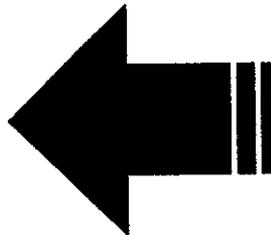


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Joint Circular from the
Department of the Environment
2 Marsham Street, London SW1P 3EB

Welsh Office
Cathays Park, Cardiff CF1 3NQ

4 September 1991

PLANNING AND COMPENSATION ACT 1991

LAND COMPENSATION AND COMPULSORY PURCHASE

1. This circular describes the provisions of Part III and section 80 of the Planning and Compensation Act 1991, which are due to be brought into effect by commencement order around the end of September.

2. The provisions make a number of changes to the land compensation code and compulsory purchase procedure with the aim of enhancing both fairness and efficiency. A detailed memorandum on the changes is annexed. This does not purport to offer a complete description of the new provisions. Nor can it be regarded as an authoritative interpretation of the law. Its purpose is to summarise the main features of the legislation and identify those provisions to which authorities are advised to give their most immediate attention. It modifies as necessary the advice contained in earlier circulars relating to land compensation, notably Circular 73/73 (Welsh Office 132/73) "Land Compensation Act 1973".

3. Authorities will in particular wish to note the provisions in sections 68 and 69 relating to the availability of home loss payments for those displaced from their homes as a result of compulsory purchase or under other qualifying circumstances. These involve both a broadening of entitlement to a home loss payment and an increase in the amount of payment for owner-occupiers. Most of the changes have effect in relation to displacements occurring on or after 16 November 1990. Although no sum is payable by virtue of the provisions until they have been in force for one month, authorities will wish to be ready to deal with all outstanding cases promptly (having regard to the statutory timetable for the making of a payment) as soon as that point is reached. They will also wish to take any necessary action to ensure that people displaced on or after 16 November 1990 and who therefore qualify for a home loss payment under the new rules are aware of their entitlement.

4. The attention of authorities is also drawn to the provisions in section 63 entitling claimants to receive a further advance payment of compensation, if it appears to the acquiring authority that a payment already made was based on too low an estimate of the compensation due, and to be paid interest accruing whenever an advance payment is made and at annual intervals thereafter until the claim is finally settled.

5. Authorities will wish to note the various changes made by the Act to compulsory purchase procedure against the background of the comprehensive guidance on compulsory purchase orders contained in Circular 6/85 (Welsh Office 11/87). The Secretaries of State wish to take this opportunity to remind authorities of the desirability of seeking, where practicable, to acquire land needed for statutory purposes by negotiation with the owner before embarking on compulsory purchase. Many acquiring authorities already frequently proceed in this way and the Secretaries of State would hope to see the practice adopted to the widest possible extent.

6. Authorities will wish to look carefully at the commencement order when it is published. The order will contain transitional provisions to ensure that the new entitlements and obligations introduced by the Act do not—except where the statute itself provides otherwise—affect existing cases where action has been set in hand prior to commencement. This will mean, for example, that in cases involving the compulsory acquisition of land the provisions will in general apply only where a compulsory purchase order is made, or made in draft by a Minister, on or after the date of commencement.

7. Schedule 15 to the Act includes provision for regulations to be made empowering authorities to make payments in respect of dwellings which are not buildings (eg caravans and houseboats) and which are affected by noise from public works. The Secretaries of State for Transport and for Wales intend shortly to make regulations under this provision in respect of noise arising from the construction or use of a road.

8. Revised editions of the Departments' explanatory booklets on the land compensation code will be available shortly.

9. Enquiries about the provisions described in this circular may be addressed, in the first instance, to PDC4A, DOE, Rom C13/11, 2 Marsham Street, London SW1P 3EB (Tel: 071-276-3868) or the Planning Department, Welsh Office, Cathays Park, Cardiff CF1 3NQ (Tel: 0222-823869).

