of any works in respect of which any compensation has been paid under subsection (2) of section seven of the said Act; and
- (b) if any contribution has been paid under subsection (4) of the said section four to the owner of the interest or his predecessor in title, the amount of that contribution shall be deducted from the unrestricted value of the interest.

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- (5) For the purposes of this section, the restricted and the unrestricted values of interests in land shall be calculated by reference to prices current immediately before the seventh day of January, nineteen hundred and forty-seven, and for that purpose any such interest shall be treated as if it had been subsisting immediately before that date with all incidents to which it is subject on the appointed day (being incidents which are relevant to the calculation of the restricted or unrestricted value of that interest, as the case may be), and the land shall be treated as having been immediately before that date in the same state as it is on the appointed day:

Provided that in computing the restricted value of an interest in land, no account shall be taken of the provisions of this Act except in their application to that land.

- (6) In computing the unrestricted value of the interest of any person in land which, on the appointed day, was held by him with other land, there shall be deducted—
- (a) an amount equal to the compensation (if any) to which that person would be entitled for the severance of the land from that other land if the first-mentioned land were compulsorily acquired by a government department in pursuance of a notice to treat given on the appointed day; and
 - (b) in so far as the unrestricted value of the land depends on the prospect of development which would injuriously affect that other land, an amount equal to the compensation (if any) to which that person would be entitled for such injurious affection if the first-mentioned land were compulsorily acquired as aforesaid for the purpose of that development.
- (7) In so far as the unrestricted value of an interest in land depends upon the prospect of any development which, if carried out by the owner of that interest, would necessarily involve a loss to him in the nature of disturbance in respect of the purposes for which the land is being used on the appointed day, the amount of that loss shall be deducted from the unrestricted value of that interest.

59 Supplementary provisions as to development values.

- (1) Rules (2), (3) and (4) of the Rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply in computing the restricted and the unrestricted values of interests in land for the purposes of this Part of this Act as they apply in relation to the compulsory purchase of interests in land.
- (2) The restricted and the unrestricted values of an interest in land being the interest of a superior shall be computed on the assumption that the vassal will at all times be able to pay the feu duty and perform his other obligations under the feu charter.
- (3) The restricted and the unrestricted values of an interest in land being the interest of a creditor in a ground annual shall be computed on the assumption that the owner of the land subject to the ground annual will at all times be able to pay the ground annual and perform his other obligations under the contract of ground annual.
- (4) The restricted and the unrestricted values of an interest in land being the interest of a landlord in land subject to a lease shall be computed on the assumption that the lessee will at all times be able to pay the rent and perform his other obligations under the lease; and the restricted and the unrestricted values of an interest being the interest of a lessee under a lease or of an interest being the interest of a landlord in land subject to a lease shall be computed as aforesaid on the assumption that any option exercisable by either party to determine or to renew the lease will be exercised by that party if it is in his interest so to do and not otherwise.

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- (5) The restricted and the unrestricted values of an interest in land which is subject to a heritable security shall be computed as if the security had been discharged.
- (6) It is hereby declared that the restricted or the unrestricted value, or both the restricted and the unrestricted values, of an interest in land may be a minus quantity.

60 Exclusion of small claims.

- (1) Without prejudice to any provisions which may be included in a scheme made under section fifty-five of this Act for prescribing the cases in which payments are to be made thereunder, no such payment shall be made in respect of an interest in land in respect of which a claim is made unless—
 - (a) the development value of that interest, when averaged over the area of the land, exceeds the rate of twenty pounds per acre; and
 - (b) the development value of that interest also exceeds one tenth of its restricted value.
- (2) In determining for the purposes of paragraph (b) of the foregoing subsection whether the development value of an interest in land exceeds one tenth of its restricted value, those values shall be calculated—
 - (a) in the case of an interest of a lessee under a lease, as if the rent payable under the lease were a rent of one penny if asked;
 - (b) in the case of an interest which is subject to a feu duty or ground annual as if the interest were not subject thereto.

61 Vesting and assignation of right to payments under Part V.

- (1) Subject to the provisions of any scheme made under this Part of this Act with respect to the disposal of payments made thereunder, the right to receive any such payment in respect of an interest in land shall vest in the person who is on the appointed day the owner of that interest.
- (2) The right to receive a payment under any scheme made under this Part of this Act, or a part of such a payment, shall be transmissible by assignation or by operation of law as moveable property:

Provided that regulations made under this Act may direct that any such assignation shall be of no effect for the purposes of any such scheme as aforesaid unless notice thereof has been given to the Central Land Board, in the manner prescribed by the regulations, within such period as 'may be so prescribed.

Satisfaction of Payments.

