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- 3.5 The relevant date for the assessment of compensation is the date at which the loss occurred. This is most likely to be the date of interference with the right in land.

### *Basis of Compensation*

- 3.6 Were it not for the fact that the works giving rise to the loss are authorised by an Act of Parliament a claim for damages could be pursued.
- 3.7 **You must be able to demonstrate that the loss is a natural and reasonable consequence of the execution of the works.** Compensation is based upon the reduction in value of the land which had benefited from the right which has been interfered with. **Business losses cannot be claimed unless they result in a reduction of the land value.**

### *Reduction in Value Caused by the Use of Public Works*

- 3.8 This right to compensation is set out in Part I of the Land Compensation Act 1973. It is commonly referred to as a “Part I claim”. It applies to certain “public works” i.e. a highway, an aerodrome and other works provided under statutory powers. In addition to new works the provisions cover substantial alterations and changes of use to existing works but not intensification of a use (unless alterations are also carried out).
- 3.9 **In order to be able to submit a claim you must own a qualifying interest in the land before the relevant date.**

### *The Relevant Date*

- 3.10 If the public works in question is a highway, the relevant date is the date on which it was first open to public traffic. With regard to any other public works it is the date on which they were first used after completion.

### *Qualifying Interest*

- 3.11 In the case of business premises, a qualifying interest is one which has an annual (rateable) value not exceeding a prescribed amount which is £34,800 in the 2010 Rating List.

### *Valuation Date*

- 3.12 Compensation is based upon prices current on the first claim day, which is 12 months after use of the public works first commenced. Interest is payable from the date the claim is submitted until payment.



## *Basis of Compensation*

- 3.13 Compensation is based upon the depreciation in the value of the land due to the “physical factors” caused by the use of the public works.
- 3.14 The seven physical factors are:
- Noise
  - Vibration
  - Smell
  - Fumes
  - Smoke
  - Artificial light
  - Discharge onto the land of any solid or liquid substance.
- 3.15 Any depreciation in value which is attributable to reasons other than these seven specific factors is not compensatable. For example, the loss of a view is not compensatable.
- 3.16 The important distinction between this and a claim for the execution of works (described at paragraph 3.4) is that it is the use of the works which must cause the depreciation. For example, if a motorway is constructed in close proximity to an office, any claim under Part I must relate to the depreciation in value caused by the noise and other physical factors associated with the traffic using the road and not to the physical existence of the highway.
- 3.17 **If you sell your property before the first claim day (see paragraph 3.12) you must make a claim between exchanging contracts and completion or you will lose your rights to compensation.**

## *4. Compensation for the Adverse Effects of Development*

- 4.1 In addition to decreasing the value of land, development works may cause inconvenience and discomfort to people living in the area. An obvious example is the development of a new motorway.
- 4.2 Although financial compensation can be paid for the reduction in value of your property if the requirements of the Compensation Code are fulfilled, this will not remove the source of the discomfort. Acquiring authorities have therefore been given certain duties and discretionary powers to take action which will help to reduce the impact of their development works. The exercise of these powers is referred to as “mitigating the injurious effects” of the development.

- 4.3 The main duty is a requirement to undertake noise insulation works where certain specified criteria are fulfilled. **This duty only applies to dwellings or other buildings used for residential purposes. Thus, in the case of business owners and occupiers it is only relevant for those businesses which involve the provision of residential accommodation (for example, nursing homes), or where business premises include elements of residential accommodation (for example, a flat above a shop). If your premises do include some form of residential accommodation you should also read booklet 4.**
- 4.4 In addition to their duty to undertake noise insulation works, acquiring authorities have certain discretionary powers to reduce the effects of their development by agreement with those whose premises are affected. Such measures can include sound-proofing (in a wider range of circumstances than those to which the statutory duty applies); acquiring more land than that required for the actual development; carrying out earth-moulding and other landscaping works; and paying your expenses if the authority were to agree that you needed to move out temporarily during the construction works. These powers are aimed at residential properties but can be applied more widely by agreement between the authority and those directly affected.
- 4.5 Further details about these duties and powers are provided in Booklet 5 “Mitigation Works”.