C L L BRAUN, *Assistant Secretary*

H R BOLLINGTON, *Assistant Secretary*

The Chief Executive
County Councils
District Councils

} In England and Wales

London Borough Councils
Council of the Isles of Scilly

The Chief Executive, Urban Development Corporations
The General Manager, New Town Development Corporations
The Chief Executive, Land Authority for Wales

The Town Clerk, City of London

The National Park Officer
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PLANNING AND COMPENSATION ACT 1991

LAND COMPENSATION AND COMPULSORY PURCHASE
PROVISIONS**Acquisition of Land Affected by Public Development**

1. **Section 62** creates a new power for authorities to acquire by agreement land the enjoyment of which stands to be seriously affected by the carrying out or the use of public works.
2. Authorities have hitherto been empowered (under section 26 of the Land Compensation Act 1973 and section 246 of the Highways Act 1980) to make such acquisitions only during the construction stage of a public works project and for an initial year after the scheme has come into use. (After the works have been in use for a year claims may be made under Part I of the 1973 Act for compensation for depreciation in the value of land caused by noise and certain other effects of the works.) The new provision creates an additional power for authorities to acquire land which will in their opinion be seriously affected by the construction or use of a public development scheme, but which will not be required for the scheme. The power may be used from the same point in time at which the statutory blight provisions apply in relation to land on which the authority propose to carry the development. Broadly speaking, this will be as soon as the proposed site of a scheme (eg the preferred line of a road) has been indicated. The power of acquisition will be available to authorities in respect of land which is already affected by the prospect of development at the time section 62 comes into force.
3. Authorities will wish to consider exercising their discretionary powers to acquire property seriously affected—or likely to become seriously affected—wherever this is warranted to alleviate associated hardship. Any land acquired would of course, where appropriate, fall to be placed on an authority's register of unused or underused land under the Code of Practice annexed to DOE Circular 18/89 or on the land registers in Wales.

Advance Payments of Compensation and Interest

4. **Section 63** makes new provision concerning the making of advance payments of compensation and the payment of interest on compensation. Under section 52 of the 1973 Act, claimants have the right, once an acquiring body take possession of a property which they are acquiring compulsorily, to receive an advance payment of 90 per cent of the amount of compensation agreed between the parties or, in default of agreement, estimated by the authority. That provision is now modified so as to require that, where an authority make an advance payment which they subsequently conclude was based on too low an estimate of the compensation payable, they must pay the claimant the balance of the advance if requested to do so. Any compensation paid in advance which exceeds the final settlement, or to which the claimant is not entitled, is recoverable by the authority.

5. Acquiring authorities will now also be required, in making an advance payment of compensation, to pay the claimant at the same time any interest which has become due to him up to that point. Twelve months after that payment is made—and at twelve-month intervals subsequently until the claim is finally settled—the authority will be required to pay the claimant any further interest accruing up to that point, provided that the amount of interest exceeds £1,000 or such other sum as the Secretary of State prescribes by order. Any overpayment of interest, or any payment of interest to which the claimant is not entitled, must be repaid to the authority.

6. Section 80 increases the range of statutory provisions under which interest is payable on compensation. The additional provisions are specified in Part I of Schedule 18 and have the effect of creating an entitlement to be paid interest in the case of, inter alia, certain adverse planning decisions under the Town and Country Planning Act 1990 and the exercise of various powers under the Land Drainage Act 1976, the Highways Act 1980 and the Water Act 1989.

7. Section 80 also gives authorities a discretionary power—at a claimant's request—to make payments on account of compensation and interest payable under any of the provisions referred to in the section itself or listed in Schedule 18. These are provisions which do not involve an authority taking possession of land and in respect of which the claimant therefore has no entitlement to an advance payment of compensation or to the payment of interest in instalments.

8. It is important that all land compensation claims should be settled as expeditiously as possible. However, where settlement is delayed for any reason, these provisions can help ensure that claimants receive as much of their entitlement as is not in dispute at the earliest opportunity.

