

Land Compensation Act 1961 c. 33

s. 5 Rules for assessing compensation.

Law In Force

Version 4 of 4

22 September 2017 - Present

Subjects

Planning; Real property

Keywords

Assessment; Compensation; Compulsory purchase; Rules

5. Rules for assessing compensation.

Compensation in respect of any compulsory acquisition shall be assessed in accordance with the following rules:

- (1) No allowance shall be made on account of the acquisition being compulsory:
- (2) The value of land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise:

[
(2A) The value of land referred to in rule (2) is to be assessed in the light of the no-scheme principle set out in [section 6A](#).

] ¹
(3) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from [...] ² the requirements of any authority possessing compulsory purchase powers:

(4) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the occupants of the premises or to the public health, the amount of that increase shall not be taken into account:

(5) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the [Upper Tribunal] ³ is satisfied that reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement:

(6) The provisions of rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land:

and the following provisions of this Part of this Act shall have effect with respect to the assessment.

Notes

- 1 Added by Neighbourhood Planning Act 2017 c. 20 [Pt 2 c.2 s.32\(2\)](#) (September 22, 2017: insertion has effect subject to transitional provisions specified in SI 2017/936 reg.4)
 - 2 Words repealed by Planning and Compensation Act 1991 c. 34 [Sch.15\(I\) para.1](#) (September 25, 1991)
 - 3 Words substituted by Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009/1307 [Sch.1 para.40](#) (June 1, 2009)
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Part II PROVISIONS DETERMINING AMOUNT OF COMPENSATION
> General provisions > s. 5 Rules for assessing compensation.

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s. 5A Relevant valuation date

Law In Force With Amendments Pending

[View proposed draft amended version](#)

Version 6 of 6

31 January 2024 - Present

Subjects

Planning; Real property

Keywords

Compensation; Compulsory purchase; Valuation

[

5A Relevant valuation date

- (1) If the value of land is to be assessed in accordance with [rule \(2\) in section 5](#), the valuation must be made as at the relevant valuation date.
- (2) No adjustment is to be made to the valuation in respect of anything which happens after the relevant valuation date.
- (3) If the land is the subject of a notice to treat, the relevant valuation date is the earlier of—
 - (a) the date when the acquiring authority enters on and takes possession of the land, and
 - (b) the date when the assessment is made.
- (4) If the land is the subject of a general vesting declaration, the relevant valuation date is [, subject to subsection (4A),]² the earlier of—
 - (a) the vesting date, and
 - (b) the date when the assessment is made,and “*general vesting declaration*” and “*vesting date*” have the meanings given in [section 2](#) of the [Compulsory Purchase \(Vesting Declarations\) Act 1981](#).

[

- (4A) If an interest in land vests in accordance with an agreement under [section 8A](#) of that Act (postponement of vesting), the relevant valuation date in respect of that interest is the earlier of—
 - (a) the date on which it vests, and
 - (b) the date when the assessment is made.

]³

- (5) If the acquiring authority enters on and takes possession of part of the land—
 - (a) specified in a notice of entry, or
 - (b) in respect of which a payment into court has been made,

the authority is deemed, for the purposes of subsection (3)(a), to have entered on and taken possession of the whole of that land on that date.

[

(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under [section 11\(1\)](#) of the 1965 Act (as modified by [paragraph 5\(5\) of Schedule 6](#) to the [Southampton to London Pipeline Development Consent Order 2020](#) ("the 2020 Order"));
- (b) the acquiring authority is subsequently required by a determination under [paragraph 12 of Schedule 2A](#) to the 1965 Act (as substituted by [paragraph 5\(8\) of Schedule 6](#) to the 2020 Order to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.

] ⁴ [

(5B) If—

- (a) the land is the subject of a general vesting declaration, and
- (b) the vesting date is [, as a result of [Schedule A1](#) to the [Compulsory Purchase \(Vesting Declarations\) Act 1981](#) (counter-notices in respect of divided land),] ⁶ different for different parts of the land, the first of the vesting dates is deemed for the purposes of subsection (4)(a) to be the vesting date for the whole of the land.