## 5. Fees

- 5.1 The acquiring authority will usually pay the reasonable surveyors fees which you incur for negotiating claims. Before employing a surveyor it is wise to ensure that you both agree a reasonable basis for calculating fees. **The acquiring authority should be able to advise you on the payment of fees and should be consulted if there is any doubt.**
- 5.2 Legal fees for conveyancing are also payable, and likewise a reasonable basis for their calculation should be agreed.

## 6. Interest

- 6.1 Where an acquiring authority enter and take possession of land before agreeing compensation, simple interest, at a prescribed rate, is payable from the date of entry until compensation is paid.
- 6.2 If a claim is made for compensation which arises as a result of nearby public development, but no land is actually acquired, interest is payable on any sum due from the date you submit your claim to the date of payment.

# *Appendix 1 – Terms Used In Compulsory Purchase*

Set out below is a list of terms and definitions commonly referred to when dealing with compulsory purchase matters.

## **Compensation Code**

A collective term for the principles, derived from Acts of Parliament and case law, relating to compensation for compulsory acquisition.

## **Entry**

See “Taking of Entry”.

## **General Vesting Declaration (GVD)**

A legal procedure used in connection with compulsory purchase whereby an acquiring authority, having obtained a CPO, is able to obtain possession and ownership of the land. This is a procedure for the speedy acquisition of land and normal conveyancing practice does not have to be adopted.

## **Goodwill**

The price which a purchaser of a business is prepared to pay, above the value of the premises and stock, for the probability that customers will continue to resort to the old place of business, or continue to deal with the firm of the same name: it is the benefit or advantage which a business has in its connection with its customers.

## **Investment Property**

Generally, any property purchased with the primary intention of retaining it and enjoying the total return, i.e. income and/or capital growth, over the life of the interest acquired.

## **Land**

Land includes buildings and structures. Existing interests and rights in land, such as freehold or leasehold together with any existing rights can be compulsorily acquired either as a whole or in part.

## **Lands Tribunal**

### Marriage Value

Latent value which is or would be released by the merger of two or more interests in land. For example, two adjoining parcels may be worth more as one property than the aggregate of their separate values. Similarly, two interests in the same property (such as the freehold and the leasehold) may have a greater value when merged than the sum of their individual values.

### Mitigation of Loss

The duty of a claimant seeking compensation to take any reasonable steps open to him to reduce or avoid loss. For example, a claimant could mitigate loss by seeking a number of quotes from reputable contractors and instructing the cheapest.

### New Rights

Compulsory purchase can be used by most acquiring authorities to create and acquire new rights over land. An example would be the creation of a right of way or a right of support.

### Noise Payment

A noise payment is available to moveable homes within 300 metres of a new or altered road who have been seriously affected by increased noise levels as a result. It is payable at the discretion of the Highway Authority.

### Notice of Entry

A notice served on the owner and occupier(s) of a property by an authority possessing compulsory purchase powers requiring possession to be given by a date prescribed in the notice. A minimum of 14 days notice must be given.

### Notice to Treat

A notice served on owners, lessees and mortgagees by an authority with compulsory purchase powers to acquire land. The notice gives particulars of the property to be acquired, demands details of the recipients interest in the land and his claim for compensation and states that the authority are willing to treat for the purchase of the land.

### Public Development

A new or altered highway, aerodrome or other public works.

### Ransom Value

The ability to obtain a high price for a small area which is key to the site being developed. For example, where your land could unlock the development potential of an adjoining site by providing the only possible access to it.



### Relevant Date

In the context of a Public Inquiry it is the date of the letter which the Confirming Minister sends to the acquiring authority and the objectors confirming that an Inquiry is to be held. This date is used to establish timetables for the Inquiry procedure.

### Statement of Case

A statement prepared by the acquiring authority which sets out full particulars of the case to be put forward at the inquiry and justifies the reasons for making the CPO.

