

Property Blight Compensation Bill

CONTENTS

- 1 Secretary of State to amend legislation
- 2 Financial provision
- 3 Short title, commencement and extent

Schedule – Proposed amendments to legislation relating to land compensation

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B I L L

TO

Require the Secretary of State to amend legislation to improve the system of compensation for property blight caused by major national infrastructure projects; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Secretary of State to amend legislation

- (1) The Secretary of State shall by Order made by Statutory Instrument amend the legislation relating to compensation in relation to property blight caused by major national infrastructure projects.
- (2) In making the Order the Secretary of State shall have regard to the proposed amendments to legislation contained in the Schedule to this Act but may depart from them or make further provision where he considers it appropriate to do so. 5
- (3) No Order may be made under this section unless a draft of the order has been laid before and approved by resolution of both Houses of Parliament. 10

2 Financial provision

There is to be paid out of money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of money so provided.

3 Short title, commencement and extent

- (1) This Act may be cited as the Property Blight Compensation Act 2013. 15
- (2) This Act extends to England and Wales only.

SCHEDULE

Section 1

PROPOSED AMENDMENTS TO LEGISLATION RELATING TO LAND COMPENSATION

- 1 Part 1 of the Land Compensation Act 1973 (hereafter referred to as “the 1973 Act”) is amended as follows.

Amendment to title of Part 1 of the 1973 Act 5

- 2 (1) The title of Part 1 of the 1973 Act is amended as follows.
(2) After “use of Public Works” insert “or Property Blight”.

Amendment to heading of section 1 of the 1973 Act

- 3 (1) The heading of section 1 of the 1973 Act is amended as follows.
(2) After “compensation” insert “for depreciation caused by use of public works”. 10

Right to a property bond for property blight

- 4 After section 1 of the 1973 Act insert –

“1A Right to a property bond for property blight depreciation

- (1) Where the value of an interest in land is depreciated by property blight caused by a major national infrastructure project, then if – 15
 (a) the interest qualifies for a property bond; and
 (b) the person entitled to the interest makes an application within the time provided by and otherwise in accordance with this Part of this Act, 20
a property bond for that property blight depreciation shall, subject to the provisions of this section and Schedule 4 of this Act, be issued by the promoter of the major national infrastructure project to the person making the claim (hereafter referred to as “the applicant”).
- (2) Whether an interest in land qualifies for a property bond is to be determined in accordance with Schedule 4: Property Bond Scheme which shall have effect, such Schedule to be inserted after Schedule 3 of the 1973 Act and titled “Schedule 4: Property Bond Scheme”. 25
- (3) The property blight mentioned in subsection (1) above means the depreciation in value of an interest in land resulting from blight factors that are or will be a probable consequence of the construction or installation of a major national infrastructure project. 30
- (4) The blight factors mentioned in subsection (1) above are noise, vibration, smell, fumes, smoke, artificial lighting, landscape visibility, traffic flows or discharge on to the land of any solid or liquid substance. 35

1B Transfer of property bond

- (1) A property bond which has not been redeemed is annexed and incident to, and shall go with, the estate or interest of any person to whom the interest in land is disposed, and shall be capable of being enforced by every person in whom that estate or interest is (in whole or in part) for the time being vested. 5
- (2) For the purpose of this Part of this Act, the person in whom the interest of land is vested following a disposition in accordance with subsection (1), shall be deemed to be the “applicant” for any relevant future disposition for the period of time in which the interest is vested in them. 10