] ⁵

(6) [Subsections (5), (5A) and (5B) also apply] ⁷ for the purposes of calculating interest under the following enactments—

- (a) [section 11\(1\)](#) of the [Compulsory Purchase Act 1965](#);

[...] ⁸

- (c) [section 85](#) of the [Lands Clauses Consolidation Act 1845](#);
- (d) [section 52A](#) of the [Land Compensation Act 1973](#),

and references there to the date or time of entry are to be construed accordingly.

(7) An assessment by the [Upper Tribunal] ⁹ is treated as being made on the date certified by the Tribunal as—

- (a) the last hearing date before it makes its determination, or
- (b) in a case to be determined without an oral hearing, the last date for making written submissions before it makes its determination.

(8) Nothing in this section affects—

- (a) any express provision in any other enactment which requires the valuation of land subject to compulsory acquisition to be made at a particular date;
- (b) the valuation of land for purposes other than the compulsory acquisition of that land (even if the valuation is to be made in accordance with the rules in [section 5](#)).

(9) In this section—

(a) a notice of entry is a notice under section 11(1) of the Compulsory Purchase Act 1965;

(b) a payment into court is a payment into court [...] ¹⁰ under section 85 of the Lands Clauses Consolidation Act 1845.

] ¹

Notes

- 1 Added by Planning and Compulsory Purchase Act 2004 c. 5 Pt 8 s.103(2) (October 31, 2004)
- 2 Words inserted by Levelling-up and Regeneration Act 2023 c. 55 Pt 9 s.186(7)(a) (January 31, 2024: insertion has effect as SI 2024/92 reg.2(m) subject to transitional provisions specified in SI 2024/92 reg.6(2))
- 3 Added by Levelling-up and Regeneration Act 2023 c. 55 Pt 9 s.186(7)(b) (January 31, 2024: insertion has effect as SI 2024/92 reg.2(m) subject to transitional provisions specified in SI 2024/92 reg.6(2))
- 4 Substituted by Southampton to London Pipeline Development Consent Order 2020/1099 Sch.6 para.2(2) (October 29, 2020)
- 5 Added by Housing and Planning Act 2016 c. 22 Sch.18(2) para.9 (February 3, 2017)
- 6 Words inserted by Levelling-up and Regeneration Act 2023 c. 55 Pt 9 s.186(7)(c) (January 31, 2024: insertion has effect as SI 2024/92 reg.2(m) subject to transitional provisions specified in SI 2024/92 reg.6(2))
- 7 Words substituted by Housing and Planning Act 2016 c. 22 Sch.17(2) para.4(3) (February 3, 2017)
- 8 Repealed by Housing and Planning Act 2016 c. 22 Sch.16 para.1(a) (July 13, 2016)
- 9 Words substituted by Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009/1307 Sch.1 para.41 (June 1, 2009)
- 10 Words repealed by Housing and Planning Act 2016 c. 22 Sch.16 para.1(b) (July 13, 2016)

Part II PROVISIONS DETERMINING AMOUNT OF COMPENSATION
> General provisions > s. 5A Relevant valuation date

