



Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

1972 CHAPTER 52

PART VIII

COMPENSATION FOR OTHER PLANNING RESTRICTIONS

Modifications etc. (not altering text)

- C1** Pt. VIII modified (30.10.1994) by S.I. 1994/2716, **regs. 74(1)(b), 78(1)(b)**
Pt. VIII applied (with modifications) (30.10.1994) by S.I. 1994/2716, **regs. 74(2), 78(2)**
- C2** Pt. VIII (ss. 153-168) modified (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 15(4)(b)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
Pt. VIII (ss. 153-168) modified (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 14 para. 13(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

Revocation or modification of planning permission

153 Compensation where planning permission revoked or modified.

- (1) ^{F1}Subject to section 153A of this Act, where planning permission is revoked or modified by an order under section 42 of this Act, . . . ^{F2}, then if, on a claim made to the ^{F3} . . . 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 ^{F3} . . . planning authority shall pay to that person compensation in respect of that expenditure, loss or damage.

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Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part VIII. (See end of Document for details)

- (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 subsection (2) of this section, 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 ^{F4}—
- (a) subject to the condition set out in Schedule 16, for any development of a class specified in paragraph 1 of Schedule 6;
 - (b) for any development of a class specified in paragraph 2 of Schedule 6.]
- (5) In this Part of this Act any reference to an order under section 42 of this Act includes a reference to an order under the provisions of that section as applied by section 49(2) of this Act.

Textual Amendments

- F1** Words substituted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), s. 35, Sch. 2 para. 4](#)
- F2** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F3** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F4** Words in [s. 153\(4\)](#) substituted (25. 9. 1991 with retrospective effect in relation to claims made on or after 16.11.1990) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 60\(6\), Sch. 12, para. 14\(1\)\(2\) \(with s. 84\(5\)\); S.I. 1991/2092, art.3](#)

Modifications etc. (not altering text)

- C3** [S. 153](#) modified by [S.I. 1987/433, regs. 3, 6](#)
- C4** [S. 153\(1\)\(a\)](#) applied (30.10.1994) by [S.I. 1994/2716, reg. 67\(2\)\(3\)](#)

^{F5}**153A Compensation for certain orders under s. 42 relating to mineral working to be on special basis.**

- (1) Where mineral compensation requirements are satisfied in relation to an order under section 42 of this Act, section 153 of this Act shall have effect subject to mineral compensation modifications.
- (2) Subject to subsection (4) of this section, mineral compensation requirements are satisfied in relation to an order under section 42 of this Act if—
- (a) the order modifies planning permission for development consisting of the winning and working of minerals; and
 - (b) the order does not—
 - (i) impose any restriction on the winning and working of minerals; or
 - (ii) modify or replace any such restriction subject to which the planning permission was granted or which was imposed by a relevant order; and

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- (c) the planning authority carried out special consultations about the making and terms of the order before they made it; and
- (d) either—
 - (i) the permission was granted not less than five years before the date of the order; or
 - (ii) the conditions specified in subsection (3) of this section are satisfied.
- (3) The conditions mentioned in subsection (2)(d)(ii) of this section are—
 - (a) that the planning permission which the order modifies was granted before the commencement of section 27A of this Act; and
 - (b) that the order—
 - (i) imposes an aftercare condition; and
 - (ii) does not impose any other condition.
- (4) Where the planning authority—
 - (a) make an order under section 42 of this Act modifying planning permission for development consisting of the winning and working of minerals; and
 - (b) have previously made a relevant order or orders,
mineral compensation requirements are not satisfied in relation to the order mentioned in paragraph (a) of this subsection unless it was made more than five years after the order previously made or the last such order.]

Textual Amendments

F5 S. 153A inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), ss. 29, 35

154 Application of s. 153 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.

[^{F6}(1A) Where planning permission granted by a development order is withdrawn by revocation or amendment of the order subsection (1) of this section applies only if the application referred to in paragraph (c) is made before the end of the period of twelve months beginning with the date on which the revocation or amendment came into operation.]

- (2) In any case falling within subsection (1) of this section, the provisions of section 153 of this Act shall apply as if the planning permission granted by the development order—
 - (a) had been granted by the . . . ^{F7}planning authority under Part III of this Act; and
 - (b) had been revoked or modified by an order under section 42 of this Act,

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and the provisions of section 155. . . ^{F8} and of sections 156 and 157 of this Act shall apply as if references therein to an order under section 42 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.