Planning Assumptions in Connection with Highway Schemes

9. Section 64 amends the assumptions to be made in determining the value of land which is being acquired by an authority possessing compulsory powers for the purpose of a highway scheme. The effect is to exclude from the valuation process any artificial enhancement in the value of the land relating to the possibility of some other highway scheme which could only be regarded as an alternative to the actual proposal and which would in practice therefore never go ahead.

10. The section inserts new provisions in section 14 of the Land Compensation Act 1961, which lays down the assumptions to be made as to planning permission for development on land to be acquired by an authority possessing compulsory powers. Taken together, the new provisions require that, where land is being acquired for use for, or in connection with, the construction, alteration or improvement of a highway (or is being considered by a highway authority for such use), any determination made for the purpose of assessing compensation or issuing a certificate under section 17 of the 1961 Act must be based on the assumption that there will be no alternative highway

scheme to meet the same or substantially the same need as the actual scheme for which the land is to be used.

Certification of Appropriate Alternative Development

11. **Section 65** (together with paragraphs 15 to 18 of Schedule 15) amends section 17 and related provisions of the Land Compensation Act 1961, under which the owner of land to be acquired by an authority possessing compulsory purchase powers—or the authority itself—may apply to the local planning authority for a certificate stating what development, if any, would otherwise have been permitted on the land. The certificate is then taken into account in valuing the land for compensation purposes.

12. Hitherto the certification procedure has not been available in respect of land designated on a development plan as either an area of comprehensive development or as an area allocated primarily for residential, commercial or industrial use or a combination of such uses. The amending provisions remove that exclusion. They are structured in such a way as to ensure that, where a certificate is issued, its content overrides any contrary planning assumptions arising from a development plan. A certificate is required to state either: (a) that planning permission would have been granted for one or more classes of development specified in the certificate and for any development for which the land is to be acquired, but not for any other development; or (b) that permission would have been granted for any development for which the land is to be acquired, but not for any other development.

13. A further amendment is made to section 17 to provide for the reimbursement of expenses which have been reasonably incurred by a claimant in connection with the certification procedure. In general, legal and surveyors' fees arising from a compensation claim are included within the compensation payable. However, it was held by the Court of Appeal that costs relating to the certification procedure were not recoverable in this way. The new provision rectifies this anomaly.

Compensation where Permission for Additional Development Granted after Acquisition

14. **Section 66 and Schedule 14** revive, with certain modifications, Part IV of the Land Compensation Act 1961. The effect is to provide for further compensation to be paid to the former owner of land acquired by an authority possessing compulsory powers, should the value of the land increase as a result of the making, within 10 years of completion of the acquisition, of a planning decision granting permission for additional development. The compensation payable is based on the difference between the sum originally paid for the land and the amount that would have been payable for a compulsory acquisition if the planning permission subsequently granted had been in force on the date of service of notice to treat or, in the case of an acquisition by agreement, the date of the contract.

15. The entitlement to further compensation does not apply in respect of land which has been acquired by an urban development corporation, new town development corporation or highway authority in connection with an urban development or new town area. Nor does it arise in respect of a listed building which has been deliberately allowed to fall into disrepair and for

which the acquiring authority have made a direction for minimum compensation under section 50 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

16. The procedure for claiming compensation is laid down in the revived section 24 of the 1961 Act. It allows for a person entitled to receive further compensation, should it become available, to leave an address with the acquiring authority. The authority are then required to give that person notice (the form of which will be prescribed by order) of a relevant planning decision granting permission for development. A claim for compensation must be made within six months of the date on which notice is given in the case where an address has been left or, if no address has been left, within six months of the date of the decision itself. The revived section 25 deals with the procedure in respect of cases where permission for development derives from, for example, a development order rather than a specific planning decision. The revived section 26 applies the provisions to cases where a development is carried out by or on behalf of the Crown or takes place on Crown land.