### Statement of Reasons

### Taking of Entry

This is the act of an acquiring authority physically entering and taking possession of a property following service of Notice to Treat and Notice of Entry.



## *Appendix 2 – Useful Contacts*

Set out below is a list of contact details of bodies and organisations who may be able to offer their advice if you are affected by compulsory purchase.

### **British Property Federation (BPF)**

7th Floor  
1 Warwick Row  
London SW1E 5ER  
Tel: 020 7828 0111  
Web Site: [www.bpf.org.uk](http://www.bpf.org.uk)  
E-mail: [info@bpf.org.uk](mailto:info@bpf.org.uk)

### **Community Legal Service (CLS)**

Tel 0845 345 4345  
Web Site: [www.clsdirect.org.uk](http://www.clsdirect.org.uk)

### **Council for the Preservation of Rural England (CPRE)**

128 Southwark Street  
London SE1 0SW  
Web Site: [www.cpre.org.uk](http://www.cpre.org.uk)  
E-mail: [info@cpre.org.uk](mailto:info@cpre.org.uk)

### **Country Land and Business Association (CLA)**

16 Belgrave Square  
London SW1X 8PQ  
Tel: 020 7235 0511  
Web Site: [www.cla.org.uk](http://www.cla.org.uk)  
E-mail: [mail@cla.org.uk](mailto:mail@cla.org.uk)

### **Office of the Deputy Prime Minister (ODPM)**

Eland House  
Bressenden Place  
London SW1E 5DU  
Tel: 020 7944 3000  
Web Site: [www.odpm.gsi.gov.uk](http://www.odpm.gsi.gov.uk)  
E-mail: [cpocrown@odpm.gsi.gov.uk](mailto:cpocrown@odpm.gsi.gov.uk)

### **Law Society**

113 Chancery Lane  
London WC2A 1PL  
Law Society Information Services: 0870 606 6575  
Web Site: [www.lawsociety.org.uk](http://www.lawsociety.org.uk)



### **National Assembly for Wales**

Cathays Park  
Cardiff CF10 3NQ  
Tel: 029 20 825111  
Web Site: [www.wales.gov.uk](http://www.wales.gov.uk)

### **National Association of Citizens Advice Bureaux (NACAB)**

You should check your local telephone directory or call directory enquiries to find out details of your local branch office. Details of local offices can be obtained from the web site below.

Web Site: [www.nacab.org.uk](http://www.nacab.org.uk)  
E-mail: [adviceguide@nacab.org.uk](mailto:adviceguide@nacab.org.uk)

### **National Farmers Union (NFU)**

Agriculture House  
164 Shaftesbury Avenue  
London WC2H 8HL  
Tel: 020 7331 7200  
Web Site: [www.nfu.org.uk](http://www.nfu.org.uk)  
E-mail: [NFU@nfu.org.uk](mailto:NFU@nfu.org.uk)

### **Royal Institution of Chartered Surveyors (RICS)**

RICS Contact Centre  
Surveyor Court  
Westwood Way  
Coventry CV4 8JE  
Compulsory Purchase Helpline: 0870 333 1600  
Web Site: [www.rics.org](http://www.rics.org)  
E-mail: [contactrics@rics.org](mailto:contactrics@rics.org)

### **Royal Town Planning Institute (RTPI)**

41 Botolph Lane  
London EC3R 8DL  
Tel: 020 7929 9494  
Web Site: [www.rtpi.org.uk](http://www.rtpi.org.uk)

17 Carlton House Terrace  
London SW1Y 5AS  
Tel: 020 7930 8903  
Web Site: [www.tpca.org.uk](http://www.tpca.org.uk)  
E-mail: [tpca@tpca.org.uk](mailto:tpca@tpca.org.uk)

## Valuation Office Agency (VOA)

Head Office

New Court

Carey Street

London WC2A 2JE

Tel: 020 7506 1700

Web Site: [www.voa.gov.uk](http://www.voa.gov.uk)

E-mail: [customerservices@voa.gsi.gov.uk](mailto:customerservices@voa.gsi.gov.uk)



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Published by the Office of the Deputy Prime Minister.

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