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s. 6A No-scheme principle

Law In Force

Version 1 of 1

22 September 2017 - Present

Subjects

Planning; Real property

[

6A No-scheme principle

- (1) The no-scheme principle is to be applied when assessing the value of land in order to work out how much compensation should be paid by the acquiring authority for the compulsory acquisition of the land (see [rule 2A in section 5](#)).
- (2) The no-scheme principle is the principle that—
 - (a) any increase in the value of land caused by the scheme for which the authority acquires the land, or by the prospect of that scheme, is to be disregarded, and
 - (b) any decrease in the value of land caused by that scheme or the prospect of that scheme is to be disregarded.
- (3) In applying the no-scheme principle the following rules in particular (the “no-scheme rules”) are to be observed.
- (4) Rule 1: it is to be assumed that the scheme was cancelled on the relevant valuation date.
- (5) Rule 2: it is to be assumed that no action has been taken (including acquisition of any land, and any development or works) by the acquiring authority wholly or mainly for the purposes of the scheme.
- (6) Rule 3: it is to be assumed that there is no prospect of the same scheme, or any other project to meet the same or substantially the same need, being carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers.
- (7) Rule 4: it is to be assumed that no other projects would have been carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers if the scheme had been cancelled on the relevant valuation date.
- (8) Rule 5: if there was a reduction in the value of land as a result of—
 - (a) the prospect of the scheme (including before the scheme or the compulsory acquisition in question was authorised), or
 - (b) the fact that the land was blighted land as a result of the scheme,that reduction is to be disregarded.
- (9) In this section—

“*blighted land*” means land of a description listed in [Schedule 13](#) to the [Town and Country Planning Act 1990](#);

“*relevant valuation date*” has the meaning given by [section 5A](#).
- (10) See also [section 14](#) for assumptions to be made in respect of planning permission.

] ¹

Notes

- 1 Ss 6A-6E substituted for ss 6-9 by Neighbourhood Planning Act 2017 c. 20 [Pt 2 c.2 s.32](#) (September 22, 2017: commenced by an amendment)
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*Part II PROVISIONS DETERMINING AMOUNT OF
COMPENSATION > General provisions > s. 6A No-scheme principle*

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s. 6B Lower compensation if other land gains value

Law In Force

Version 1 of 1

22 September 2017 - Present

Subjects

Planning; Real property

[

6B Lower compensation if other land gains value

- (1) This section applies where—
 - (a) a person is entitled to compensation for the compulsory acquisition of land (the “original land”) for the purposes of a scheme,
 - (b) on the date the notice to treat is served in respect of the original land, the person is entitled to an interest in other land (the “other land”) which is contiguous or adjacent to the original land,
 - (c) the person is entitled to the interest in the other land in the same capacity as the person is entitled to the interest in the original land, and
 - (d) the person's interest in the other land has increased in value as a result of the scheme.
- (2) The amount of compensation to which the person is entitled in respect of the compulsory acquisition of the original land is to be reduced by the amount of the increase in the value of the person's interest in the other land as at the relevant valuation date (determined in accordance with [section 5A](#)).
- (3) An amount by which the other land increases in value may not be set off against compensation payable to the person (for the original land or otherwise) in accordance with subsection (2) more than once.
- (4) If the other land is subsequently subject to compulsory acquisition for the purposes of the scheme mentioned in subsection (1), the compensation to which the person is entitled for the other land includes the amount which was deducted from the person's compensation for the original land in accordance with subsection (2) (despite the noscheme principle).
- (5) If part only of the other land is subject to compulsory acquisition, the compensation to which the person is entitled by virtue of subsection (4) is to be reduced accordingly.
- (6) Subsections (4) and (5) apply in relation to a person (a “successor”) who derives title from the person mentioned in that subsection as if the original land had been acquired from the successor.
- (7) This section does not apply in relation to compensation which is to be assessed in accordance with [section 261](#) of the [Highways Act 1980](#) (benefit to vendor to be taken into account in assessing compensation on certain compulsory acquisitions for highway purposes).

] ¹

Notes

- 1 Ss 6A-6E substituted for ss 6-9 by Neighbourhood Planning Act 2017 c. 20 [Pt 2 c.2 s.32](#) (September 22, 2017: commenced by an amendment)
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*Part II PROVISIONS DETERMINING AMOUNT OF COMPENSATION >
General provisions > s. 6B Lower compensation if other land gains value*

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s. 6C Increased compensation if other land loses value