17. The entitlement to further compensation applies only in relation to acquisitions where the date of completion (as defined in the revived section 29) falls on or after the date of commencement. Authorities will wish to consider what action will be appropriate to ensure that claimants are made aware of the entitlement and of the procedure involved (particularly as regards the notification of an address to the authority).

Time Limit on the Validity of Notice to Treat

18. Under section 4 of the Compulsory Purchase Act 1965 powers of compulsory purchase cannot normally be exercised more than three years after the compulsory purchase order becomes operative. However, there has hitherto been nothing to prevent such powers being kept alive indefinitely once a notice to treat has been served under section 5 of the 1965 Act. The latter provision is now amended by section 67 of the new Act to provide that, where an acquiring authority serve notice to treat in pursuance of a compulsory purchase order, the notice will lapse three years after it is served, unless one of a number of specified actions have by then been taken or the parties have agreed to an extension of the three-year period. The specified actions broadly encompass: entry on to the land by the acquiring authority; the execution of a general vesting declaration; settlement of the compensation claim; and reference of the compensation claim to the Lands Tribunal.

19. Where a notice to treat lapses under this provision, the acquiring authority must immediately give notice of the fact to the claimant and are liable to pay compensation to the claimant for any loss he has suffered as a result of service of the notice to treat and its subsequent abandonment.

Home Loss Payments

20. Section 68 makes a series of major amendments to sections 29 to 33 of the Land Compensation Act 1973, which provide for the making of home loss payments to those displaced from their home as a result of compulsory purchase or under other qualifying circumstances.

21. The amendments affect both entitlement to receive a home loss payment and the amount of payment that is made. The main changes as regards entitlement are as follows:—

- (a) a claimant is now entitled to receive a payment provided that he has occupied the property as his sole or main residence (and by virtue of one of the specified interests or rights) for at least one year prior to the date of displacement;
- (b) in cases where a claimant cannot satisfy the one-year qualifying period because of a previous qualifying displacement, the period of residence prior to that displacement is to be taken into account for the purposes of the current claim, and if there has been more than one previous displacement, then the periods of residence prior to those displacements are to be treated as cumulative;
- (c) in cases where there is no entitlement to a home loss payment because the claimant is unable to satisfy the one-year residence qualification, authorities may make a discretionary payment, provided that the claimant can satisfy the specified conditions as to occupation, interest or right on the date of displacement;
- (d) there is no longer a bar on the making of a payment in the case where a property is acquired following the service of a blight notice.

22. The amount of home loss payment for a displaced owner-occupier (that is, someone with the interest of an owner as defined in section 7 of the Acquisition of Land Act 1981—namely, freeholders and leaseholders whose leases or agreements for leases have more than three years to run) is 10 per cent of the market value of the claimant's interest in the property, subject to a minimum payment of £1,500 and a maximum of £15,000. In the case of compulsory acquisition the market value of the property will be the value assessed for the purpose of that acquisition. Where there is no compulsory acquisition (as in the case, for example, of certain housing orders), the market value will be that which would be assessed if the property were being compulsorily purchased.

23. In all other cases the amount of home loss payment is £1,500. The Secretary of State is empowered to vary, by order, both this amount and the maximum and minimum amounts of payment for owner-occupiers.

24. There are new provisions concerning the timetable for the making of a home loss payment. Where a claimant is eligible for a payment, it must be made on or before whichever is the latest of: (a) the date of displacement; (b) the last day of the period of three months beginning with the making of the claim; and (c), in a case where the payment is based on the market value of the property, the day on which the market value is agreed or finally determined.

25. In the case of a displaced owner-occupier, the acquiring authority may at any time make an advance payment on account of the home loss payment and must make one if the market value of the property has not been agreed or finally determined by the date of displacement or a date three months from the making of the claim, whichever is the later. The amount of the advance payment will be whichever is the less of (a) the maximum amount of payment for owner-occupiers (ie £15,000) and (b) 10 per cent of the agreed market value

of the property or, in default of agreement, the authority's estimate of the value. Where the amount of home loss or discretionary payment eventually due to be made differs from that of an advance payment already made, the balance must be paid by the authority, or—as the case may be—the excess repaid by the claimant.