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

(4) ^{F9}

Textual Amendments

- F6** S. 154(1A) inserted by [Town and Country Planning \(Compensation\) Act 1985 \(c. 19, SIF 123:1, 2\)](#), **ss. 2(1), 3(2)**
- F7** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **s. 172(2)**
- F8** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), **Sch. 4 Pt. I**
- F9** S. 140, 154(4), 158(5), 174, 180(2) repealed by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(2), **Sch. 12 Pt. IV**

Modifications etc. (not altering text)

- C5** S. 154(3) extended by [Civil Aviation Act 1982 \(c. 16\)](#), **Sch. 2 para. 4**; amended by [Civil Aviation Act 1982 \(c. 16\)](#), **Sch. 2 para. 5**
- C6** S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(b), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
- C7** S. 138, 154(3) amended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), **Sch. 16 para. 1(1)(xxiii)**

155 Recording 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 £20, the. . . ^{F10} 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 subsection (1) of this section, the. . . ^{F10} 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.

[^{F11}(3) Regulations under this Act shall make provision—

- (a) for enabling the claimant or any other person to whom notice of the planning authority's apportionment has been given in accordance with subsection (1) of this section, 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;

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- (b) for enabling the claimant and any other person mentioned in paragraph (a) of this subsection 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 vary the apportionment and to notify the parties of the decision.]
- (4) On a reference to the Lands Tribunal by virtue of subsection (3) of this section, 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 . . . ^{F10} 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 £20, the . . . ^{F10} planning authority shall cause notice of that fact in the prescribed form, specifying the land to which the compensation relates and the amount of the compensation for depreciation and any apportionment thereof under this section, to be recorded in the appropriate Register of Sasines, and shall send a copy of the notice to the Secretary of State; ^{F12} . . .
- [^{F13}(5A) In relation to compensation for depreciation specified in a notice recorded or, as the case may be, registered under the preceding provisions of this section, references in this Part of this Act to so much of the compensation as is attributable to a part of the land to which the notice relates shall be construed in accordance with the following provisions, that is to say—
- (a) if the notice does not include an apportionment under the preceding provisions of this section, 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, 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 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 of the land.]
- (6) In this section ^{F14} . . . “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.

Textual Amendments

- F10** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F11** [S. 155\(3\)](#) substituted (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 60(6), [Sch. 12](#), para. 15(a), with s. 84(5); S.I. 1991/2092, [art.3](#)
- F12** Words in [s. 155\(5\)](#) repealed (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 60(6), [Sch. 12](#), para. 15(b), [Sch. 19](#), Pt.IV, with s. 84(5); S.I. 1991/2092, [art.3](#)
- F13** [S. 155\(5A\)](#) inserted (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 60(6), [Sch. 12](#), para. 15(c), with s. 84(5); S.I. 1991/2092, [art.3](#)
- F14** Words in [s. 155\(6\)](#) repealed (25. 9. 1991, subject to limitations referred to in S.I. 1991/2092, [art. 4](#), [Sch. 2](#), Pt. II) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 60(6), [Sch. 12](#), para. 15(d), [Sch. 19](#), Pt. IV, with s. 84(5); S.I. 1991/2092, [art.3](#)

Status: Point in time view as at 25/09/1991.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part VIII. (See end of Document for details)

^{F15}**156**

Textual Amendments

F15 S. 156 repealed (25. 9. 1991, subject to limitations referred to in S.I. 1991/2092, art. 4, **Sch. 2**, Pt. II) by **Planning and Compensation Act 1991** (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 16, **Sch. 19**, Pt.IV, with s. 84(5); S.I. 1991/2092, **art.3**

^{F16}**156A**^{F16}**Recovery of compensation on subsequent development.**

- (1) No person shall carry out any development to which this section applies, on land in respect of which a notice (hereafter in this Part of this Act referred to as a “compensation notice”) is recorded or, as the case may be, registered under section 155(5) of this Act, until such amount, if any, as is recoverable under this section 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 the following provisions of this section, this section applies to any 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 thereof; 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) of this section 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 thereto.
- (4) Where the compensation specified in the compensation notice became payable in respect of the imposition of conditions on the granting of permission to develop land, this section shall not apply to the development for which that permission was granted.
- (5) This section does not apply to any development—
 - (a) of a class specified in paragraph 1 of Schedule 6 which is carried out in accordance with the condition set out in Schedule 16; or
 - (b) of a class specified in paragraph 2 of Schedule 6.
- (6) This section does not apply in a case where the compensation under section 153 of this Act specified in a compensation notice became payable in respect of an order modifying planning permission, and the development is in accordance with that permission as modified by that order.]