1C Property blight caused by temporary works or structures

- (1) Where the value of an interest in land is depreciated by property blight caused by the construction, use or location of temporary works or structures directly connected to the major national infrastructure project, then if – 15
- (a) the interest qualifies for a property bond in accordance with paragraph 7 of Schedule 4; and
 - (b) the temporary works or structures are intended to be or have been in situ for a period of over 12 months; and 20
 - (c) the person entitled to the interest makes an application within the time provided within subsection (3) below,
- a property bond for that property blight depreciation shall be issued by the promoter of the major national infrastructure project to the person making the claim (hereafter also referred to as “the applicant”). 25
- (2) Temporary works or structures directly connected to the major national infrastructure project shall include work sites or compounds.
- (3) The period of time within which the applicant may apply for a property bond under this section begins with the date on which the location of the temporary works or structures is confirmed and ends on the date that they are removed. 30
- (4) Subject to the provisions of this section, an application for a property bond under this section shall be determined by the same procedures and definitions, and operate and have the same effect as a property bond issued under section 1A and Schedule 4. 35
- (5) The property blight mentioned in subsection (1) means the depreciation in value of an interest in land resulting from blight factors that are or will be a probable consequence of the construction, use or location of temporary works or structures directly connected to the major national infrastructure project.” 40

Amendment to section 2 of the 1973 Act

- 5 (1) Section 2 of the 1973 Act is amended as follows.
- (2) In section 2(1) after “An interest qualifies for compensation under” insert “section 1 of”. 45

(3) After section 2(1) insert –

“(1A) An interest qualifies for a property bond under section 1A or 1C of this Act if the requirements of subsection (2) or, as the case may be, subsection (3) below are satisfied on the date on which an application for the property bond is served.”

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Amendment to section 3 of the 1973 Act

6 (1) The heading of section 3 of the 1973 Act is amended as follows.

(2) After “Claims” insert “under section 1”.

Applications under section 1A

7 After section 3 insert –

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“3A Applications under section 1A

(1) An application under section 1A is to be determined in accordance with the rules of the property bond scheme.

(2) An application may only be made within the period of time that –

(a) begins on the proposal day; and

(b) ends on the day before the first claim day.

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(3) Where an application has been served on the promoter, any qualified person authorised by that promoter may, on giving reasonable notice, enter the land to which the application relates for the purpose of surveying it and ascertaining its value in connection with the application; and any person who wilfully obstructs a person in the exercise of the powers conferred by this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

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(4) Where a property bond has been issued there shall be payable by the promoter any reasonable valuation or legal expenses incurred by the applicant for the purposes of the preparation and prosecution of the application; but this subsection is without prejudice to the power of the Upper Tribunal in respect of the costs of and incidental to proceedings in the Upper Tribunal by virtue of section 29 of the Tribunals, Courts and Enforcement Act 2007.”

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Amendment to section 4 of the 1973 Act

8 (1) Section 4 of the 1973 Act is amended as follows.

(2) At the end of the heading of section 4 insert “for section 1 claims”.

(3) In section 4(1) after “The compensation payable on any claim” insert “made under section 1”.

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Valuation of an interest in land: general provisions for section 1A claims

9 After section 4 of the 1973 Act insert –

“4A Valuation of an interest in land: general provisions for section 1A applications

- (1) Where a property bond under section 1A is issued to a person who was entitled to the interest in land on the proposal day, the value of the depreciation of that interest that is the subject of the bond shall be assessed by reference to the open market value of the applicant’s interest in land on the day before the proposal day. 5
- (2) Where a property bond under section 1A is issued to a person who has purchased the interest in land at the depreciated purchase price, the value of any further depreciation of that interest that is the subject of the further bond shall be assessed by reference to the depreciated purchase price. 10
- (3) The value of the interest in respect of which the application is made shall be assessed – 15
- (a) subject to subsection (3) below, by reference to the nature of the interest and the condition of the land as it subsisted on the date of the application;
 - (b) subject to section 5 below, in accordance with rules (2) to (4) of the rules set out in section 5 of the Land Compensation Act 1961; 20
 - (c) if the interest is subject to a mortgage or to a contract of sale or to a contract made after the relevant date for the grant of a tenancy, as if it were not subject to the mortgage or contract. 25
- (4) In assessing the value of the interest in respect of which the application is made there shall be left out of account any part of that value which is attributable to – 30
- (a) any building, or improvement or extension of a building, on the land if the building or, as the case may be, the building as improved or extended, was first occupied after the proposal day; and
 - (b) any change in the use of the land made after that date.”

