

s.52 Land Compensation Act 1973

[Introductory paragraph]

s.52 of the Land Compensation Act 1973 contains the provisions for advance payment of compensation where compensation is not agreed by the time land is taken. Advance payments are required to be made within three months of being requested in writing, or on the date of possession if later. The amount of the payment should be 90% of the acquiring authority's view of the likely compensation payable.

There is a perceived problem with late or withheld payment or payment at unreasonably low levels. The Act does not contain any remedy for these issues but Acquiring Authorities make the point that they are often not provided with sufficient information to make an informed assessment of the claim at the time of the advance payment.

Advance payments are an essential part of the compensation process. Without them, land owners and occupiers can be dispossessed from land and deprived of income or livelihood with no prospect of recompense for weeks or months. As a result we have been considering possible options for reform to make this system less prone to abuse by Acquiring Authorities without opening up opportunities for abuse by dispossessed owners and occupiers or generating unnecessary litigation.

[Latest position]

We put the paper *PROPOSALS FOR CHANGES TO PRACTICE RELATING TO ADVANCE PAYMENTS OF COMPENSATION UNDER S52 OF LAND COMPENSATION ACT 1973* to DCLG on 18th June 2007 with a view to including reforms in the Planning Act 2008.

DCLG requested that we provide evidence of the breadth of the problem and the practical benefits that a reform would bring, compared to the likely costs. We distributed a questionnaire to members in March 2008 and included this issue in a combined questionnaire which was distributed in advance of the CPA National Conference in June 2008.

Unfortunately the level of response to these questionnaires has been low and we have been unable to bring forward a case for reform based on the response to date.

We are currently monitoring a number of active cases which may evidence the problem but remain in need of further examples of where advance payment issues have caused real problems. We would therefore be pleased to hear from any members with examples of problems encountered with advance payments, whether from the acquiring authority point of view or from that of the claimant.

[DOCUMENTS]

PROPOSALS FOR CHANGES TO PRACTICE RELATING TO ADVANCE PAYMENTS OF COMPENSATION UNDER S52 OF LAND COMPENSATION ACT 1973

Letter to DCLG 18/6/07

First Questionnaire

Second Questionnaire

Analysis of second questionnaire responses