

## STATUTORY INSTRUMENTS

### 2011 No. 2055

## The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011

### PART 4

#### Provisions about the assessment of compensation payable under paragraph 6 of Schedule 6 to the Act

#### Interpretation

60. In this Part—

<sup>F1</sup> ...

“the relevant order” means the order in consequence of which compensation is or may be payable; and

“the 1990 Act” means the Town and Country Planning Act 1990 <sup>M1</sup>.

#### Textual Amendments

<sup>F1</sup> Words in reg. 60 omitted (1.4.2012) by virtue of [The Localism Act 2011 \(Infrastructure Planning\) \(Consequential Amendments\) Regulations 2012 \(S.I. 2012/635\)](#), regs. 1(2), **11(24)**

#### Marginal Citations

<sup>M1</sup> 1990 c.8. Section 107 was amended by section 31 of and paragraph 13 of Schedule 6 to the [Planning and Compensation Act 1991 \(c.34\)](#). Section 109 was amended by section 40 of and paragraph 14 of Schedule 6 to the [Planning and Compulsory Purchase Act 2004 \(c.5\)](#) and by article 5 of [S.I. 2009/1307](#). Section 110 was amended by section 204 of the [Local Government \(Wales\) Act 1994 \(c.19\)](#). Sections 111 and 112 were amended by sections 31 and 84 of and paragraphs 15(a) and 16 of Schedule 6 and Part 2 of Schedule 19 to the [Planning and Compensation Act 1991 \(c.34\)](#). Section 117 was amended by section 21 of and paragraph 10 of Schedule 1 to the [Planning and Compensation Act 1991 \(c.34\)](#). Section 280 was amended by section 406 of and paragraph 104(a) of Schedule 17 to the [Communications Act 2003 \(c. 21\)](#) and by article 5 of [S.I. 2009/1307](#). There other amendments to the 1990 Act which are not relevant to these Regulations.

#### Claim for compensation

61.—(1) Any claim for compensation must be made to the [<sup>F2</sup>Secretary of State].

(2) A claim for compensation must be in writing and must contain the following—

- (a) the name and address of the claimant;
- (b) the name and address of an agent, if appointed;

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- (c) a statement as to whether the claimant has an interest in the land to which the relevant order relates or is a person for whose benefit the development consent order has effect;
- (d) the [<sup>F2</sup>Secretary of State]'s reference for the relevant order;
- (e) details of the expenditure, loss or damage which is the subject of the claim;
- (f) documentary evidence to support the claim;
- (g) if requested by the [<sup>F3</sup>Secretary of State]—
  - (i) 3 paper copies of the claim; and
  - (ii) other supporting documents.

(3) A claim for compensation must be made before the end of the period of 12 months that begins on the day after the day on which the [<sup>F3</sup>Secretary of State] gave notification of its decision in accordance with regulation 50 or 57.

(4) Any dispute as to the amount of compensation shall be referred to the Upper Tribunal for determination.

(5) In relation to the determination of any dispute as to the amount of compensation, the provisions of section 4 of the Land Compensation Act 1961 <sup>M2</sup> (costs) shall apply subject to the modification that for “acquiring authority” substitute “[<sup>F2</sup>Secretary of State]” in each place where the words occur.

#### Textual Amendments

**F2** Words in reg. 61 substituted (1.4.2012) by [The Localism Act 2011 \(Infrastructure Planning\) \(Consequential Amendments\) Regulations 2012 \(S.I. 2012/635\)](#), regs. 1(2), **11(25)**

**F3** Words in Regulations substituted (1.4.2012) by [The Localism Act 2011 \(Infrastructure Planning\) \(Consequential Amendments\) Regulations 2012 \(S.I. 2012/635\)](#), regs. 1(2), **11(2)**

#### Marginal Citations

**M2** 1961 c. 33. Section 4 was amended by [S.I. 2009/1307](#).

### Assessment of compensation

**62.**—(1) In calculating the amount of any compensation for depreciation, it shall be assumed that planning permission would be granted—

- (a) subject to the condition set out in Schedule 10 to the 1990 Act (condition treated as applicable to rebuilding and alterations), for any development of the land of a class specified in paragraph 1(b) or (c) of Schedule 3 to the 1990 Act (development not constituting development) subject to the modifications in paragraph (2) below;
- (b) for any development of a class specified in paragraph 2 of Schedule 3 to the 1990 Act.

(2) In paragraph 1(b) of Schedule 3 to the 1990 Act omit the words “after 1st July 1948”.

### Apportionment of compensation for depreciation

**63.**—(1) Where the compensation which becomes payable under paragraph 6 of Schedule 3 to the Act includes compensation for depreciation of an amount exceeding £20, the [<sup>F4</sup>Secretary of State]—

- (a) if it appears to [<sup>F5</sup>the Secretary of State] 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 [<sup>F6</sup>Secretary of State] to be substantially affected by the apportionment.

