POLICY NOTE

THE ACQUISITION OF LAND (RATE OF INTEREST AFTER ENTRY) (SCOTLAND) AMENDMENT REGULATIONS 2016

SSI 2016/258

Introduction

1. The above instrument was made by the Scottish Ministers in exercise of the powers conferred by section 40(1) of the Land Compensation (Scotland) Act 1963([1]) and all other powers enabling them to do so.

Policy Objectives

2. The Acquisition of Land (Rate of Interest After Entry) (Scotland) Amendment Regulations 2016 introduce a base level of 0% to the interest payable on compensation in respect of land acquired compulsorily by public authorities and other organisations in circumstances where entry is made on land before the compensation has been paid.

3. The change amends the Acquisition of Land (Rate of Interest After Entry) (Scotland) Regulations 1995 to reflect changes to the Bank of England base rate of 4 August 2016.

Background

4. Until the end of 1995 the interest rate payable on compensation for land compulsorily acquired, in respect of land on which entry has been made before the payment of compensation, was specifically prescribed in a series of Statutory Instruments. With effect from 31 December 1995 a new method of determination was prescribed by the Acquisition of Land (Rate of Interest After Entry) (Scotland) Regulations 1995 (SI 1995 No.2791). These Regulations do not set a specific rate but instead set out a formula by which acquiring authorities may calculate the payable rate for any period or periods after the new Regulations came into force.

5. The base rate is defined as the rate quoted by the seven largest banking institutions which quote a base rate in sterling on a reference date and are authorised by the Bank of England under the Banking Act 1987.

The Reference Days

6. The payable rate takes effect on each reference day and applies until the next reference day. Where the base rate is the same on consecutive reference days the payable rate will remain the same. The 1995 Regulations define the reference days as:

30 September - for the period 30 September to 30 December.

31 December - for the period 31 December to 30 March

([1]) 1963 c.51. The functions of the Treasury were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). Section 126 of that Act provides that "Minister of the Crown" includes the Treasury.

31 March - for the period 31 March to 29 June

30 June - for the period 30 June to 29 September

7. The effect of the amendment is to put a base level for the rate payable rate at 0%. The payable rate for any period is set at bank base rate less 0.5% on the appropriate reference day. As currently calculated the payable rate could become negative as of 30 September 2016 due to the Bank of England going below 0.5% on 4 August 2016.

Consultation

8. Consultation with officials in the Government's Property Advice Division and with Transport Scotland indicates that it is appropriate that a minimum rate of 0% should be introduced.

9. There has been limited opportunity for consultation outwith the Scottish Government. The Valuation Office Agency also considered that the proposal was appropriate. The Scottish Law Commission is currently undertaking a review of the law and procedures of compulsory purchase and land compensation. As a part of the review it has considered the process for determining compensation. The results of the SLC review are not currently in the public domain.

10. There has been no public consultation by the Scottish Government on the proposed change.

Impact Assessment

11. The Scottish Government does not consider that an equality impact assessment is necessary in this case. In considering whether an EqIA was necessary, the questions set out in the Scottish Government's EqIA screening guidance were considered.

Financial Effects

12. The Minister for Local Government and Housing confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Planning and Architecture Division
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