



Town and Country Planning Act 1962

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PART VII

COMPENSATION FOR OTHER PLANNING RESTRICTIONS

Revocation or modification of planning permission

118 Compensation where planning permission revoked or modified

- (1) Where planning permission is revoked or modified by an order under section twenty-seven of this Act, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that a person interested in the land—
 - (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or
 - (b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,the local planning authority shall pay to that person compensation in respect of that expenditure, loss or damage.
- (2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.
- (3) Subject to the last preceding subsection, no compensation shall be paid under this section in respect of any work carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.
- (4) In calculating, for the purposes of this section, the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted for development of the land of any class specified in the Third Schedule to this Act.

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- (5) In this Part of this Act any reference to an order under section twenty-seven of this Act includes a reference to an order under the provisions of that section as applied by subsection (2) of section twenty-eight of this Act.

119 Application of s.118 to special cases of refusal or conditional grant of planning permission

- (1) The provisions of this section shall have effect where—
- (a) planning permission for the development of land has been granted by a development order, and
 - (b) that permission is withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order, and
 - (c) on an application made in that behalf under Part III of this Act, planning permission for that development is refused, or is granted subject to conditions other than those previously imposed by the development order.
- (2) In any case falling within the preceding subsection, the provisions of the last preceding section shall apply as if the planning permission granted by the development order—
- (a) had been granted by the local planning authority under Part III of this Act, and
 - (b) had been revoked or modified by an order under section twenty-seven of this Act,

and the provisions of section one hundred and twenty (except paragraph (b) of subsection (5) thereof) and of sections one hundred and twenty-one and one hundred and twenty-two of this Act shall apply as if references therein to an order under section twenty-seven of this Act were references to the planning decision whereby the planning permission in question is refused, or is granted subject to conditions other than those previously imposed by the development order.

120 Registration and apportionment of compensation for depreciation

- (1) Where compensation becomes payable under the preceding provisions of this Part of this Act, and includes compensation for depreciation of an amount exceeding twenty pounds, the local planning authority shall (if it appears to them to be practicable to do so) apportion the amount of the compensation for depreciation between different parts of the land to which the claim for that compensation relates, and give particulars of any such apportionment to the claimant and to every other person (if any) entitled to an interest in land which appears to the authority to be substantially affected by the apportionment.
- (2) In carrying out an apportionment under the preceding subsection, the local planning authority shall divide the land into parts, and shall distribute the compensation for depreciation between those parts, according to the way in which different parts of the land appear to the authority to be differently affected by the order in consequence of which the compensation is payable.
- (3) Subsection (2) of section one hundred and ten of this Act, and any regulations made by virtue thereof, shall have effect with respect to any such apportionment (subject to any necessary modifications) as they have effect with respect to an apportionment under subsection (1) of section one hundred and twelve of this Act.

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- (4) On a reference to the Lands Tribunal by virtue of the last preceding subsection, subsections (1) and (2) of this section, so far as they relate to the making of an apportionment, shall apply with the substitution, for references to the local planning authority, of references to the Lands Tribunal.
- (5) Where compensation becomes payable under the preceding provisions of this Part of this Act, and includes compensation for depreciation exceeding twenty pounds, the local planning authority shall give notice thereof to the Minister, specifying the amount of the compensation for depreciation and any apportionment thereof under this section; and subsections (4) to (6) of section one hundred and twelve of this Act shall have effect with respect thereto as they have effect with respect to compensation under Part VI of this Act, subject, however, to any necessary modifications, and, in particular, with the substitution—
 - (a) for references to the compensation mentioned in that section, of references to the compensation for depreciation specified in the notice, and
 - (b) for references to the planning decision, of references to the order under section twenty-seven of this Act in consequence of which the compensation is payable.
- (6) In this and the next following section “compensation for depreciation” means so much of any compensation payable under the preceding provisions of this Part of this Act as is payable in respect of loss or damage consisting of depreciation of the value of an interest in land, and “interest” (where the reference is to an interest in land) means the fee simple or a tenancy of the land and does not include any other interest therein.

121 Exchequer contribution towards compensation in certain cases

- (1) Where a notice under the last preceding section is given to the Minister in consequence of the making of an order under section twenty-seven of this Act, and the circumstances are such that, if the permission revoked or modified by the order had been refused, or, as the case may be, had been granted as so modified, at the time when it was granted, compensation under Part VI of this Act could have been claimed and would have been payable by the Minister, the Minister may, subject to the provisions of this section, pay to the local planning authority a contribution of the amount appearing to him to be the amount of compensation which would have been so payable by him under Part VI of this Act.
- (2) The amount of any such contribution shall not exceed—
 - (a) the amount of the compensation for depreciation paid by the local planning authority, or
 - (b) the unexpended balance of established development value, at the date of the making of the order, of the land in respect of which that compensation was paid.
- (3) Regulations made under this section shall make provision, in relation to cases where the Minister proposes to pay a contribution under this section.—
 - (a) for requiring the Minister to give notice of his proposal to persons entitled to such interests as may be prescribed in the land to which the proposal relates, and to such other persons (if any) as may be determined in accordance with the regulations to be affected by the proposal;
 - (b) for enabling persons to whom notice of the proposal is given to object to the proposal, on the grounds that compensation would not have been

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payable as mentioned in subsection (1) of this section, or that the amount of the compensation so payable would have been less than the amount of the proposed contribution;

- (c) for enabling any person making such an objection to require the matter in dispute to be referred to the Lands Tribunal for determination ; and
- (d) where a contribution under this section is paid, for applying (with any necessary modifications) the provisions of Part VI of this Act as to the reduction or extinguishment of the unexpended balance of established development value of land, as if the contribution had been a payment of compensation under Part VI of this Act.

