



Town and Country Planning Act 1990

1990 CHAPTER 8

PART IV

COMPENSATION FOR EFFECTS OF CERTAIN ORDERS, NOTICES, ETC.

Modifications etc. (not altering text)

- C1** Pt. IV (ss. 107-118) modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 15(4)(a)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
Pt. IV (ss. 107-118) modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 13(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**
- C2** Pt. IV modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 74(1)(a)**
Pt. IV applied (with modifications) (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 74(2)**
Pt. IV modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 78(1)(a)**
Pt. IV applied (with modifications) (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 78(2)**
Pt. IV modified (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 82(1)**
Pt. IV applied (with modifications) (30.10.1994) by The Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716), **reg. 82(2)**
- C3** Pt. 4 applied (with modifications) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), **reg. 89(1)-(3)**
- C4** Pt. 4 applied (with modifications) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), **reg. 93(1)-(3)**
- C5** Pt. 4 applied (with modifications) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), **reg. 97(1)-(3)**

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Compensation for revocation of planning permission, etc.

107 Compensation where planning permission revoked or modified.

- (1) Subject to section 116, where planning permission is revoked or modified by an order under section 97, then if, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the land or in minerals in, on or under it—
 - (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 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 to it, shall be taken to be included in the expenditure incurred in carrying out that work.
- (3) Subject to subsection (2), no compensation shall be paid under this section in respect—
 - (a) of any work carried out before the grant of the permission which is revoked or modified, or
 - (b) of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission (other than loss or damage consisting of depreciation of the value of an interest in land).
- (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 Schedule 3.
- (5) In this Part any reference to an order under section 97 includes a reference to an order under the provisions of that section as applied by section 102(3) (or, subject to section 116, by paragraph 1(2) of Schedule 9).

108 Compensation for refusal or conditional grant of planning permission formerly granted by development order.

- (1) Where—
 - (a) planning permission granted by a development order is withdrawn (whether by the revocation or amendment of the order or by the issue of directions under powers conferred by the order); and
 - (b) on an application made under Part III planning permission for development formerly permitted by that order is refused or is granted subject to conditions other than those imposed by that order,
 section 107 shall apply as if the planning permission granted by the development order—
 - (i) had been granted by the local planning authority under Part III; and
 - (ii) had been revoked or modified by an order under section 97.
- (2) Where planning permission granted by a development order is withdrawn by revocation or amendment of the order, this section applies only if the application

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referred to in subsection (1)(b) is made before the end of the period of 12 months beginning with the date on which the revocation or amendment came into operation.

- (3) This section shall not apply in relation to planning permission for the development of operational land of statutory undertakers.

109 Apportionment of compensation for depreciation.

- (1) Where compensation becomes payable under section 107 which includes compensation for depreciation of an amount exceeding £20, the local planning authority—
- (a) if it appears to them to be practicable to do so, shall apportion the amount of the compensation for depreciation between different parts of the land to which the claim for that compensation relates; and
 - (b) shall give particulars of any such apportionment to the claimant and to any other person 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 subsection (1)(a), 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 or, in a case falling within section 108, the relevant planning decision, in consequence of which the compensation is payable.
- (3) Regulations under this section shall make provision, subject to subsection (4)—
- (a) for enabling the claimant and any other person to whom particulars of an apportionment have been given under subsection (1), or who establishes that he is entitled to an interest in land which is substantially affected by such an apportionment, if he wishes to dispute the apportionment, to require it to be referred to the Lands Tribunal;
 - (b) for enabling the claimant and every other person to whom particulars of any such apportionment have been so given to be heard by the Tribunal on any reference under this section of that apportionment; and
 - (c) for requiring the Tribunal, on any such reference, either to confirm or to vary the apportionment and to notify the parties of the decision of the Tribunal.
- (4) Where on a reference to the Lands Tribunal under this section it is shown that an apportionment—
- (a) relates wholly or partly to the same matters as a previous apportionment, and
 - (b) is consistent with that previous apportionment in so far as it relates to those matters,
- the Tribunal shall not vary the apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.
- (5) On a reference to the Lands Tribunal by virtue of subsection (3), subsections (1) and (2), 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.
- (6) In this section and in sections 110 and 113—

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“compensation for depreciation” means so much of any compensation payable under section 107 as is payable in respect of loss or damage consisting of depreciation of the value of an interest in land,

“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 in it, and

“relevant planning decision” means the planning decision by which planning permission is refused, or is granted subject to conditions other than those previously imposed by the development order.

