



Planning and Compensation Act 1991

1991 CHAPTER 34

PART IV

LAND COMPENSATION - SCOTLAND

71 Home loss payments.

(1) For section 27(2) of the ^{M1}Land Compensation (Scotland) Act 1973 (home loss payment where person displaced from dwelling) there is substituted—

“(2) A person shall not be entitled to a home loss payment unless the following conditions have been satisfied throughout the period of one year ending with the date of displacement—

- (a) he has been in occupation of the dwelling, or a substantial part of it, as his only or main residence; and
- (b) he has been in such occupation by virtue of an interest or right to which this section applies,

but, if those conditions are satisfied on the date of displacement, a payment (referred to in this section and sections 29 and 30 below as a “discretionary payment”) may be made to him of an amount not exceeding the amount to which he would have been entitled if he had satisfied those conditions throughout that period.”

(2) Subsection (5) of that section (no payments where acquisition is in pursuance of blight notice) is omitted.

(3) For section 28 of that Act (amount of home loss payment) there is substituted—

“28 Amount of home loss payment.

(1) In the case of a person who on the date of displacement is occupying, or is treated for the purposes of section 27 above as occupying, the dwelling by virtue of an interest in it which is an owner’s interest, the amount of the home loss payment shall be 10 per cent. of the market value of his interest in the

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dwelling or, as the case may be, the interest in the dwelling vested in trustees, subject to a maximum of £15,000 and a minimum of £1,500.

- (2) In any other case, the amount of the home loss payment shall be £1,500.
- (3) For the purposes of this section and section 29 below the market value of an interest in a dwelling—
- (a) in a case where the interest is compulsorily acquired, is the amount assessed for the purposes of the acquisition as the value of the interest; and
 - (b) in any other case, is the amount which, if the interest were being compulsorily acquired in pursuance of a notice to treat served on the date of displacement, would be assessed for the purposes of the acquisition as the value of the interest,
- and any dispute as to the amount referred to in paragraph (b) above shall be determined by the Lands Tribunal.
- (4) In determining for the purposes of this section and section 29 below the market value of an interest in a dwelling, the dwelling shall be taken to include any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that dwelling.
- (5) The Secretary of State may from time to time by regulations prescribe a different maximum or minimum for the purposes of subsection (1) above and a different amount for the purposes of subsection (2) above.
- (6) The power to make regulations under subsection (5) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “owner’s interest” means the interest of a person who is an owner as defined in section 45(1) of the ^{M2}Land Compensation (Scotland) Act 1963.”
- (4) For section 29(1) to (3) of that Act (supplementary provisions about home loss payments) there is substituted—
- “(1) No home loss payment or discretionary payment shall be made except on a claim in writing made by the person entitled thereto (“the claimant”) giving such particulars as the authority responsible for making the payment may reasonably require for the purpose of determining whether the payment should be made and, if so, its amount.
 - (2) Where a person is entitled to a home loss payment, the payment shall be made on or before the latest of the following dates—
 - (a) the date of displacement;
 - (b) the last day of the period of three months beginning with the making of the claim; and
 - (c) where the amount of the payment is to be determined in accordance with section 28(1) above, the day on which the market value of the interest in question is agreed or finally determined.
 - (2A) Where the amount of the payment is to be determined in accordance with section 28(1) above—

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- (a) the acquiring authority may at any time make a payment in advance; and
 - (b) if, on the later of the dates referred to in subsection (2)(a) and (b) above, the market value of the interest in question has not been agreed or finally determined, the acquiring authority shall make a payment in advance (where they have not already done so).
- (2B) The amount of the payment in advance shall be the lesser of—
 - (a) the maximum amount for the purposes of section 28(1) above,
 - (b) 10 per cent. of the amount agreed to be the market value of the interest in question or, if there is no such agreement, 10 per cent. of the acquiring authority's estimate of that amount.
- (2C) Where the amount of a payment in advance differs from the amount of the home loss payment, the shortfall or excess shall be paid by or, as the case may be, repaid to the acquiring authority when the market value of the interest in question is agreed or finally determined.
- (3) Where the claimant has satisfied, throughout any period, the conditions mentioned in section 27(2) above, that period shall be treated for the purposes of that subsection as including any immediately preceding period throughout which—
 - (a) he has resided in the dwelling as his only or main residence but without satisfying those conditions, and
 - (b) another person or other persons have satisfied those conditions,and references in this subsection and subsection (3A) below to a dwelling include a reference to a substantial part of it.
- (3A) Where the claimant has satisfied, throughout any period, the conditions mentioned in section 27(2) above, that period (or that period as extended under subsection (3) above) shall be treated for the purposes of section 27(2) above as including any immediately preceding period, or successive periods, throughout which he satisfied the conditions mentioned in section 27(2) above in relation to another dwelling or, as the case may be, other dwellings (applying subsection (3) above to determine the length of any period or periods).”
- (5) In section 29(4) of that Act, for “five years” there is substituted “ one year ”.
- (6) In section 29(5) of that Act, for “(3) and (4)” there is substituted “ (3) to (4) ”.
- (7) In section 29(7) and (7AA), after “home loss payment” (in both places) there is inserted “ or discretionary payment ” and after “required” (in both places) there is inserted “ or authorised ”.
- (8) In section 30 of that Act (caravan dwellers)—
 - (a) in subsection (2) after “home loss payment” there is inserted “ or discretionary payment ”,
 - (b) in subsection (3), for the words following “substituted” (in the second place) there is substituted—
 - “(a) he has been in occupation of the caravan site by using a caravan stationed on it as his only or main residence; and
 - (b) he has been in such occupation of the site by virtue of an interest or right to which this section applies”,

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(c) for subsection (4) there is substituted—

“(4) Section 28 above shall have effect as if the references to a person occupying a dwelling by virtue of an interest in it and to his interest in the dwelling were to a person occupying a caravan site by virtue of an interest in it and to that interest.”

(d) in subsection (5), for paragraph (a) there is substituted—

“(a) as if in subsections (3) and (3A) the references to a dwelling were to a caravan site;”, and in paragraph (c) for “(3) and (4)” there is substituted “(3) to (4)”.

(9) This section shall have effect in relation to displacements occurring on or after 16th November 1990 but, in the case of claims made before the date on which this section comes into force, no amount is required or authorised to be paid by virtue only of this section before the expiry of the period of one month beginning with the date on which this section comes into force.

Commencement Information

I1 S. 71 wholly in force at 25.09.1991 see s. 84(2)(3) and S.I. 1991/2092, art. 3.

Marginal Citations

M1 1973 c. 56.

M2 1963 c. 51.

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