122 Recovery, on subsequent development, of compensation under s.118

- (1) In relation to notices registered under the provisions of section one hundred and twelve of this Act, as applied by the preceding provisions of this Part of this Act, sections one hundred and thirteen and one hundred and fourteen of this Act shall have effect as they have effect in relation to compensation notices registered as therein mentioned:

Provided that, in a case where the compensation under section one hundred and eighteen of this Act specified in such a notice became payable in respect of an order modifying planning permission, the said sections shall not apply to development in accordance with that permission as modified by the order.

- (2) Subject to the next following subsection, any sum recovered by the Minister under section one hundred and thirteen of this Act, as applied by the preceding subsection, shall be paid to the local planning authority who paid the compensation to which that sum relates.
- (3) In paying any such sum to the local planning authority, the Minister shall deduct therefrom—
- (a) the amount of any contribution paid by him under the last preceding section in respect of the compensation to which the sum relates ;
 - (b) the amount of any grant paid by him under Part XII of this Act in respect of that compensation:

Provided that, if the sum recovered by the Minister is an instalment of the total sum recoverable, or is recovered by reference to development of part of the land in respect of which the compensation was payable, any deduction to be made under paragraph (a) or paragraph (b) of this subsection shall be a deduction of such amount as the Minister may determine to be the proper proportion of the amount referred to in that paragraph.

Other restrictions

123 Compensation for planning decisions restricting development other than new development

- (1) The provisions of this section shall have effect where, on an application for planning permission to carry out development of any class specified in Part II of the Third Schedule to this Act, the Minister, either on appeal or on the reference of the application to him for determination, refuses the permission or grants it subject to conditions.

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- (2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that the value of the interest of any person in the land is less than it would have been if the permission had been granted, or had been granted unconditionally, as the case may be, the local planning authority shall pay to that person compensation of an amount equal to the difference.
- (3) In determining, for the purposes of the last preceding subsection, whether or to what extent the value of an interest in land is less than it would have been if the permission had been granted, or had been granted unconditionally.—
 - (a) it shall be assumed that any subsequent application for the like planning permission would be determined in the same way; but
 - (b) if, in the case of a refusal of planning permission, the Minister, on refusing that permission, undertook to grant planning permission for some other development of the land in the event of an application being made in that behalf, regard shall be had to that undertaking.
- (4) Where, on such an application as is mentioned in subsection (1) of this section, planning permission is granted by the Minister subject to conditions for regulating the design or external appearance of buildings, or the size or height of buildings, the Minister, if it appears to him to be reasonable to do so having regard to the local circumstances, may direct that those conditions shall be disregarded, either altogether or to such extent as may be specified in the direction, in assessing the compensation (if any) payable under this section.
- (5) Where, in the case of an application for planning permission to carry out any such development as is mentioned in subsection (1) of this section, a notice under subsection (1) of section forty of this Act is served in respect of the whole or part of the land to which the application relates, the preceding provisions of this section shall have effect as if the application had been an effective application for planning permission, and as if that permission had been refused, as mentioned in subsection (1) of this section, in respect of that land or that part thereof, as the case may be.
- (6) No compensation shall be payable under this section in respect of an interest in land in respect of which a purchase notice is served.

124 Compensation in respect of orders under s.28

- (1) The provisions of this section shall have effect where an order is made under section twenty-eight of this Act, requiring a use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed.
- (2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person has suffered damage in consequence of the order by depreciation of the value of an interest in the land to which he is entitled, or by being disturbed in his enjoyment of the land, that authority shall pay to that person compensation in respect of that damage.
- (3) Without prejudice to the last preceding subsection, any person who carries out any works in compliance with the order shall be entitled, on a claim made as mentioned in that subsection, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.

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- (4) Any compensation payable to a person under this section by virtue of such an order as is mentioned in subsection (1) of this section shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

125 Compensation in respect of tree and building preservation orders

- (1) The matters for which provision may under section twenty-nine of this Act be made by a tree preservation order, or may under section thirty of this Act be made by a building preservation order, include the payment by the local planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of damage or expenditure caused or incurred in consequence of the refusal of any consent required under the order, or of the grant of any such consent subject to conditions.
- (2) Subsection (4) of section thirty-one of this Act applies for the purposes of this section.

126 Compensation for restrictions on advertising

Where, for the purpose of complying with any regulations made under section thirty-four of this Act, works are carried out by any person—

- (a) for removing an advertisement which was being displayed on the seventh day of January, nineteen hundred and forty-seven, and was being displayed on the date on which the regulations came into force, or
- (b) for discontinuing the use for the display of advertisements of a site used for that purpose on the last-mentioned date,

that person shall, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, be entitled to recover from that authority compensation in respect of any expenses reasonably incurred by him in that behalf.

Supplementary provisions

127 General provisions as to compensation for depreciation under Part VII

- (1) For the purpose of assessing any compensation to which this section applies, the rules set out in section five of the Land Compensation Act, 1961, shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (2) This section applies to any compensation which, under the preceding provisions of this Part of this Act, other than section one hundred and twenty-five thereof, is payable in respect of depreciation of the value of an interest in land.
- (3) Where an interest in land is subject to a mortgage—
- (a) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the mortgage ;

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- (b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
- (c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
- (d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

128 Determination of claims for compensation

- (1) Except in so far as may be otherwise provided by any tree preservation order or building preservation order, or by any regulations made under this Act, any question of disputed compensation under this Part of this Act shall be referred to and determined by the Lands Tribunal.
- (2) In relation to the determination of any such question, the provisions of sections two and four of the Land Compensation Act, 1961, shall apply, subject to any necessary modifications and to the provisions of any regulations made under this Act.