(2) In carrying out an apportionment under paragraph (1)(a), the [<sup>F4</sup>Secretary of State] 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 [<sup>F7</sup>Secretary of State] to be differently affected by the order in consequence of which the compensation is payable.

(3) The claimant and any other person to whom particulars of an apportionment have been given under paragraph (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, may require it to be referred to the Upper Tribunal—

(a) 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

(b) 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 Upper Tribunal under this regulation 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 Upper Tribunal by virtue of paragraph (4), paragraphs (1) and (2), so far as they relate to the making of an apportionment, shall apply with the substitution, for references to the [<sup>F4</sup>Secretary of State], of references to the Upper Tribunal.

(6) In this regulation—

“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 order” means the order by which development consent is refused, or is granted subject to requirements other than those previously imposed by the development consent order.

#### Textual Amendments

- F4** Words in reg. 63 substituted (1.4.2012) by [The Localism Act 2011 \(Infrastructure Planning\) \(Consequential Amendments\) Regulations 2012](#) (S.I. 2012/635), regs. 1(2), **11(26)(a)**
- F5** Words in reg. 63(1)(a) substituted (1.4.2012) by [The Localism Act 2011 \(Infrastructure Planning\) \(Consequential Amendments\) Regulations 2012](#) (S.I. 2012/635), regs. 1(2), **11(26)(b)(i)**
- F6** Words in reg. 63(1)(b) substituted (1.4.2012) by [The Localism Act 2011 \(Infrastructure Planning\) \(Consequential Amendments\) Regulations 2012](#) (S.I. 2012/635), regs. 1(2), **11(26)(b)(ii)**
- F7** Words in reg. 63(2) substituted (1.4.2012) by [The Localism Act 2011 \(Infrastructure Planning\) \(Consequential Amendments\) Regulations 2012](#) (S.I. 2012/635), regs. 1(2), **11(26)(c)**

#### Registration of compensation for depreciation

**64.** Section 110 of the 1990 Act (registration of compensation for depreciation) shall apply subject to the following modifications —

[<sup>F8</sup>(a) omit subsection (1); and

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- (b) in subsection (2) for the words “the Secretary of State” to “is given such notice he” substitute “compensation becomes payable which includes compensation for depreciation of an amount exceeding £20 the Secretary of State]
- (c) in subsection (3) omit the words “, or in a case falling within section 108 the relevant planning decision”.

#### Textual Amendments

**F8** Reg. 64(a)(b) substituted (1.4.2012) by [The Localism Act 2011 \(Infrastructure Planning\) \(Consequential Amendments\) Regulations 2012 \(S.I. 2012/635\)](#), regs. 1(2), **11(27)**

#### General provisions as to compensation for depreciation

**65.** Section 117 of the 1990 Act (general provisions as to compensation for depreciation) shall apply.

#### Compensation for statutory undertakers

**66.** Where a statutory undertaker is entitled to compensation, the amount of compensation payable shall be an amount calculated in accordance with section 280 of the 1990 Act (measure of compensation to statutory undertakers, etc), subject to the following modifications—

- (a) omit subsections (1), (2)(c) and (6);
- (b) in subsection (2)—
  - (i) before the words “Subject to subsections (4) and (6)” insert “ and where a statutory undertaker is entitled to an amount of compensation, ”,
  - (ii) for “to (6)” substitute “ and (5) ”.
- (c) for subsection (8) substitute the following—

“In this section—

“the relevant order” means—

- (a) the order in respect of which compensation falls to be assessed; and
- (b) in relation to compensation under section 279(4), the circumstances making it necessary for the apparatus in question to be removed or re-sited; and

“the appropriate Minister's certificate” means such a certificate as is mentioned in sections 127 and 128 of the Planning Act.”

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**Changes and effects yet to be applied to :**

- Regulations words substituted by [S.I. 2022/634 Sch. para. 1\(1\)\(3\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- blanket amendment words substituted by [S.I. 2023/1071 Sch. para. 1](#)

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 6(2)(da)-(dc) inserted by [S.I. 2020/1534 reg. 3\(2\)\(b\)](#)
- reg. 14(2)(ea)-(ec) inserted by [S.I. 2020/1534 reg. 3\(4\)\(b\)](#)
- reg. 19(2)(ga)-(gc) inserted by [S.I. 2020/1534 reg. 3\(5\)\(b\)](#)
- reg. 20(2)(fa)-(fc) inserted by [S.I. 2020/1534 reg. 3\(6\)\(b\)](#)
- reg. 55(2)(ea)-(ec) inserted by [S.I. 2020/1534 reg. 3\(8\)\(b\)](#)
- reg. 56(2)(fa)-(fc) inserted by [S.I. 2020/1534 reg. 3\(9\)\(b\)](#)