

Injurious affection and tenant compensation



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Injurious affection

- Compulsory Purchase Act 1965, s. 10:

“If any person claims compensation in respect of any land, or any interest in land, which has been taken for or injuriously affected by the execution of the works, and for which the acquiring authority have not made satisfaction under the provisions of this Act, or of the special Act, any dispute arising in relation to the compensation shall be referred to and determined by the Upper Tribunal”

Injurious affection

- Usually arises in one of two situations:
 - Where land (which has not been compulsorily acquired) is damaged by execution by public authority of works on some other land
 - Where proprietary but non-possessory rights (aka incorporeal hereditaments), e.g. a right of way, is extinguished by a compulsory acquisition

Wildtree – summary of s. 10

- *Wildtree Hotels Ltd v Harrow LBC* [2001] 2 AC 1 per Lord Hoffmann identifies five key principles:
 - (1) No need for any of the claimant's land to have been taken
 - (2) S. 10 requires *injuria*, i.e. damage which would be unlawful (either public or private nuisance) but for the protection of the statute
 - (3) S. 10 only engaged where authority acts within/under its statutory powers
 - (4) Only creates entitlement to compensation for injury to land interests, i.e. purely personal losses outside scope
 - (5) Only available for injury caused by construction/execution of works, not for subsequent use/operation of the result of the works.

Tenant compensation

- Compulsory Purchase Act 1965, s. 20:

“(1) If any of the land subject to compulsory purchase is in the possession of a person having no greater interest in the land than as tenant for a year or from year to year, and if that person is required to give up possession of any land so occupied by him before the expiration of his term or interest in the land, he shall be entitled to compensation for the value of his unexpired term or interest in the land, and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury he may sustain.”

Tenancies covered

- Term certain of a year or less
- Term certain of any length with a year or less before determination
- Annual periodic tenancy
- Weekly or monthly periodic tenancies
- Tenancies at will

Compensation

- Compensation under s. 20 for:
 - Value of residue of term of the tenancy
 - Note – where periodic tenancy, assume determination at first opportunity under the lease
 - Disturbance payments

Thank you for listening

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