Textual Amendments

F16 Ss. 156A, 156B inserted (25.9.1991) by **Planning and Compensation Act 1991** (c. 34, SIF 123:2), s. 60(6), **Sch. 12 para.17** (with s. 84(5)); S.I. 1991/2092, **art.3**

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[^{F17F17}156B] Amount recoverable, and provisions for payment or remission thereof.

- (1) Subject to the following provisions of this section, the amount recoverable under section 156A of this Act in respect of the compensation specified in a compensation notice—
 - (a) if the land on which the development is to be carried out (in this subsection referred to as “the development area”) is identical with, or includes (with other land) the whole of, the land comprised in the compensation notice, shall be the amount of compensation specified in that notice;
 - (b) if the development area forms part of the land comprised in the compensation notice, or includes part of that land together with other land not comprised in that notice, shall be so much of the amount of the compensation specified in that notice as is attributable to land comprised in that notice and falling within the development area.
- (2) Where, in the case of any land in respect of which a compensation notice has been recorded, the Secretary of State is satisfied, having regard to the probable value of any proper 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 any part of any amount otherwise recoverable under section 156A of this Act.
- (3) Where, in connection with the development of any land, an amount becomes recoverable under section 156A of this Act in respect of the compensation specified in a compensation notice, then, except where, and to the extent that, payment of that amount has been remitted under subsection (2) of this section, no amount shall be recoverable under section 156A of this Act in respect of that compensation, in so far as it is attributable to that land, in connection with any subsequent development thereof.
- (4) No amount shall be recoverable under section 156A of this Act in respect of any compensation by reference to which a sum has become recoverable by the Secretary of State under section 244 of this Act.
- (5) An amount recoverable under section 156A of this Act in respect of any compensation shall be payable to the Secretary of State, and
 - (a) shall be so payable either as a single capital payment or as a series of instalments of capital and interest combined, or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the Secretary of State may direct, after taking into account any representations made by the person by whom the development is to be carried out; and
 - (b) except where the amount is payable as a single capital payment, shall be secured by that person to the satisfaction of the Secretary of State (whether by heritable or other security, personal bond or otherwise).
- (6) If any person initiates any development to which section 156A applies in contravention of subsection (1) of that section, the Secretary of State may serve a notice on him 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 requiring him to pay that amount to the Secretary of State within such period, not being less than three months after the service of the notice, as may be specified in the notice.
- (7) Where, after a compensation notice in respect of any land has been recorded or, as the case may be, registered, any amount recoverable under this section in respect of the compensation specified in the notice, or any part of such amount, has been paid to the

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Secretary of State, or circumstances arise under which by virtue of any provision of this Act no amount is so recoverable in respect of the land specified in the notice or any part of that land, the Secretary of State shall cause to be recorded in the appropriate Register of Sasines or, as the case may be, registered in the Land Register of Scotland, a notice of that fact, specifying the land to which such fact relates, and, in the case of any notice of the fact that part only of such amount has been so paid, stating whether the balance has been secured to the satisfaction of the Secretary of State or has been remitted by him under subsection (2) of this section, and shall send a copy thereof to the planning authority.]

Textual Amendments

F17 Ss. 156A, 156B inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 60(6), [Sch. 12 para.17](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)

157 Recovery, on subsequent development, of compensation under s. 153.

^{F18}(1)

(2) Subject to subsection (3) of this section, any sum recovered by the Secretary of State under [^{F19}section 156A of this Act] shall be paid to the . . . ^{F20}planning authority who paid the compensation to which that sum relates.

(3) In paying any such sum to the . . . ^{F20}planning authority, the Secretary of State shall deduct therefrom—

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^{F21}. . . the amount of any grant paid by him under Part XIII of this Act in respect of that compensation;

Provided that, if the sum recovered by the Secretary of State 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 ^{F21}. . . paragraph (b) of this subsection 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.

