



# Town and Country Planning Act 1971

## 1971 CHAPTER 78

### PART VII

#### COMPENSATION FOR PLANNING DECISIONS RESTRICTING NEW DEVELOPMENT

##### *Measure of compensation*

#### **152 General provisions as to amount of compensation**

- (1) Where a person is entitled to compensation under this Part of this Act in respect of depreciation by a planning decision of the value of an interest in land, the amount of the compensation, subject to the following provisions of this section, shall be whichever is the lesser of the following amounts, that is to say—
  - (a) the amount by which the value of that interest (if it is an interest subsisting only in land to which this section applies), or (if it is an interest extending to other land) the amount by which the value of the interest in so far as it subsists in land to which this section applies, is depreciated by the decision ; and
  - (b) the amount of the unexpended balance of established development value, immediately before the decision, of so much of the land in which the interest subsists as is land to which this section applies.
- (2) Land to which this section applies, in relation to a planning decision, is land which—
  - (a) constitutes or forms part of the decision area; and
  - (b) at the time of the decision has an unexpended balance of established development value.
- (3) If, in the case of any land to which this section applies, compensation is payable under this Part of this Act in respect of two or more interests in that land by reason of the same planning decision, and the aggregate amount of compensation payable apart from this subsection in respect of those interests would exceed the amount mentioned in paragraph (b) of subsection (1) of this section, the amount mentioned in that paragraph shall be allocated between those interests in proportion to the depreciation of the value of each of them respectively, and the amount of the compensation payable in respect of any of those interests shall be the sum so allocated to that interest.

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- (4) Where the land constituting the decision area, taken as a whole, does not satisfy both of the following conditions, that is to say—
- (a) that at the time of the decision it has an unexpended balance of established development value; and
  - (b) that every interest subsisting therein, the value of which is depreciated by the decision, subsists in the whole of that land,

the provisions of subsection (5) of this section shall have effect for the purpose of assessing the compensation payable under this Part of this Act in respect of any interest subsisting in that land or any part thereof.

- (5) Where this subsection applies in relation to an interest in land—
- (a) the depreciation of the value of the interest by the planning decision shall first be ascertained with reference to the whole of the land which constitutes or forms part of the decision area and is land in which that interest subsists;
  - (b) the land referred to in paragraph (a) of this subsection shall then be treated as divided into as many parts as may be requisite to ensure that each such part consists of land which either satisfies both of the conditions mentioned in subsection (4) of this section or is not land which, at the time of the decision, has an unexpended balance of established development value; and
  - (c) the depreciation of the value of the interest, ascertained in accordance with paragraph (a) of this subsection, shall then be apportioned between those parts, according to the nature of those parts and the effect of the planning decision in relation to each of them,

and the amount of the compensation shall be the aggregate of the amounts which would be payable by virtue of the preceding provisions of this section if the planning decision had been made separately with respect to each of those parts.

- (6) In this section " the decision area " in relation to a planning decision means the aggregate of the land to which the decision relates.

### **153 Assessment of depreciation**

- (1) For the purposes of this Part of this Act, the value of an interest in land, or of an interest in so far as it subsists in particular land, shall be taken to be depreciated by a planning decision (in this section referred to as "the relevant decision") if, and to the extent to which, that value, calculated in accordance with the following provisions of this section, falls short of what that value, so calculated, would have been if the relevant decision had been a decision to the contrary effect.
- (2) Subject to the following provisions of this section, any such value shall for the purposes of this section be calculated—
- (a) as at the time of the relevant decision; but
  - (b) as affected by that decision, by any grant of planning permission made after that decision and in force immediately before the Secretary of State gives notice of his findings on the claim for compensation in respect of that decision, and by any undertaking to grant planning permission so in force; and
  - (c) on the assumption that, after the relevant decision, and apart from any such permission or undertaking as is mentioned in paragraph (b) of this subsection, planning permission would not be granted for any new development of the land in question, but would be granted for any development thereof other than new development.

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- (3) If in consequence of another planning decision or of an order, being a decision or order made—
- (a) before the relevant decision; and
  - (b) either in respect of the whole or part of the land to which the relevant decision relates, or in respect of land which includes the whole or part of that land,
- compensation to which this subsection applies has become or becomes payable in respect of that other planning decision or that order, the calculation to be made under this section shall be made as if that other planning decision had been a decision to the contrary effect, or that order had not been made, as the case may be.
- (4) Subsection (3) of this section applies—
- (a) to any compensation payable under this Part of this Act, or under Part II or Part V of the Act of 1954 or Part VI of the Act of 1962 ; and
  - (b) to so much of any compensation payable under section 164 of this Act or section 118 of the Act of 1962, or under the provisions of those sections as applied by section 165 of this Act or section 119 of the Act of 1962 respectively, and so much of any compensation to which Part IV of the Act of 1954 applied, as is or was payable in respect of loss or damage consisting of depreciation of the value of an interest in land.
- (5) In this section " a decision to the contrary effect "—
- (a) in relation to a decision refusing permission, means a decision granting the permission subject to such condition (if any) of a description falling within subsection (2) of section 147 of this Act as the authority making the decision might reasonably have been expected to impose if the permission had not been refused; and
  - (b) in relation to a decision granting the permission subject to conditions, means a decision granting the permission applied for subject only to such of those conditions (if any) as fell within subsection (2) of that section.