

THE AGRICULTURE (MISCELLANEOUS PROVISIONS) ACT 1963, SECTION 22

1. Section 37 of the Land Compensation Act 1973 makes provision for disturbance payments for persons without compensatable interests. Sub-section (7) provides that section 37 does not apply to any land which is used for the purposes of agriculture.

2. Section 22 of the Agriculture (Miscellaneous Provisions) Act 1963 provides for allowances to persons displaced from agricultural land. In essence, where land is used for the purposes of agriculture (within the meaning of the Agricultural Tenancies Act 1995) and also used by way of a trade or business, or is not so used but is comprised in a farm business tenancy and is used for the purposes of a trade or business, and the person carrying on the trade or business is displaced from the land, the acquiring authority may pay to him such reasonable allowances they think fit towards his removal expenses and the loss which, in their opinion, he will sustain by reason of the resulting disturbance of his trade or business. At least one of the circumstances covered by section 22 is that where a person is carrying on the trade or business on land used for the purposes of agriculture, but does not have a compensatable interest, such as a tenancy. Such a person might be a farming company, being a corporate entity separate from the party holding the freehold or tenancy, as the case may be.

3. Unlike the entitlement to a disturbance payment under section 37 of the 1973 Act, the broadly equivalent provision, which applies to agricultural land, namely section 22 of the 1963 Act, makes provision only for a discretionary payment. There is no longer any logical reason for discriminating against persons displaced from agricultural land, and who may have no compensatable interest, but whose only entitlement is to a discretionary payment.

4. It has been my experience that, generally, an acquiring authority will exercise the discretion favourably, but only after some 'heavy' correspondence containing hidden threats of judicial review etc

BARRY DENYER-GREEN
1st December 2021