



Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

1972 CHAPTER 52

PART VIII

COMPENSATION FOR OTHER PLANNING RESTRICTIONS

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.
- (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.

Status: Point in time view as at 25/09/1991.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to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Cross Heading: Revocation or modification of planning permission. (See end of Document for details)

- (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
 - (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

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- (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,
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}

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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;
 - (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.

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(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](#)

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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](#)

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[^{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](#)

[^{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;

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- (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 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.]

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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—

.
^{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**

Status:

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Changes to legislation:

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