Law In Force

Version 1 of 1

22 September 2017 - Present

Subjects

Planning; Real property

[

6C Increased compensation if other land loses value

- (1) This section applies where—
- (a) land (the “original land”) belonging to a person is acquired for the purposes of a scheme,
 - (b) as a result of the acquisition of the original land the person receives compensation for injurious affection in relation to other land, and
 - (c) the other land is subsequently subject to compulsory acquisition for the purposes of that scheme.
- (2) The compensation to which the person is entitled as a result of the compulsory acquisition of the other land is to be reduced by the amount which the person received in compensation for injurious affection in relation to the other land as a result of the acquisition of the original land.
- (3) Subsection (2) applies in relation to a person (a “successor”) who derives title from the person mentioned in that subsection as if the compensation for injurious affection had been paid to the successor.

] ¹

Notes

- ¹ Ss 6A-6E substituted for ss 6-9 by Neighbourhood Planning Act 2017 c. 20 [Pt 2 c.2 s.32](#) (September 22, 2017: commenced by an amendment)

*Part II PROVISIONS DETERMINING AMOUNT OF COMPENSATION >
General provisions > s. 6C Increased compensation if other land loses value*

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s. 6D Meaning of “scheme” etc.

Law In Force

Version 2 of 2

31 January 2024 - Present

Subjects

Planning; Real property

[

6D Meaning of “scheme” etc.

(1) For the purposes of [sections 6A, 6B and 6C](#), the “*scheme*” in relation to a compulsory acquisition means the scheme of development underlying the acquisition (subject to subsections (2) to (5)).

(2) Where the acquiring authority is authorised to acquire land in connection with the development of an area designated as—

(a) an urban development area by an order under [section 134](#) of the [Local Government, Planning and Land Act 1980](#),

(b) a new town by an order under [section 1](#) of the [New Towns Act 1981](#), or

(c) a Mayoral development area by a designation under [section 197](#) of the [Localism Act 2011](#),

the scheme is the development of any land for the purposes for which the area is or was designated.

(3) Where land is acquired for [development]² which is facilitated or made possible by a relevant transport project, the scheme includes the relevant transport project (subject to [section 6E](#)).

(4) For the purposes of subsection (3) and [section 6E](#)—

(a) a “*relevant transport project*” means a transport project carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers (regardless of whether it is carried out before, after or at the same time as the [development for which the land is acquired]³), and

(b) where different parts of the works comprised in such a transport project are first opened for use on different dates, each part is to be treated as a separate relevant transport project.

(5) If there is a dispute as to what is to be taken to be the scheme (the “underlying scheme”) then, for the purposes of this section, the underlying scheme is to be identified by the Upper Tribunal as a question of fact, subject as follows—

(a) the underlying scheme is to be taken to be the scheme provided for by the Act, or other instrument, which authorises the compulsory acquisition unless it is shown (by either party) that the underlying scheme is a scheme larger than, but incorporating, the scheme provided for by that instrument, and

(b) except by agreement or in special circumstances, the Upper Tribunal may permit the acquiring authority to advance evidence of such a larger scheme only if that larger scheme is one identified in the following read together—

(i) the instrument which authorises the compulsory acquisition, and

(ii) any documents made available with it.

(6) In the application of no-scheme [rule 3](#) in relation to the acquisition of land for or in connection with the construction of a highway (the “scheme highway”) the reference in that rule to “*any other project*” includes a reference to any other highway that would meet the same or substantially the same need as the scheme highway would have been constructed to meet.

[

(7) In this section and [section 6E](#), “*development*” includes re-development, regeneration and improvement.