62 Satisfaction of payments under Part V.

- (1) All payments falling to be made in accordance with a scheme made under section fifty-five of this Act shall be satisfied by the issue of government stock, that is to say stock the principal of which and the interest on which shall be charged on the Consolidated Fund; and all payments falling to be made in accordance with a scheme made under section fifty-six of this Act shall be made in cash by the Central Land Board.

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- (2) Any such stock shall be issued on such date as maybe fixed by the Treasury, being a date not later than five years after the appointed day:

Provided that if the amount of any payment required by this section to be satisfied by the issue of stock has not been finally determined on the date so fixed, the stock to be issued in satisfaction of the payment shall be issued on such date, not being later than three months after the amount thereof has been so determined, as the Treasury may direct.

- (3) Interest on the amount of any payment falling to be made in accordance with a scheme made under this Part of this Act shall accrue, at such rate as may from time to time be determined by the Treasury, from the appointed day until the payment is satisfied in accordance with the provisions of this section, and shall be paid in cash by the Central Land Board at the time when the payment is so satisfied.
- (4) The amount of the stock to be issued in satisfaction of any payment under this Part of this Act shall be such as, in the opinion of the Treasury, is of a value equal on the date of the issue to the amount of the payment, having due regard to the market values of other government securities existing on that date.
- (5) The Treasury may by regulations make provision as to the procedure for the issue of stock in satisfaction of payments under this Part of this Act including provision as to evidence of the amount of stock to be issued in any case, and the person to whom it is to be issued, on which the Banks of England and Ireland respectively are to be authorised or required to act.

63 General provisions as to stock.

- (1) Any stock issued in accordance with the last foregoing section (in this section referred to as "the stock") shall bear such rate of interest, and shall be subject to such conditions as to repayment, redemption and other matters (including provision for a sinking fund), as the Treasury may determine.
- (2) Any expenses incurred in connection with the issue or repayment of the stock shall be charged on and issued out of the Consolidated Fund.
- (3) The Treasury may, for the purpose of providing any sums required by them in order to redeem the stock, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under that Act.
- (4) Interest on the stock shall be paid out of the permanent annual charge for the national debt.
- (5) There shall be paid to the Banks of England and Ireland respectively, out of the Consolidated Fund, such sum in respect of the management of the stock in any financial year as may be agreed upon between the Treasury and those banks respectively.
- (6) Section forty-seven of the Finance Act, 1942 (which empowers the Treasury to make regulations as respects the transfer and registration of stock and registered bonds of the descriptions specified in Part I of the Eleventh Schedule to that Act) and any regulations made under that section which are in force immediately before the passing

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of this Act, shall have effect as if the stock were included among the stocks mentioned in the said Part I and among the stocks to which the said regulations apply.

- (7) The stock shall be subject to the provisions of the National Debt Act, 1870, so far as is consistent with the tenor of this Act.
- (8) Paragraphs 3, 4 and 5 of the Second Schedule to the National Loans Act, 1939 (which applies certain enactments to securities issued under that Act) shall have effect as if references to securities so issued included references to the stock.

64 Provision for payments in cash.

- (1) The Treasury may issue to the Central Land Board out of the Consolidated Fund such sums as are necessary to enable the Board to make any payments which under this Part of this Act are payable by the Board in cash.
- (2) For the purpose of providing sums to be issued under the last foregoing subsection, or of providing for the replacement of sums so issued, the Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this section shall be deemed for all purposes to have been created and issued under that Act. .

65 Payments by Central Land Board into Exchequer.

- (1) The Central Land Board shall, out of moneys provided by Parliament, pay into the Exchequer in accordance with the following provisions of this section sums equal to the aggregate amount of—
 - (a) the amount of any payments satisfied by the issue of stock under the foregoing provisions of this Part of this Act; and
 - (b) the amount of any sums issued to the Board out of the Consolidated Fund under the last foregoing section in respect of interest on such payments,
 together with interest on the said aggregate amount at such rate as the Treasury may direct from the date of the issue.
- (2) The sums required by the foregoing subsection to be paid into the Exchequer by the Central Land Board shall be paid by twenty equal instalments of principal and interest, of which the first shall be paid one year after the date fixed by the Treasury for the issue of the stock, and the remainder annually thereafter:

Provided that where any payment made under this Part of this Act is satisfied, in accordance with the proviso to subsection (2) of section sixty-two of this Act, by the issue of stock at any time after the date fixed as aforesaid, the sums required to be paid into the Exchequer under this section in respect of that payment, and in respect of sums issued to the Board under the last foregoing section in respect of interest thereon, shall be so paid by such number of equal annual instalments of principal and interest as will complete the instalments on the same date as the instalments in respect of payments which are satisfied on the date fixed as aforesaid.

- (3) Any sums paid into the Exchequer under the foregoing provisions of this section shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows, that is to say—
 - (a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit;

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- (b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this provision, have fallen to be paid out of the permanent annual charge for the national debt.