



# Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

## 1972 CHAPTER 52

### PART VIII

#### COMPENSATION FOR OTHER PLANNING RESTRICTIONS

##### *Supplementary provisions*

#### **167 General provisions as to compensation for depreciation under Part VIII.**

- (1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 12 of the <sup>M1</sup>Land Compensation (Scotland) Act 1963 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) [<sup>F1</sup>Subject to regulations under section 167A of this Act, this] section applies to any compensation which, under the preceding provisions of this Part of this Act, other than section 163, 164 or 166, is payable in respect of depreciation of the value of an interest in land.
- (3) In relation to the assessment of compensation payable under section 153 of this Act, the value of any interest may be a minus quantity.
- (4) Where an interest in land is subject to a heritable security—
  - (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 security;
  - (b) a claim for any such compensation may be made by any creditor in a heritable security over the interest, but without prejudice to the making of a claim by the person entitled to the interest;

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- (c) no compensation to which this section applies shall be payable in respect of the interest of the creditor in the heritable security (as distinct from the interest which is subject to the security); and
- (d) any compensation to which this section applies which is payable in respect of the interest which is subject to the heritable security shall be paid to the creditor in the security, or, if there is more than one such creditor, to the creditor whose security ranks first, and shall in either case be applied by him as if it were proceeds of sale by him under the powers competent to creditors in heritable securities.

#### Textual Amendments

**F1** Words substituted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), s. 35, Sch. 2 para. 6](#)

#### Modifications etc. (not altering text)

**C1** [S. 167\(1\)\(2\)](#) extended by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **s. 117(2)** (with [s. 128\(1\)](#))

**C2** [S. 167\(4\)](#) extended by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **s. 118** (with [s. 128\(1\)](#))

#### Marginal Citations

**M1** [1963 c. 51.](#)

### [<sup>F2</sup>167A Regulations as to compensation in respect of orders relating to mineral working—meaning of “mineral compensation modifications”.

- (1) The Secretary of State may by regulations made with the consent of the Treasury direct that sections 153, 159, 167, 226, and 227 of this Act shall have effect, where mineral compensation requirements are satisfied, subject, in such cases as may be specified in the regulations, to such modifications as may be so specified.
- (2) Any such regulations shall make provision as to circumstances in which compensation is not to be payable.
- (3) Any such regulations shall make provision—
  - (a) for the modification of the basis on which any amount to be paid by way of compensation is to be assessed; or
  - (b) for the assessment of any such amount on a basis different from that on which it would otherwise have been assessed.
- (4) Regulations made by virtue of subsection (3)
  - (a) of this section in relation to compensation where an order is made under section 42 or 49 of this Act shall provide that the amount of the compensation under section 153 or, as the case may be, 159 of this Act, shall be reduced—
    - (a) by the prescribed sum; or
    - (b) by a sum equal to the prescribed percentage of the appropriate sum.
- (5) In subsection (4) of this section “the appropriate sum” means the product of the sum which represents the annual value of the right to win and work minerals at the site to which the order relates and a multiplier which the Secretary of State considers appropriate having regard to the period at the expiration of which the minerals in, on or under that site might be expected to be exhausted if they continued to be extracted

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- at the rate which has been assumed for the purpose of calculating the annual value of the right to win and work them.
- (6) The prescribed percentage shall not be more than 10 per cent.
  - (7) The annual value of the right to win and work the minerals shall be calculated in the prescribed manner.
  - (8) In this Act “mineral compensation modifications” means modifications specified in regulations made by virtue of this section.
  - (9) Regulations under this section—
    - (a) may make different provision for different cases; and
    - (b) may include such incidental or supplementary provisions as the Secretary of State considers expedient.
  - (10) No regulations under this section shall have effect until approved by a resolution of each House of Parliament.
  - (11) Before making any such regulations the Secretary of State shall consult such persons or bodies of persons as appear to him to be representative—
    - (a) of persons carrying out mining operations;
    - (b) of owners of interests in land containing minerals; and
    - (c) of planning authorities.]

#### Textual Amendments

**F2** Ss. 167A—167C inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), ss. 31, 35](#)

#### [<sup>F3</sup>167B Orders relating to mineral working— meaning of “special consultations”.

- (1) Any reference in this Act to a planning authority carrying out special consultations about the making and terms of an order before they make it is a reference to their carrying out consultations—
  - (a) subject to subsection (2) of this section, with any person who has an interest—
    - (i) in the land to which the order will relate; or
    - (ii) in minerals in, on or under that land; and
  - (b) with the relevant authority or authorities.
- (2) The duty to consult imposed by subsection (1)(a) of this section is only a duty to consult persons whom the planning authority are able to trace by taking reasonable steps to do so.
- (3) In subsection (1)(b) above “the relevant authority or authorities” means—
  - (a) if the planning authority is a district planning authority, the regional planning authority in whose area the land to which the order will relate is situated; and
  - (b) if the planning authority is a regional planning authority, the district planning authority or authorities in whose area or areas the land to which the order will relate is situated.]

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#### Textual Amendments

**F3** Ss. 167A—167C inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), ss. 31, 35](#)

### [<sup>F4</sup>167C Orders relating to mineral working— meaning of “restriction on the winning and working of minerals” and “relevant order”.

- (1) In this Act “restriction on the winning and working of minerals” means—
- (a) in relation to planning permission granted for development consisting of the winning and working of minerals, a condition subject to which the permission was granted and which made provision to which this section applies; and
  - (b) in relation to an order under section 42 or 49 of this Act, a term of the order which made such provision.
- (2) The provision to which this section applies is—
- (a) any provision—
    - (i) for the period before the expiration of which development consisting of the winning and working of minerals was to be begun;
    - (ii) for the size of the area to be used for the winning and working of minerals;
    - (iii) for the depth to which operations for the winning and working of minerals were to extend;
    - (iv) for the rate at which any particular mineral was to be extracted;
    - (v) for the total quantity of minerals to be extracted; or
    - (vi) for the period at the expiration of which the winning and working of minerals was to cease;
  - (b) . . . <sup>F5</sup>
- (3) In this Act “relevant order”, in relation to any land, means an order under section 42, 49 or 49A of this Act.]

#### Textual Amendments

**F4** Ss. 167A—167C inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), ss. 31, 35](#)

**F5** S. 167C(2)(b) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 4 Pt. I](#)

### 168 Determination of claims for compensation.

- (1) Except in so far as may be otherwise provided by section 164(5) of this Act, by any tree preservation order or by any regulations made under this Act, any question of disputed compensation under this Part of this Act [<sup>F6</sup>including any question of disputed compensation under section 153, 159, 167, 226 or 227 of this Act as modified by regulations under section 167A 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 9 and 11 of the <sup>M2</sup>Land Compensation (Scotland) Act 1963 shall apply, subject to any necessary modifications and to the provisions of any regulations made under this Act.

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**Textual Amendments**

**F6** Words inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), **ss. 32, 35**

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**Marginal Citations**

**M2** [1963 c. 51](#).

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