^{F22}(4)

Textual Amendments

F18 S. 157(1) repealed (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34\)](#), ss. 60, 84(6), [Sch. 12 para. 18\(a\)](#), [Sch. 19, Pt.IV](#), with s. 84(5); S.I. 1991/2092, [art. 3](#), [Sch.1](#)

F19 Words in s. 157(2) substituted (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34\)](#), s. 60, [Sch. 12, para 18\(b\)](#); S.I. 1991/2092, [art.3](#)

F20 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 172\(2\)](#)

F21 Words in s. 157(3) repealed (25. 9. 1991) by [Planning and Compensations Act 1991 \(c. 34\)](#), ss. 60, 84, [Sch. 12 para. 18\(c\)](#), [Sch. 19, Pt.IV](#); S.I. 1991/2092, [art. 3](#), [Sch.1](#)

F22 S. 157(4) repealed (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34\)](#) ss. 84(6), [Sch. 12 para. 18 \(d\)](#), [Sch. 19, Pt.IV](#); S.I. 1991/2092, [art. 3](#), [Sch.1](#)

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Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part VIII. (See end of Document for details)

Other restrictions

^{F23}158

Textual Amendments

F23 S. 158 repealed (25.7.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 60(2)(5), [Sch. 19, Pt.IV](#) (with s. 84(5))

159 Compensation in respect of orders under s. 49.

- (1) [^{F24}Subject to section 159B of this Act, the] provisions of this section shall have effect where an order is made under section 49 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. . . ^{F25} 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 subsection (2) of this section, 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. . . ^{F25} 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) 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.

Textual Amendments

F24 Words substituted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), s. 35, [Sch. 2 para. 5](#)
F25 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 172(2)

Modifications etc. (not altering text)

C8 S. 159 modified by [S.I. 1987/433](#), [regs. 4, 5, 6](#)

[^{F26}159A Compensation in respect of orders under s. 49A and suspension orders.

Subject to section 159B of this Act, the provisions of section 159 of this Act shall apply where an order is made under section 49A of this Act or a suspension order or supplementary suspension order is made as they apply where an order is made under section 49 of this Act.]]

Textual Amendments

F26 Ss. 159A, 159B inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), [ss. 30, 35](#)

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Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part VIII. (See end of Document for details)

159B ^{F27}C Compensation on special basis.

- (1) Where mineral compensation requirements are satisfied in relation to an order under section 49 or 49A of this Act, or in relation to a suspension order or supplementary suspension order, section 159 or 159A of this Act shall have effect subject to mineral compensation modifications.
- (2) Subject to subsection (6) of this section, mineral compensation requirements are satisfied in relation to an order under section 49 of this Act if—
 - (a) the order—
 - (i) imposes any conditions on the continuance of the use of land for the winning and working of minerals; or
 - (ii) requires that any buildings, works, plant or machinery used for the winning and working of minerals shall be altered or removed; and
 - (b) the conditions specified in subsection (5) of this section are satisfied.
- (3) Subject to subsection (6) of this section, mineral compensation requirements are satisfied in relation to an order under section 49A of this Act if the conditions specified in subsection (5)(a) and (c) of this section are satisfied.
- (4) Mineral compensation requirements are satisfied in relation to a suspension order or supplementary suspension order if the conditions specified in subsection (5)(c) of this section are satisfied.
- (5) The conditions mentioned in subsections (2)(b), (3) and (4) of this section are—
 - (a) that development consisting of the winning and working of minerals began not less than five years before the date of the order;
 - (b) that the order does not—
 - (i) impose any restriction on the winning and working of minerals; or
 - (ii) modify or replace any such restriction subject to which planning permission for development consisting of the winning and working of minerals was granted or which was imposed by a relevant order; and
 - (c) that the planning authority carried out special consultations about the making and terms of the order before they made it.
- (6) Where the planning authority—
 - (a) make—
 - (i) an order under section 49 of this Act which imposes any such condition or makes any such requirement as is mentioned in subsection (2)(a) of this section; or
 - (ii) an order under section 49A of this Act; and
 - (b) have previously made a relevant order or orders,
 mineral compensation requirements are not satisfied in relation to the order mentioned in paragraph (a) of this subsection unless it was made more than five years after the order previously made or the last such order.