110 Registration of compensation for depreciation.

- (1) Where compensation becomes payable under section 107 which includes compensation for depreciation of an amount exceeding £20, the local planning authority shall give notice to the Secretary of State that such compensation has become payable, specifying the amount of the compensation for depreciation and any apportionment of it under section 109.
- (2) Where the Secretary of State is given such notice he shall cause notice of that fact to be deposited—
 - (a) with the council of the district or London borough in which the land is situated, and
 - (b) if that council is not the local planning authority, with the local planning authority.
- (3) Notices deposited under this section must specify—
 - (a) the order, or in a case falling within section 108 the relevant planning decision, and the land to which the claim for compensation relates; and
 - (b) the amount of compensation and any apportionment of it under section 109.
- (4) Notices deposited under this section shall be local land charges, and for the purposes of the ^{M1}Local Land Charges Act 1975 the council with whom any such notice is deposited shall be treated as the originating authority as respects the charge constituted by it.
- (5) In relation to compensation specified in a notice registered under this section, references in this Part to so much of the compensation as is attributable to a part of the land to which the notice relates shall be construed as follows—
 - (a) if the notice does not include an apportionment under section 109, the amount of the compensation shall be treated as distributed rateably according to area over the land to which the notice relates;
 - (b) if the notice includes such an apportionment—
 - (i) the compensation shall be treated as distributed in accordance with that apportionment as between the different parts of the land by reference to which the apportionment is made; and
 - (ii) so much of the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part.

Marginal Citations

M1 1975 c. 76.

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111 Recovery of compensation under s. 107 on subsequent development.

- (1) No person shall carry out any new development to which this section applies on land in respect of which a notice (“a compensation notice”) is registered under section 110 until any amount which is recoverable under this section in accordance with section 112 in respect of the compensation specified in the notice has been paid or secured to the satisfaction of the Secretary of State.
- (2) Subject to subsections (3) and (4), this section applies to any new development—
 - (a) which is development of a residential, commercial or industrial character and consists wholly or mainly of the construction of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination of them; or
 - (b) which consists in the winning and working of minerals; or
 - (c) to which, having regard to the probable value of the development, it is in the opinion of the Secretary of State reasonable that this section should apply.
- (3) This section shall not apply to any development by virtue of subsection (2)(c) if, on an application made to him for the purpose, the Secretary of State has certified that, having regard to the probable value of the development, it is not in his opinion reasonable that this section should apply to it.
- (4) Where the compensation under section 107 specified in the notice registered under section 110 became payable in respect of an order modifying planning permission or, in a case falling within section 108, of a relevant planning decision (within the meaning of section 109) granting conditional planning permission, this section shall not apply to development in accordance with that permission as modified by the order or, as the case may be, in accordance with those conditions.
- (5) For the purposes of this section and section 112 “new development” includes—
 - (a) any development of a class specified in paragraph 1 or 3 of Schedule 3 which is carried out otherwise than subject to the condition set out in Schedule 10; and
 - (b) any development excluded by paragraph 14 of Schedule 3 from that Schedule in its application to any determination to which section 326(1) applies.

112 Amount recoverable under s. 111 and provisions for payment or remission of it.

- (1) Subject to the following provisions of this section, the amount recoverable under section 111 in respect of the compensation specified in a notice registered under section 110—
 - (a) if the land on which the development is to be carried out (“the development area”) is identical with, or includes (with other land) the whole of, the land comprised in the notice, shall be the amount of compensation specified in the notice;
 - (b) if the development area forms part of the land comprised in the notice, or includes part of that land together with other land not comprised in the notice, shall be so much of the amount of the compensation specified in the notice as is attributable to land comprised in the notice and falling within the development area.
- (2) Where, in the case of any land in respect of which such a notice has been so registered, the Secretary of State is satisfied, having regard to the probable value of any proper

