

High Speed Rail: Investing in Britain's Future – Phase Two: The route to Leeds, Manchester and beyond

The statutory system of land and property compensation

1. The existing law around compensation and blight is complex and based on both statute and case law. It reflects the large variety of circumstances for which the statutory system must cater. The Government believes that it is helpful to give an overview of the existing statutory system.
2. Set out below is a brief overview of how the statutory system works, who is eligible for compensation, and what they are likely to receive. This information is intended to be introductory only. Further information can be found in existing guidance produced by the Department for Communities and Local Government. You can obtain copies of this guidance by calling this number: 0300 123 1124.

What compensation can be claimed?

3. The type and level of compensation paid to land owners should their land be required on a compulsory purchase will vary depending on their individual circumstances. However the categories of compensation (or 'Heads of Claim') paid to land owners are common across the system and are set out below:
 - *The value of the land taken* – Meaning the un-blighted open market value of the owner's interest in the land taken. In other words the value of the land if there had been no plans for HS2;
 - *Severance and injurious affection* – Meaning compensation for the reduction in the value of any land retained by the property owner if only part of the land needs to be compulsorily purchased for the construction of Phase 2;
 - *Disturbance* – Only available to the occupiers of properties, it means compensation for the additional costs and losses incurred as a result of being required to move from a property; and
 - *Fees* – Meaning compensation for reasonable surveyors' and/or solicitors' fees that may be incurred as a result of the land being compulsorily purchased.
4. 4. Residential owner-occupiers (freehold or leasehold with at least three years remaining) whose property needs to be compulsorily purchased could therefore expect to receive:
 - The un-blighted open market value of their property;

¹ Compensation can be claimed by owners of land. The term land includes any property on that land (i.e. building, e.g. a home). Therefore the value of land would include the value of land including any building on that land.

- A home-loss payment (10% of the value of the property with a minimum payment of £4,700 and a current maximum of £47,000) if they have occupied the property as their main residence for a year or more; and
- Reasonable moving costs (such as expenses for removing possessions, surveyor and legal fees and stamp duty on a new property of equivalent value).

5. It is very important to note that tenants and licensees who are displaced from their homes may also be eligible for home-loss payments as set out in section 29(4) of the Land Compensation Act 1973.

More information about compensation payments for residential properties can be found on the Government website at:

<https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-4-compensation-to-residential-owners-and-occupiers>

6. Commercial or agricultural land owners or occupiers are also entitled to claim compensation under the same categories or ‘Heads of Claim’ outlined above. However, compensation payments may differ to reflect the individual circumstances faced by commercial or agricultural land owners or occupiers. For example, in addition to the un-blighted open market value of their interest in any land taken:

- Commercial property owner-occupiers could receive payments to cover the relocation or total extinguishment of their business. Non-occupying landlords of commercial or residential properties could receive a loss payment of 7.5% of the value of their interest in the property up to a ceiling of £75,000
- For agricultural property owners the un-blighted market value of the land taken will reflect future profits that could be expected to be made from farming. Agricultural tenants (depending on the type of tenancy held) could receive compensation for the termination of all or part of their tenancy as well as disturbance payments including an allowance for the sum an incoming tenant would have been expected to pay for items such as growing crops. A rent reorganisation payment of four times the rent of the land taken can also be made if only part of the holding is taken to help tenants reorganise their estate.

7. If only part of a property is required, all residential, commercial or agricultural property owners will receive the un-blighted open market value of the land taken plus any loss in value to the part retained; as set out above this is called ‘severance’. If a significant part of the land is lost (such that the part remaining will be less useful or significantly less valuable) it is possible to request that the acquiring authority, which in the case of HS2 is the Government, purchase the whole of the property. This is called ‘material detriment’ and occurs if it can be demonstrated that buying a part of a property would have a serious impact on the part which remains; making

it significantly less useful or valuable. If a dispute occurs, the issue will be resolved by the Lands Chamber of the Upper Tribunal.

More information about compensation payments for commercial and agricultural properties can be found on the Government website at:

Commercial:

<https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-2-compensation-to-business-owners-and-occupiers>

Agricultural:

<https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-3-compensation-to-agricultural-owners-and-occupiers>

When can compensation be claimed?

8. The Government intends to introduce a Hybrid Bill providing compulsory purchase powers for HS2. Prior to the Bill's introduction, land either side of the proposed route will be 'safeguarded'. This means that applications for planning permission must be referred to HS2 to make sure that such development will not interfere with the construction or use of the railway. Once the Bill has obtained Royal Assent, in other words, once it has been enacted, the compulsory purchase powers under it will become available for HS2. Royal Assent is currently estimated to be obtained in 2016. A property owner whose property is wholly or partially within the safeguarded area may be eligible to serve a Blight Notice on the Government. A Blight Notice is a means of asking the Government to purchase a property on compulsory purchase terms before it is needed for construction.
9. In order to qualify to serve a Blight Notice property owners must be one of the following:
 - A resident owner-occupier of a private dwelling (i.e. a freeholder or lessee with at least three years unexpired term) who has occupied the property for at least six of the last twelve months;
 - An owner-occupier of any business property where the annual (rateable) value of the premises does not exceed £34,800 in the 2010 valuation list;
 - An owner-occupier of an agricultural unit with at least six months occupation of the whole or part; or
 - Certain mortgagees and personal representatives.
10. Once accepted, a Blight Notice is valid for three years and allows the property owner to require the Government to buy their property on compulsory purchase terms at any point within that time. A Blight Notice may be served at any point after safeguarding directions are made. The Government must generally accept valid Blight Notices but it can serve a Counter-Notice within two months if:

- No part of the property is within the safeguarding area;
- The property is not needed to build or operate the railway;
- Only part of the land is required to build and operate the railway;
- If on the date of the notice the property owner is ineligible, e.g. because he/she has not shown all 'reasonable endeavours' to sell the property or the rateable value of the business is more than £34,800; or
- If the property owner's interest in the property does not qualify, e.g. if they are not a freeholder or lessee with at least three years left on the lease who has occupied the property for at least six of the last 12 months.

11. If a property owner does not agree with the decision to serve a Counter-Notice they may, within a period of two months, refer the matter to the Lands Chamber of the Upper Tribunal, who will determine the matter.

12. Property owners or occupiers whose property is required for the railway but who are not eligible to serve a Blight Notice or who choose not to do so will receive compensation when their property is acquired and will be required to move. However, particular properties may not be required until a considerable period after the Bill has received Royal Assent. During the preparation of the legislation, more detailed construction plans will be developed, which will give property owners a clearer indication of when their property will be required.

Useful website addresses

More information about compensation payments for residential properties can be found at:

<https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-4-compensation-to-residential-owners-and-occupiers>

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Commercial:

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Agricultural:

<https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-3-compensation-to-agricultural-owners-and-occupiers>