Textual Amendments

F27 Ss. 159A, 159B inserted by Town and Country Planning (Minerals) Act 1981 (c. 36, ss 30, 35)

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Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part VIII. (See end of Document for details)

F28 **160**

Textual Amendments

F28 S. 160 repealed (25.7.1991) by [Planning and Compensation Act 1991](#) (c. 34, SIF 123:2), ss. 60(3), 84(4)(6), [Sch. 19 Pt.IV](#) (with s. 84(5))

161 Compensation where listed building consent revoked or modified.

- (1) Where listed building consent is revoked or modified by an order under paragraph 9 of Schedule 10 to this Act (other than an order which takes effect by virtue of paragraph 11 of that Schedule and without being confirmed by the Secretary of State), then if on a claim made to the . . . ^{F29} planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that a person interested in the building—
 - (a) has incurred expenditure in carrying out works which are 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 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 works, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out those works.
- (3) Subject to subsection (2) of this section, no compensation shall be paid under this section in respect of any works carried out before the grant of the listed building consent 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 consent.

Textual Amendments

F29 Word repealed by [Local Government \(Scotland\) Act 1973](#) (c. 65), [s. 172\(2\)](#)

162 Compensation for loss or damage caused by service of building preservation notice.

- (1) The provisions of this section shall have effect as respects compensation where a building preservation notice is served.
- (2) The . . . ^{F30} planning authority shall not be under any obligation to pay compensation under section 160 of this Act, in respect of any refusal of listed building consent or its grant subject to conditions, unless and until the building is included in a list compiled or approved by the Secretary of State under section 52 of this Act; but this subsection shall not prevent a claim for such compensation being made before the building is so included.
- (3) If the building preservation notice ceases to have effect without the building having been included in a list so compiled or approved, then, subject to a claim in that

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behalf being made to the . . . ^{F30} planning authority within the time and in the manner prescribed by regulations under this Act, any person who at the time when the notice was served had an interest in the building shall be entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.

- (4) The loss or damage in respect of which compensation is payable under subsection (3) of this section shall include a sum payable in respect of a breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect thereto.

Textual Amendments

F30 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

163 Compensation in respect of tree preservation orders.

The matters for which provision may under section 58 of this Act be made by a tree preservation order include the payment by the . . . ^{F31} planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of loss or damage 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.

Textual Amendments

F31 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

164 Compensation in respect of requirement as to replanting of trees.

- (1) The provisions of this section shall have effect where a requirement is imposed by the . . . ^{F32} planning authority or the Secretary of State by or under a tree preservation order for securing the replanting of all or any part of a woodland area which is felled in the course of forestry operations permitted by or under the order.
- (2) If the Forestry Commissioners decide not to make any advance under [^{F33}section 1 of the ^{M1}Forestry Act 1979] in respect of the replanting and come to that decision on the ground that the requirement frustrates the use of the woodland area for the growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry, the . . . ^{F32} planning authority exercising functions under the tree preservation order shall be liable, on the making of a claim in accordance with this section, to pay compensation in respect of such loss or damage, if any, as is caused or incurred in consequence of compliance with the requirement.
- (3) The Forestry Commissioners shall, at the request of the person under a duty to comply with the requirement, give a certificate stating whether they have decided not to make any such advance and, if so, the grounds of their decision.
- (4) A claim for compensation under this section must be served on the . . . ^{F32} planning authority within twelve months from the date on which the requirement was imposed, or where an application has been made to the Secretary of State for the determination of any question relating to the reasonableness of a requirement, from the date of the

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decision of the Secretary of State on the application, but subject in either case to such extension of that period as the . . . ^{F32} planning authority may allow.

(5) Any question of disputed compensation under this section shall be determined in accordance with section 70 of the ^{M2}Countryside (Scotland) Act 1967.

(6) ^{F34}

Textual Amendments

F32 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F33 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)

F34 [S. 164\(6\)](#) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 4 Pt. I](#)

Marginal Citations

M1 [1979 c. 21.](#)

M2 [1967 c. 86](#)

165 Compensation for restrictions on advertising.

Where, for the purpose of complying with any regulations made under section 61 of this Act, works are carried out by any person—

- (a) for removing an advertisement which was being displayed on 16th August 1948; or
- (b) for discontinuing the use for the display of advertisements of a site used for that purpose on that date,

that person shall, on a claim made to the . . . ^{F35} 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.

