

1976 No. 1218**COMMUNITY LAND****The Compulsory Acquisition by Public Authorities
(Compensation) Order 1976***Laid before Parliament in draft*

Made - - - -	29th July 1976
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Coming into Operation	1st August 1976
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The Secretary of State for the Environment, in relation to England, the Secretary of State for Scotland, in relation to Scotland, and the Secretary of State for Wales, in relation to Wales, in exercise of the powers conferred on them by sections 26(1), (3) and (4) and 53(2) of the Community Land Act 1975(a), and of all other powers enabling them in that behalf, and with the consent of the Treasury, hereby make the following order in the terms of a draft which has been laid before and approved by a resolution of each House of Parliament:—

Commencement and Citation

1. This order comes into operation on 1st August 1976 and may be cited as the Compulsory Acquisition by Public Authorities (Compensation) Order 1976.

Interpretation

2.—(1) In this order, unless the context otherwise requires, “the Act” means the Community Land Act 1975.

(2) References in this order to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended or extended by or under any other enactment.

(3) The Interpretation Act 1889(b) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

Bodies referred to in section 26(1) of the Act

3. The following bodies are hereby specified for the purposes of paragraphs (b) and (c) of section 26(1) of the Act—

The Highlands and Islands Development Board
 The Lee Valley Regional Park Authority
 The Scottish Development Agency
 The Scottish Special Housing Association
 The Welsh Development Agency.

(a) 1975 c. 77.

(b) 1889 c. 63.

Modification of section 5 of the Land Compensation Act 1961

4.—(1) Subject to paragraph (3) below, for the purpose of assessing compensation in respect of a compulsory acquisition to which section 26 of the Act applies, section 5 of the Land Compensation Act 1961(a) shall have effect subject to the modification referred to in paragraph (2) below.

(2) For rule (2) in section 5 of the Land Compensation Act 1961 there shall be substituted the following:—

“(2) The value of land shall, subject as hereinafter provided, be taken to be the difference between—

- (a) the amount which the land if sold in the open market by a willing seller might be expected to realise, and
- (b) the development land tax which would have been chargeable if the vendor had disposed of that land and if it were assumed that, for the purposes of the Development Land Tax Act 1976(b)—
 - (i) the vendor was not a body totally exempt from development land tax, and was neither the Crown nor a government or public or local authority, whether in the United Kingdom or elsewhere,
 - (ii) the time of the disposal was the date as at which the compensation in respect of the compulsory acquisition is to be assessed,
 - (iii) the consideration for the disposal was the amount referred to in (a) above,
 - (iv) the cost of acquisition of the land by the vendor was reduced by the amount of any development land tax chargeable on the disposal of the land to the vendor, and
 - (v) before the disposal no realised development value had accrued or had been deemed to accrue to the vendor,

and for the purposes of this rule, “the vendor” means the person from whom the land is being acquired.”.

(3) The modification referred to in paragraph (2) above shall not be made if, for the purposes of the Development Land Tax Act 1976, the time of the disposal of the land to the person from whom it is being acquired is before 1st August 1976 or the disposal is treated as having been made before that date.

Application to Scotland

5. In relation to Scotland, article 4 above shall have effect as if for references to section 5 of the Land Compensation Act 1961 there were substituted references to section 12 of the Land Compensation (Scotland) Act 1963(c).

(a) 1961 c. 33.

(b) 1976 c. 24.

(c) 1963 c. 51.

Signed by authority of
the Secretary of State
27th July 1976.

John Silkin,
Minister for Planning and Local Government,
Department of the Environment.

28th July 1976.

Bruce Millan,
Secretary of State for Scotland.

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29th July 1976.
We consent

John Morris,
Secretary of State for Wales.

29th July 1976.

T. E. Graham,
David Stoddart,
Two of the Lords Commissioners of
Her Majesty's Treasury.

EXPLANATORY NOTE

(This Note is not part of the Order.)

Where land belonging to a local or new town authority, the Land Authority for Wales, the Peak Park Joint or Lake District Special Planning Board, a Joint Board established under section 2 of the Community Land Act 1975 or a body specified in an order made under section 26 of that Act, is compulsorily acquired by a Minister or by one of the authorities referred to above, section 26 of the Community Land Act 1975 provides that the rules for the assessment of compensation contained in section 5 of the Land Compensation Act 1961 or, as the case may be, in section 12 of the Land Compensation (Scotland) Act 1963, shall have effect subject to such modifications as may be specified in an order made under that section.

This Order specifies the bodies in article 3 for the purpose of section 26, and prescribes the way in which section 5 of the 1961 Act and section 12 of the 1963 Act shall be modified. If the compensation on the compulsory acquisition is based on the market value of the land, that market value is to be reduced by any development land tax which would have been payable had not the authority from which the land is being acquired been totally exempt from that tax.

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