Amendment to section 5 of the 1973 Act

- 10 (1) Section 5 of the 1973 Act is amended as follows. 35
- (2) In section 5(1) after “in respect of which the claim” insert “or application under section 1 or 1A”.

Assessment of value: duty to act fairly

11 After section 5 of the 1973 Act insert –

“5A Assessment of value: duty to act fairly 40

- (1) The valuation of the depreciation in value of an interest in land caused by property blight is the value that fairly compensates an applicant for the loss that applicant has suffered or will suffer, by reason of the property blight.

- (2) The Secretary of State must publish a code of conduct on the fair assessment of value consistent with the duty to act fairly set out in subsection (1).
- (3) In this Part of this Act “code of conduct” means the code of conduct published under this section as it is in force for the time being. 5
- (4) The Secretary of State must lay the code of conduct before Parliament.
- (5) Promoters shall have due regard to the code of conduct at all stages of the major national infrastructure project.”

Amendment to section 8 of the 1973 Act 10

- 12 (1) Section 8 of the 1973 Act is amended as follows.
- (2) In section 8(1) after “Where a claim” insert “under section 1”.

Amendment to section 15 of the 1973 Act

- 13 (1) Section 15 of the 1973 Act is amended as follows.
- (2) After section 15(2) insert— 15
- “(2A) The promoter in relation to a major national infrastructure project must keep a record and, on demand, furnish a statement in writing of the date of the proposal day.”

Amendment to section 16 of the 1973 Act

- 14 (1) Section 16 of the 1973 Act is amended as follows. 20
- (2) In section 16(1) after “Any question of disputed compensation” insert “or disputes arising from a property bond”.
- (3) In section 16(2) after “No such question arising out of a claim” insert “under section 1”.

Amendment to section 19 of the 1973 Act 25

- 15 In section 19 of the 1973 Act insert at the appropriate place—
- ““depreciated purchase price” means in relation to the sale of a property where a property bond has been issued and redeemed, the reduced price paid for that interest in land as a result of property blight; 30
- “major national infrastructure project” has the same meaning as “nationally significant infrastructure project” in Part 3 of the Planning Act 2008;
- “promoter” means the company, organisation, Government department or responsible authority that has overall responsibility for developing and promoting the major national infrastructure project; 35
- “proposal day” means in relation to the major national infrastructure project the date on which—
- (a) the initial infrastructure plan or any subsequent amendment is proposed; 40

- (b) a planning application is submitted; or
 - (c) where (a) and (b) above are not applicable: formal plans, proposals or maps are proposed which provide sufficient detail for the preferred location to be clearly identified;
- “the 1973 Act” means the Land Compensation Act 1973;
- “traffic flows” means the additional traffic arising from construction work, road diversions or otherwise in direct connection with the major national infrastructure project.”

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Orders and regulations

- 16 After section 19 of the 1973 Act insert – 10
- “19A Orders and regulations**
- (1) Any power to make an order under Schedule 4 of this Act is exercisable by statutory instrument.
 - (2) A statutory instrument containing an order under Schedule 4 of this Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.” 15

Schedule: Property Bond Scheme

- 17 After Schedule 3 of the 1973 Act there is inserted –
- “SCHEDULE 4
PROPERTY BOND SCHEME

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General details

- 1 This Schedule shall have effect.
- 2 The Secretary of State must establish a property bond scheme, which is to be referred to as the “Property Bond Scheme”.
- 3 A bond issued under the Property Bond Scheme is to be referred to as a “property bond”. 25
- 4 The Secretary of State must by order publish and maintain rules for the operation of the Property Bond Scheme, which shall include –
 - (a) the contents, submission and service of an application; 30
 - (b) disclosure of documents;
 - (c) providing evidence of open market value;
 - (d) the setting, collection and payment of any fees;
 - (e) an independent process for assessing and reaching agreement on the open market value of the interest in land; 35
 - (f) registration of an application for, or of a property bond;
 - (g) the valuation evidence to be provided upon disposition of an interest in land in accordance with paragraph (18) below;
 - (h) an independent process for assessing and reaching agreement on the redemption value of the property bond; 40