Textual Amendments

F35 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

166 Compensation for loss due to stop notice.

(1) Where a stop notice under section 87 of this Act ceases to have effect, a person who, at the time when it was first served, had an interest [^{F36}, whether as owner or occupier or otherwise,] in the land to which it relates shall, in any of the circumstances mentioned in subsection (2) of this section, be entitled to be compensated by the . . . ^{F37} planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice.

(2) A person shall be entitled to compensation under subsection (1) of this section in respect of a prohibition contained in a stop notice in any of the following circumstances:—

- (a) the enforcement notice is quashed on any of the grounds mentioned in section 85(1)(b), (c), (d) or (e) of this Act;

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- (b) the allegation in the enforcement notice on which the prohibition in the stop notice is dependent is not upheld by reason that the enforcement notice is varied on one of those grounds;
 - (c) the enforcement notice is withdrawn by the . . . ^{F37} planning authority otherwise than in consequence of the grant by them of planning permission for the development to which the notice relates or for its retention or continuance without compliance with a condition or limitation subject to which a previous planning permission was granted;
 - (d) the stop notice is withdrawn.
- (3) A prohibition in a stop notice shall be treated for the purposes of subsection (2) of this section as dependent on an allegation in an enforcement notice if and to the extent that the [^{F38}activity] to which the prohibition in the stop notice relates are the same as those alleged in the enforcement notice to constitute a breach of planning control or are so closely associated therewith as to constitute substantially the same [^{F38}activity].
- (4) A claim for compensation under this section shall be made to the . . . ^{F37} planning authority within the time and in the manner prescribed by regulations under this Act.
- (5) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition. . . ^{F39}.
- [^{F40}(6) In the assessment of any compensation under this section, there shall be taken into account any failure on the part of the claimant to comply with the provisions of section 270 of this Act, to the extent, if any, that such failure has contributed to the circumstances in which the enforcement notice was withdrawn or varied or quashed, or the stop notice withdrawn.]

Textual Amendments

- F36** Words inserted by [Town and Country Planning \(Scotland\) Act 1977 \(c. 10\), s. 5\(2\)\(a\)](#)
- F37** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F38** Word substituted by [Town and Country Planning \(Scotland\) Act 1977 \(c. 10\), s. 5\(2\)\(b\)](#)
- F39** Words repealed by [Town and Country Planning \(Scotland\) Act 1977 \(c. 10\), s. 5\(2\)\(c\)](#)
- F40** [S. 166\(6\)](#) added by [Town and Country Planning \(Scotland\) Act 1977 \(c. 10\), s. 5\(2\)\(d\)](#)

Modifications etc. (not altering text)

- C9** [S. 166](#) extended (with modifications) by [S.I. 1984/995, reg. 2, Sch.](#) (which S.I. was revoked (26.3.1992) by [S.I. 1992/478, reg.3](#))

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 ^{M3}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.

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- (2) [^{F41}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;
 - (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

F41 Words substituted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), s. 35, Sch. 2 para. 6](#)

Modifications etc. (not altering text)

C10 [S. 167\(1\)\(2\)](#) extended by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 117\(2\)](#) (with [s. 128\(1\)](#))

C11 [S. 167\(4\)](#) extended by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 118](#) (with [s. 128\(1\)](#))

Marginal Citations

M3 [1963 c. 51.](#)

[^{F42}**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

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- (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 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

F42 Ss. 167A—167C inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), ss. 31, 35](#)

[^{F43}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

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- (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.]

Textual Amendments

F43 Ss. 167A—167C inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), ss. 31, 35

[^{F44}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) . . . ^{F45}
- (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

F44 Ss. 167A—167C inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), ss. 31, 35

F45 S. 167C(2)(b) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 4 Pt. I](#)

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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 [^{F46}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 ^{M4}Land Compensation (Scotland) Act 1963 shall apply, subject to any necessary modifications and to the provisions of any regulations made under this Act.

Textual Amendments

F46 Words inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), ss. 32, 35](#)

Marginal Citations

M4 [1963 c. 51.](#)

Status:

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Changes to legislation:

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