26. All the home loss payment provisions in section 68 have effect in relation to any displacement occurring on or after 16 November 1990. However, in the case of claims made before the section comes into force, no payment is required or authorised to be made by an authority until it has been in force for a month. Owner-occupier claimants displaced on or after 16 November 1990 who have already received a home loss payment under the previous rules will be entitled to receive an additional payment to make up whatever difference applies in their case between the level of payment formerly applying and the new rate.

27. **Section 69** creates an entitlement to a home loss payment for a person living in a dwelling under a right of occupation within the meaning of the Matrimonial Homes Act 1983, provided that his or her spouse is entitled to occupy the property by virtue of a relevant interest or right but is not doing so. Entitlement to a payment is also established (by virtue of amendments to the 1973 Act included in paragraph 22 of Schedule 15) for two further categories of claimant—namely, statutory tenants under the Rent (Agriculture) Act 1976 and assured agricultural occupants under the Housing Act 1988.

28. Given the extent of the amendments to the home loss payment provisions and the significance of the changes they involve, a consolidated version of the complete home loss payment provisions in the 1973 Act as they now stand is provided as an appendix to this memorandum. This version does not carry any statutory authority.

Other Provisions

29. **Schedule 15** contains a number of miscellaneous amendments to current legislation on land compensation and compulsory purchase procedure. The amendments touch on a wide range of matters, of which only the more significant are summarised here.

Rules for assessment of compensation (paragraph 1)

30. Rule (3) in section 5 of the Land Compensation Act 1961 is amended to delete the provision that, in the valuation of land to be compulsorily acquired, no account is taken of the special needs of a particular buyer. The effect is that the valuation process no longer excludes value which the owner of the land might have realised if he had sold it privately to a buyer who was willing to pay more on account of a particular need. (The amendment does not, however, affect the other limb of rule (3) whereby the assessment of compensation takes no account of any value attributable to uses of the land which could only be undertaken in pursuance of statutory powers.)

Compensation otherwise than in the form of money (paragraph 3)

31. Section 3 of the Compulsory Purchase Act 1965 is amended so as to provide that acquisition by agreement of land subject to compulsory purchase may be for a consideration in money's worth as well as in money itself. This will enable acquiring authorities, where appropriate, to offer a claimant suitable land for relocation as an alternative (in whole or part) to monetary compensation.

Caravans etc affected by noise of public works (paragraph 5)

32. A new section 20A is added to the Land Compensation Act 1973 to enable the Secretary of State to make regulations empowering responsible authorities to make payments in respect of dwellings which are not buildings and which are affected or likely to be affected by noise from public works. The Noise Insulation Regulations 1975, made under section 20 of the 1973 Act, make provision for the insulation of buildings affected by highway noise. However, although occupiers of movable dwellings such as caravans and houseboats can be affected by noise arising from road construction schemes, such dwellings are not eligible for assistance under the Regulations or the powers under which the Regulations are made. There are in any event practical problems in insulating movable dwellings. The Secretaries of State for Transport and for Wales therefore propose to make regulations under the new powers which will enable highway authorities in appropriate circumstances to make payments to occupiers of movable dwellings in consideration of noise arising from schemes for new highways or alteration of existing ones.

Farm loss payments (paragraph 6)

33. A series of amendments is made to section 34 of the Land Compensation Act 1973, which provides for the making of a farm loss payment to a person compulsorily displaced from agricultural land. The effect is to:

- (a) provide that entitlement to a farm loss payment applies not only in cases where the whole of the claimant's land is acquired (as previously) but also where acquisition relates to "a sufficient part"—defined as at least 0.5 hectares or such other area as the Secretary of State may by order specify;
- (b) extend entitlement to tenants for a year or from year to year;
- (c) provide for a payment to be made in cases where the claimant leaves the holding after the making or confirmation of a compulsory purchase order but before being required to do so;
- (d) remove the bar on payment in cases where a holding is acquired following the service of a blight notice.