- (i) payment by the promoter upon redemption of a property bond;
- (j) the creation of any standard forms.
- 5 A property bond is a bond between the promoter of the major national infrastructure project and an applicant under the terms of which the promoter agrees to indemnify the applicant against any depreciation in value of the applicant's interest in land as a result of property blight from— 5
- (a) upon first application for a property bond by a person entitled to the interest in land on the proposal day, the agreed open market value of that interest; or 10
- (b) upon application for a further property bond by a person entitled to the interest in land following sale of that interest to them and redemption of a property bond, the depreciated purchase price. 15
- 6 The date in relation to which the open market value shall be assessed is—
- (a) under section 1A the day before the proposal day; or
- (b) under section 1C the day before the location of the temporary works or structures is confirmed. 20
- 7 An interest in land qualifies for the issuing of a property bond if—
- (a) the application is made within the time limits in accordance with section 1C or 3A;
- (b) it falls within a geographical area affected by blight as depicted on the amalgamated blight map; 25
- (c) the applicant provides proof of the open market-value on the day before the proposal day or the depreciated purchase price;
- (d) the application complies with all relevant rules of the Property Bond Scheme. 30

Amalgamated blight map

- 8 The Promoter of any nationally significant major infrastructure project shall on the proposal day publish an amalgamated blight map.
- 9 The amalgamated blight map must show the geographical area that will be affected by blight factors (including as a result of temporary works or structures), in accordance with paragraph (11) below. 35
- 10 Where the blight factor of noise is applicable to the major national infrastructure project, the exposure to noise is to be measured and depicted on the amalgamated blight map in accordance with the Environmental Noise (England) Regulations 2006, Regulation 4 and Schedule 2: Assessment methods for the noise indicators. 40
- 11 The Secretary of State must for each nationally significant major infrastructure project— 45

- (a) set the levels for which each property blight factor should be deemed to be at a level at which property bonds should be granted; and
 - (b) set the boundaries of the blight factors on the amalgamated blight map for that project in accordance with that decision. 5
- 12 The promoter must keep the amalgamated blight map up to date, and must refer the map back to the Secretary of State where further decisions under paragraph (11) are necessary.
- 13 The Secretary of State must by order establish a mechanism for appeals by applicants against the amalgamated blight map on issues affecting an individual property. 10

Application

- 14 An application for a property bond must be served on the promoter. 15
- 15 The promoter shall within 21 days of service of the application inform an applicant that it –
 - (a) agrees with the open market value or depreciated purchase price as set out in the application; or
 - (b) disagrees with the open market value as set out in the application and provide reasons for its disagreement and make a counter-offer. 20
- 16 The rules of the Property Bond Scheme shall provide for a process for assessing and reaching agreement on the open market value of the interest in land. 25

Redeeming Bond

- 17 An applicant who wishes to dispose of an interest in land may –
 - (a) dispose of that interest at the depreciated value and redeem the property bond; or
 - (b) dispose of that interest at a non-depreciated value without redeeming the property bond. 30
- 18 Where an applicant disposes of an interest in land under paragraph (17)(a) above, one month before the disposition, the applicant must serve on the promoter a notice of the applicant's intention to dispose of the interest in land, together with the valuation evidence required under the Property Bond Scheme rules. 35
- 19 Where an applicant disposes of an interest in land under paragraph (17)(b) –
 - (a) the property bond shall remain annexed and incident to the interest in land under section 1B above; 40
 - (b) the person in whom the interest in land is now vested must serve on the promoter details of the sale; and
 - (c) that person shall be deemed “the applicant” for all future purposes relating to the property bond for as long as they are entitled to that interest in land. 45

- 20 No property bond may be redeemed after the first claim day, and any unredeemed property bonds as at the date of the first claim day shall be rendered void.”

Property Blight Compensation Bill

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B I L L

To require the Secretary of State to amend legislation to improve the system of compensation for property blight caused by major national infrastructure projects; and for connected purposes.

*Presented by Mrs Caroline Spelman,
supported by
Dan Byles, Sir Tony Baldry,
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