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- development of that land, that no such development is likely to be carried out unless he exercises his powers under this subsection, he may, in the case of any particular development, remit the whole or part of any amount otherwise recoverable under section 111.
- (3) Where part only of any such amount has been remitted in respect of any land, the Secretary of State shall cause the notice registered under section 110 to be amended by substituting in it, for the statement of the amount of the compensation, in so far as it is attributable to that land, a statement of the amount which has been remitted under subsection (2).
 - (4) Where, in connection with the development of any land, an amount becomes recoverable under section 111 in respect of the compensation specified in such a notice, then, except where, and to the extent that, payment of that amount has been remitted under subsection (2), no amount shall be recoverable under that section in respect of that compensation, in so far as it is attributable to that land, in connection with any subsequent development of it.
 - (5) No amount shall be recoverable under section 111 in respect of any compensation by reference to which a sum has become recoverable by the Secretary of State under section 308.
 - (6) An amount recoverable under section 111 in respect of any compensation shall be payable to the Secretary of State either—
 - (a) as a single capital payment, or
 - (b) as a series of instalments of capital and interest combined, or
 - (c) as a series of other annual or periodical payments, of such amounts, and payable at such times, as the Secretary of State may direct.
 - (7) Before giving a direction under subsection (6)(c) the Secretary of State shall take into account any representations made by the person by whom the development is to be carried out.
 - (8) Except where the amount payable under subsection (6) is payable as a single capital payment, it shall be secured by the person by whom the development is to be carried out in such manner (whether by mortgage, covenant or otherwise) as the Secretary of State may direct.
 - (9) If any person initiates any new development to which section 111 applies in contravention of subsection (1) of that section, the Secretary of State may serve a notice on him—
 - (a) specifying the amount appearing to the Secretary of State to be the amount recoverable under that section in respect of the compensation in question, and
 - (b) requiring him to pay that amount to the Secretary of State within such period as may be specified in the notice.
 - (10) The period specified under subsection (9)(b) must not be less than three months after the service of the notice.
 - (11) Subject to subsection (12), any sum recovered by the Secretary of State under section 111 shall be paid to the local planning authority who paid the compensation to which that sum relates.
 - (12) Subject to subsection (13), in paying any such sum to the local planning authority, the Secretary of State shall deduct from it—

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- (a) the amount of any contribution paid by him under section 113 in respect of the compensation to which the sum relates;
 - (b) the amount of any grant paid by him under Part XIV in respect of that compensation.
- (13) If the sum recovered by the Secretary of State under section 111—
- (a) is an instalment of the total sum recoverable, or
 - (b) 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 subsection (12) shall be a deduction of such amount as the Secretary of State may determine to be the proper proportion of the amount referred to in that paragraph.

113 Contribution by Secretary of State towards compensation in certain cases.

- (1) Where—
- (a) a notice under section 110 is given to the Secretary of State in consequence of the making of an order under section 97 revoking or modifying planning permission or, in a case falling within section 108, of a relevant planning decision refusing planning permission or granting it conditionally, and
 - (b) if that permission had been refused, or, as the case may be, had been granted as so modified or subject to those conditions, at the time when it was granted, compensation under Part V could have been claimed and would have been payable by the Secretary of State,
- the Secretary of State may 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 V.
- (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 of the land in respect of which that compensation was paid at the date of the making of the order or, in a case falling within section 108, of the relevant planning decision.
- (3) Regulations made under this section shall make provision, in relation to cases where the Secretary of State proposes to pay a contribution under this section—
- (a) for requiring the Secretary of State to give notice of his proposal—
 - (i) to persons entitled to such interests in the land to which the proposal relates as may be prescribed, and
 - (ii) 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—
 - (i) that compensation would not have been payable as mentioned in subsection (1), or
 - (ii) 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

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- (d) where a contribution under this section is paid, for applying (with any necessary modifications) the provisions of Part V 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 that Part.

Compensation for other planning decisions

114 Compensation for planning decisions restricting development other than new development.

- (1) This section applies where, on an application for planning permission to carry out development of any class specified in Part II of Schedule 3, the Secretary of State, either on appeal or on the reference of the application to him for determination, refuses the permission or grants it subject to conditions.
- (2) If, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, 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, as the case may be, had been granted unconditionally, the local planning authority shall pay that person compensation of an amount equal to the difference.
- (3) In determining, for the purposes of subsection (2), 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 similar planning permission would be determined in the same way; but
 - (b) if, in the case of a refusal of planning permission, the Secretary of State, on refusing that permission, undertook to grant planning permission for some other development of the land if an application were made for it, regard must be had to that undertaking; and
 - (c) no account shall be taken of any prospective use which would contravene the condition set out in Schedule 10.
- (4) Where, on such an application as is mentioned in subsection (1), planning permission is granted by the Secretary of State subject to conditions for regulating the design or external appearance or the size or height of buildings, the Secretary of State 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) The Secretary of State shall only give a direction under subsection (4) if it appears to him to be reasonable to do so having regard to the local circumstances.
- (6) For the purposes of subsection (1)—
- (a) paragraph 3 of Schedule 3 shall be construed as not extending to the enlargement of a building which was in existence on 1st July 1948 if—
 - (i) the building contains two or more separate dwellings divided horizontally from each other or from some other part of the building; and
 - (ii) the enlargement would result in either an increase in the number of such dwellings contained in the building or an increase of more than

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- one-tenth in the cubic content of any such dwelling contained in the building;
- (b) that paragraph shall be construed as not extending to works involving any increase in the cubic content of a building erected after that date (including any building resulting from the carrying out of such works as are described in paragraph 1 of Schedule 3); and
 - (c) paragraph 7 of that Schedule shall not apply to any such building as mentioned in paragraph (b).
- (7) For the purposes of this section the conditions referred to in sections 91 and 92 shall be disregarded.
- (8) No compensation shall be payable under this section in respect of an interest in land in respect of which a purchase notice is served.