] ⁴]¹

Notes

- 1 Ss 6A-6E substituted for ss 6-9 by Neighbourhood Planning Act 2017 c. 20 [Pt 2 c.2 s.32](#) (September 22, 2017: commenced by an amendment)
- 2 Words substituted by Levelling-up and Regeneration Act 2023 c. 55 [Pt 9 s.188\(1\)\(a\)](#) (January 31, 2024)
- 3 Words substituted by Levelling-up and Regeneration Act 2023 c. 55 [Pt 9 s.188\(1\)\(b\)](#) (January 31, 2024)
- 4 Added by Levelling-up and Regeneration Act 2023 c. 55 [Pt 9 s.188\(1\)\(c\)](#) (January 31, 2024)

Part II PROVISIONS DETERMINING AMOUNT OF COMPENSATION
> *General provisions* > *s. 6D Meaning of “scheme” etc.*

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s. 6E Further provisions in relation to relevant transport projects

Law In Force

Version 2 of 2

31 January 2024 - Present

Subjects

Planning; Real property

[

6E Further provisions in relation to relevant transport projects

- (1) This section has effect for the purposes of [section 6D\(3\)](#).
- (2) The scheme referred to in that section includes the relevant transport project only if—
 - (a) [the development of land in the vicinity of land comprised in the relevant transport project]² was part of the published justification for the relevant transport project,
 - (b) the works comprised in the relevant transport project are first opened for use after the period of 5 years beginning with 22nd September 2017,
 - (c) the instrument authorising the compulsory acquisition of the land which is acquired [...] ³ was made or prepared in draft on or after 22nd September 2017,
 - (d) the compulsory acquisition of that land is authorised before the end of the period of 5 years beginning with the day on which the works comprised in the relevant transport project are first opened for use, and
 - (e) that land is in the vicinity of land comprised in the relevant transport project.
- (3) In assessing compensation payable to a person in respect of the compulsory acquisition of that land, the scheme is to be treated as if it did not include the relevant transport project if the person acquired the land—
 - (a) after plans for the relevant transport project were announced, but
 - (b) before [the relevant date]⁴ .

[

- (3A) The "relevant date" is—
 - (a) 8 September 2016, in a case where the land is acquired for regeneration or redevelopment and regeneration or redevelopment was part of the published justification for the relevant transport project;
 - (b) in any other case, the first day after the period of three months beginning with the day on which [section 188](#) of the Levelling-up and Regeneration Bill comes into force.

] ⁵

- (4) Subsections (5) and (6) set out how subsection (2)(b) should be applied if a claim for compensation is made by a person (the "claimant")—
 - (a) during the period of 5 years mentioned in that subsection, and

(b) before the works are first opened for use.

(5) Compensation is to be assessed on the basis that the works will first be opened for use after the period of 5 years unless the acquiring authority confirms that, in the authority's opinion, the works will first be opened during that period (in which case compensation is to be assessed on the basis that the works will first be opened for use during that period).

(6) If the basis on which compensation was assessed proves to be incorrect—

(a) the claimant's entitlement to any compensation which the claimant has already been awarded is not affected,

(b) the acquiring authority must give the claimant a notice informing the claimant that the basis on which the compensation was assessed was incorrect,

(c) the claimant may make a further claim for compensation in respect of the compulsory acquisition, and

(d) for the purposes of the [Limitation Act 1980](#), the further claim for compensation accrues on the day the claimant receives the notice.

] ¹

Notes

- 1 Ss 6A-6E substituted for ss 6-9 by Neighbourhood Planning Act 2017 c. 20 [Pt 2 c.2 s.32](#) (September 22, 2017: commenced by an amendment)
- 2 Words substituted by Levelling-up and Regeneration Act 2023 c. 55 [Pt 9 s.188\(2\)\(a\)](#) (January 31, 2024)
- 3 Words repealed by Levelling-up and Regeneration Act 2023 c. 55 [Pt 9 s.188\(2\)\(b\)](#) (January 31, 2024)
- 4 Words substituted by Levelling-up and Regeneration Act 2023 c. 55 [Pt 9 s.188\(2\)\(c\)](#) (January 31, 2024)
- 5 Added by Levelling-up and Regeneration Act 2023 c. 55 [Pt 9 s.188\(2\)\(d\)](#) (January 31, 2024)

Part II PROVISIONS DETERMINING AMOUNT OF COMPENSATION > General provisions > s. 6E Further provisions in relation to relevant transport projects

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