Service of documents (paragraph 8)

34. Section 6(4) of the Acquisition of Land Act 1981 is amended so that if, after reasonable enquiry, an acquiring authority is unable to identify the name or address of a person on whom notice is required or authorised to be served under the Compulsory Purchase Act 1965 or on whom any document is

required or authorised to be served under the 1981 Act, the document or a copy of it may be left on or near the land in question. This procedure may be followed where the order land is an open site with no buildings to which the document may be affixed.

Local authority and statutory undertakers' land (paragraph 10)

35. Section 16(1) of, and paragraph 3(1) of Schedule 3 to, the 1981 Act are amended to enable statutory undertakers to withdraw representations to the appropriate Minister about the compulsory acquisition of land, or a new right over land, which they have acquired for the purposes of their undertaking. An amendment is also made to section 31 of that Act so that the need for joint confirmation of a compulsory purchase order relating to such land by the usual confirming authority or Minister making the order and the appropriate Minister arises only where there is a representation under section 16 or Schedule 3 which is not withdrawn and the appropriate Minister does not give a certificate.

Blighted land (paragraphs 13 and 14)

36. The preconditions for service of a blight notice under the Town and Country Planning Act 1990 are amended so as to remove, in certain compulsory purchase cases, the requirement that the claimant must have made reasonable endeavours to sell the affected property. Those cases are: where compulsory acquisition has been authorised by, or may be exercisable under, a special enactment; or where a compulsory purchase order is in force but the acquiring authority have not served notice to treat.

37. Schedule 13 of the 1990 Act is amended so as to extend the categories of land in respect of which a blight notice may be served to include not only (as previously) land on which the Secretary of State proposes to provide a new trunk or special road but also land which he may require for the improvement of a highway. This new entitlement will be of particular relevance in relation to land affected by the motorway widening programme.

**SECTIONS 29 TO 33 OF THE LAND COMPENSATION ACT 1973 AS
AMENDED BY THE PLANNING AND COMPENSATION ACT 1991**

Provisions for benefit of persons displaced from land

Home Loss Payments

Right to home loss payment where person displaced from dwelling.

29.—(1) Where a person is displaced from a dwelling on any land in consequence of—

- (a) the compulsory acquisition of an interest in the dwelling;
- (b) the making, or acceptance of a housing order or undertaking in respect of the dwelling;
- (c) where the land has been previously acquired by an authority possessing compulsory purchase powers or appropriated by a local authority and is for the time being held by the authority for the purposes for which it was acquired or appropriated, the carrying out of any improvement to the dwelling or of redevelopment on the land;
- (d) the carrying out of any improvement to the dwelling or of redevelopment on the land by a housing association which has previously acquired the land and at the date of the displacement is registered under the Housing Associations Act 1985;
- (e) the making of an order for possession on ground 10 or 10A in Part II of Schedule 2 to the Housing Act 1985,

he shall, subject to the provisions of this section and section 32 below, be entitled to receive a payment (hereafter referred to as a "home loss payment") from—

- (i) where paragraph (a) above applies, the acquiring authority;
- (ii) where paragraph (b) above applies, the authority who made the order, accepted the undertaking or served the notice;
- (iii) where paragraph (c) above applies, the authority carrying out the improvement or redevelopment;
- (iv) where paragraph (d) above applies, the housing association carrying out the improvement or redevelopment; and
- (v) where paragraph (e) above applies, the landlord.

(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 32 and 33 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.