115 Compensation in respect of orders under s. 102, etc.

- (1) This section shall have effect where an order is made under section 102—
- (a) requiring a use of land to be discontinued,
 - (b) imposing conditions on the continuance of it, or
 - (c) 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 prescribed time and in the prescribed manner, it is shown that any person has suffered damage in consequence of the order—
- (a) by depreciation of the value of an interest to which he is entitled in the land or in minerals in, on or under it, or
 - (b) by being disturbed in his enjoyment of the land or of such minerals,
- that authority shall pay to that person compensation in respect of that damage.
- (3) Without prejudice to subsection (2), 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.
- (4) Any compensation payable to a person under this section by virtue of such an order as is mentioned in subsection (1) shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.
- (5) Subject to section 116, this section applies where such an order as is mentioned in subsection (6) is made as it applies where an order is made under section 102.
- (6) The orders referred to in subsection (5) are an order under paragraph 1 of Schedule 9—
- (a) requiring a use of land to be discontinued, or
 - (b) imposing conditions on the continuance of it, or
 - (c) requiring any buildings or works or plant or machinery on land to be altered or removed,
- or an order under paragraph 3, 5 or 6 of that Schedule.

Modifications etc. (not altering text)

C6 S. 115 applied (with modifications) (25.3.1997) by [S.I. 1997/1111](#), [reg. 5\(1\)\(3\)](#)

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116 Special basis for compensation in respect of certain orders affecting mineral working.

Schedule 11 shall have effect for the purpose of making special provision as respects the payment of compensation in certain circumstances where an order under section 97 modifies planning permission for development consisting of the winning and working of minerals or an order is made under paragraph 1, 3, 5 or 6 of Schedule 9.

General and supplemental provisions

117 General provisions as to compensation for depreciation under Part IV.

- (1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 5 of the ^{M2}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) Subject to regulations under paragraph 1 of Schedule 11, this section applies to any compensation which under the provisions of this Part 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;
 - (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.

Modifications etc. (not altering text)

C7 Ss. 117, 118 extended (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), **ss. 16(5), 41**

Marginal Citations

M2 1961 c.33.

118 Determination of claims for compensation.

- (1) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this Part shall be referred to and determined by the Lands Tribunal.

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- (2) In relation to the determination of any such question, the provisions of sections 2 and 4 of the ^{M3}Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Modifications etc. (not altering text)

- C8** S. 118 extended (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\), s. 16\(5\)](#); S.I. 1992/725, [arts. 2, 3](#)
S. 118 applied (10.11.1993) by [1993 c. 28, s. 163\(9\)](#); S.I. 1993/2762, [art. 3](#)
S. 118 applied (25.11.1998 for specified purposes and otherwise 3.7.2000) by [1998 c. 45, s. 21\(9\)](#); S.I. 1998/2952, [art. 2\(2\)](#); S.I. 2000/1173, [art. 2\(c\)](#)
S. 118 applied (8.5.2000 for specified purposes and otherwise 3.7.2000) by [1999 c. 29, s. 296\(2\), Sch. 24 para. 31\(6\)](#) (with [Sch. 12 para. 9\(1\)](#)); S.I. 2000/801, [art. 2\(2\)\(b\)\(c\)](#), [Sch.](#)
S. 118 applied (1.2.2001 for E., 1.8.2001 for W. in relation to the powers to make regulations under the provisions mentioned in [S.I. 2001/2788, Sch. 1 para. 15](#), otherwise *prosp.*) by [2000 c. 38, ss. 190\(7\), 275\(1\)](#) (with [s. 196](#)); S.I. 2001/57, [art. 3\(2\)](#), [Sch. 3 Pt. I](#) (subject to savings in [Sch. 3 Pt. II](#)); S.I. 2001/2788, [art. 2](#), [Sch. 1 para. 16](#)
- C9** S. 118 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by [Communications Act 2003 \(c. 21\), ss. 118, 411, Sch. 4 para. 6\(7\)](#) (with transitional provisions in [Sch. 18](#)); S.I. 2003/1900, [arts. 1\(2\), 2\(1\)](#), [Sch. 1](#) (with transitional provisions in [arts. 3-6](#)); S.I. 2003/3142, [arts. 1\(2\), 3\(2\)](#) (with [art. 11](#))
- C10** S. 118 applied (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), s. 17\(5\)](#); S.I. 2008/3068, [art. 2\(1\)\(i\)](#) (with savings and transitional provisions in [arts. 6-13](#))

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- M3** 1961 c.33.

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