

PROCEDURE FOR THE ASSESSMENTS OF COMPENSATION WHERE LAND IS ACQUIRED COMPULSORILY.

In terms of the First Schedule to the Land Settlement (Scotland) Act, 1919, it is provided that in regard to land acquired compulsorily either by purchase or by leasing any question of disputed compensation or any question as to the apportionment of rent payable under a lease shall be determined by an arbiter selected by the Reference Committee provided for in the Acquisition of Land (Assessment of Compensation) Act 1919.

In the case of compulsory purchase the arbiter in assessing compensation is required to act in accordance with the following rules:—

“II. In assessing compensation, an official arbiter shall act in accordance with the following rules:—

“(1) No allowance shall be made on account of the acquisition being compulsory:

“(2) The value of land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise: Provided always that the arbiter shall be entitled to consider all returns and assessments of capital value for taxation made or acquiesced in by the claimant:

“(3) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any Government Department or any local or public authority: Provided that any *bona fide* offer for the purchase of the land made before the passing of this Act which may be brought to the notice of the arbiter shall be taken into consideration:

“(4) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the inmates of the premises or to the public health, the amount of that increase shall not be taken into account:

“(5) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the official arbiter is satisfied that reinstatement in some other place is *bona fide*

intended, be assessed on the basis of the reasonable cost of equivalent reinstatement :

- “(6) The provisions of Rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land.

“For the purposes of this section, an official arbiter shall be entitled to be furnished with such returns and assessments as he may require.”

With regard to compulsory leasing the arbiter is empowered to determine :—

- (a) the terms and conditions of the proposed lease.
- (b) the compensation for severance.
- (c) the compensation payable to an existing tenant.
- (d) apportionment of rent between the land taken and the land retained by the existing tenant.
- (e) Any other matter incidental to the lease or the surrender thereof at the end of the authority's tenancy.

In determining these matters the arbiter has to observe the following rules, in addition to those quoted above in so far as these are applicable to compulsory leasing :—

- (a) In fixing the rent no allowance shall be made in respect of the lease being compulsory.
- (b) Any compensation awarded to a tenant for loss caused through the acquisition of part of his holding shall so far as possible be met by taking such compensation into account, in fixing the rent of the land taken on lease compulsorily.

As a general rule not more than one expert witness on either side is permitted unless the arbiter otherwise directs.

The costs of the arbitration are in the discretion of the arbiter, but certain rules are laid down under which the arbiter is instructed to order the claimant to bear his own cost and to pay the costs or part of the costs of the authority.

The Act permits if the party so agree to the reference of any question as to disputed compensation or apportionment of rent to the Commissioners of Inland Revenue or to an arbiter mutually selected.