(3) For the purposes of this section a person shall not be treated as displaced from a dwelling in consequence of the compulsory acquisition of an interest therein if he gives up his occupation thereof before the date on which the

acquiring authority were authorised to acquire that interest, but, subject to that, it shall not be necessary for the acquiring authority to have required him to give up his occupation of the dwelling.

(3A) For the purposes of this section a person shall not be treated as displaced from a dwelling in consequence of the acceptance of an undertaking or of the carrying out of any improvement to the dwelling unless he is permanently displaced from it in consequence of the carrying out of the works specified in the undertaking or notice or, as the case may be, of the improvement in question.

(4) This section applies to the following interests and rights—

- (a) any interest in the dwelling;
- (b) a right to occupy the dwelling—
 - (i) as a statutory tenant within the meaning of the Rent (Agriculture) Act 1976 or the Rent Act 1977, or
 - (ii) under a contract to which section 19 of the Rent Act 1977 (restricted contracts) applies or would apply if the contract or dwelling were not excluded by section 19(3) to (5) or 144 of that Act;
- (c) [Repealed.]
- (d) a right to occupy the dwelling under a contract of employment;
- (e) a right to occupy the dwelling under a licence where—
 - (i) it is a right to occupy as a protected occupier within the meaning of the Rent (Agriculture) Act 1976,
 - (ii) Part IV of the Housing Act 1985 (secure tenancies) applies to the licence, or
 - (iii) the licence is an assured agricultural occupancy within the meaning of Part I of the Housing Act 1988.

(5) [Repealed.]

(6) Where an authority possessing compulsory purchase powers acquire the interest of any person in a dwelling by agreement, then, in relation to any other person who is displaced from the dwelling in consequence of the acquisition, subsections (1) to (4) above shall have effect as if the acquisition were compulsory and the authority (if not authorised to acquire the interest compulsorily) had been so authorised on the date of the agreement.

(7) In this section “a housing order or undertaking” means—

- (a) a demolition or closing order, or an obstructive building order, under Part IX of the Housing Act 1985 (slum clearance);
- (b) a closing order under section 368(4) of that Act (closing of multi-occupied house with inadequate means of escape from fire);
- (c) an undertaking accepted under section 368 of that Act.

(7A) In this section—

“improvement” includes alteration and enlargement; and
“redevelopment” includes a change of use.

(8) Where an interest in a dwelling is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Act 1925) and a person beneficially entitled (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the dwelling, he shall be treated for the purposes of this section as occupying it by virtue of an interest in the dwelling.

(9) This section applies if the date of displacement is on or after 17th October 1972.

Spouses having statutory rights of occupation.

29A.—(1) This section applies where, by reason of the entitlement of one spouse ("A") to occupy a dwelling by virtue of an interest or right to which section 29 above applies, the other spouse ("B") acquires rights of occupation (within the meaning of the Matrimonial Homes Act 1983).

(2) So long as—

- (a) those rights of occupation continue,
- (b) B is in occupation of the dwelling and A is not, and
- (c) B is not, apart from this section, treated as occupying the dwelling by virtue of an interest or right to which that section applies,

B shall be treated for the purposes of that section as occupying the dwelling by virtue of such an interest (but not an owner's interest within the meaning of section 30 below).

(3) References in this section to a dwelling include a reference to a substantial part of it.

Amount of home loss payment in England and Wales.

30.—(1) In the case of a person who on the date of displacement is occupying, or is treated for the purposes of section 29 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 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 £1500.

(2) In any other case, the amount of the home loss payment shall be £1500.

(3) For the purposes of this section and section 32 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 32 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 7 of the Acquisition of Land Act 1981.

Amount of home loss payment in Scotland.

31. [Repealed.]

Supplementary provisions about home loss payments.

32.—(1) No home loss payment or discretionary payment shall be made except on a claim in writing made by 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 30(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 30(1) above—

- (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 30(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 29(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 29(2) above, that period (or that period as extended under subsection (3) above) shall be treated for the purposes of section 29(2) above as including any immediately preceding period, or successive periods, throughout which he satisfied the conditions mentioned in

section 29(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).

(4) Where a person ("the deceased") entitled to a home loss payment dies without having claimed it, a claim to the payment may be made by any person, not being a minor, who—

- (a) throughout a period of not less than one year ending with the date of displacement of the deceased, has resided in the dwelling, or a substantial part of it, as his only or main residence; and
- (b) is entitled to benefit by virtue of testamentary dispositions taking effect on, or the law of intestate succession or the right of survivorship between joint tenants as applied to, the death of the deceased.

(5) Where the claimant has successively been in occupation of or resided in different dwellings in the same building, being dwellings consisting of a room or rooms not constructed or structurally adapted for use as a separate dwelling, section 29(2) above and subsections (3) to (4) above shall have effect as if those dwellings were the same dwelling.

(6) Where there are two or more persons entitled to make a claim to a home loss payment in respect of the same dwelling (whether by virtue of joint occupation or of subsection (4) above) the payment to be made on each claim shall be equal to the whole amount of the home loss payment divided by the number of such persons.

(7) Where an interest in a dwelling is acquired by agreement by an authority possessing compulsory purchase powers, the authority may, in connection with the acquisition, make to the person from whom the interest is acquired a payment corresponding to any home loss payment or discretionary payment which they would be required or authorised to make to him if the acquisition were compulsory and the authority had been authorised to acquire that interest before he gave up occupation of the dwelling.

(7A) For the purposes of the Limitation Act 1939, a person's right of action to recover a home loss payment shall be deemed to have accrued on the date of displacement.

(7B) Where a landlord obtains possession by agreement of a dwelling subject to a secure tenancy within the meaning of Part IV of the Housing Act 1985 and—

- (a) notice of proceedings for possession of the dwelling has been served, or might have been served, specifying ground 10 or 10A in Part II of Schedule 2 to that Act, or
- (b) the landlord has applied, or could apply, to the Secretary of State or the Housing Corporation or Housing for Wales for approval for the purposes of ground 10A of a development scheme including the dwelling, or part of it,

the landlord may make to any person giving up possession or occupation a payment corresponding to any home loss payment or discretionary payment which they would be required or authorised to make to him if an order for possession had been made on either of those grounds.

(8) [Repealed.]

(9) [Repealed.]

Home loss payments
for certain caravan
dwellers.

33.—(1) Sections 29 to 32 above shall, so far as applicable, have effect in relation to a person residing in a caravan on a caravan site who is displaced from that site as they have effect in relation to a person displaced from a dwelling on any land but shall so have effect subject to the following modifications.

(2) No home loss payment or discretionary payment shall be made to any person by virtue of this section except where no suitable alternative site for stationing a caravan is available to him on reasonable terms.

(3) Subsection (1) of section 29 above shall have effect as if for the words preceding paragraph (a) there were substituted the words "Where a person residing in a caravan on a caravan site is displaced from that site in consequence of" and subsection (2) of that section shall have effect as if for paragraphs (a) and (b) there were 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."

(4) Section 30 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.

(5) Section 32 above shall have effect—

- (a) as if in subsections (3) and (3A) the references to a dwelling were to a caravan site;
- (b) as if in subsection (4) for the words "resided in the dwelling, or a substantial part of it" there were substituted the words "resided in a caravan on the caravan site"; and
- (c) as if for subsection (5) there were substituted—

"(5) Where any land comprises two or more caravan sites and the claimant has successively been in occupation of or resided in a caravan on different caravan sites on that land, section 29(2) above and subsections (3) to (4) above shall have effect as if those sites were the same site."

(6) Sections 29 to 32 above shall have effect as if in any provision not modified as aforesaid for any reference to a dwelling or land there were substituted a reference to a caravan site.

(7) In this section "caravan site" means land on which a caravan is stationed for the purpose of human habitation and land which is used in conjunction with land on which a caravan is so stationed.

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