



# 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)**

*Status: Point in time view as at 16/04/2013.*

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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 [<sup>F1</sup>—
  - (a) subject to the condition set out in Schedule 10, for any development of the land of a class specified in paragraph 1 of Schedule 3;
  - (b) for any development of a class specified in paragraph 2 of 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 [<sup>F2</sup>1(3)] of Schedule 9).

**Textual Amendments**

- F1** S. 107(4)(a)(b) substituted (25.7.1991 with effect or to be treated as having effect, in relation to claims made on or after 16.11.1990) for the words "for any development of the land of any class specified in Schedule 3" by virtue of [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31(4), 84(4), [Sch 6 para. 13\(1\)\(2\)](#)
- F2** Words in s. 107(5) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 21, [Sch. 1 para.8](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#) (subject to art. 4)

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

- C6** S. 107 applied (with modifications) (3.11.1995) by [S.I. 1995/2863, reg. 3](#), [Sch.](#)
- C7** S. 107(1)(a) applied (30.10.1994) by [The Conservation \(Natural Habitats, &c.\) Regulations 1994 \(S.I. 1994/2716\)](#), [reg. 67\(1\)](#) (with [reg. 3](#)) (as amended by [S.I. 2009/2438](#))

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**<sup>F3</sup>108 Compensation for refusal or conditional grant of planning permission formerly granted by development order [<sup>F3</sup>, local development order or neighbourhood development order].**

(1) Where—

- (a) planning permission granted by a development order [<sup>F4</sup>, a local development order or a neighbourhood 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 [<sup>F5</sup> or section 293A] 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 [<sup>F6</sup>, the local development order or the neighbourhood development order]—

- (i) had been granted by the local planning authority under Part III [<sup>F7</sup> or section 293A]; and
- (ii) had been revoked or modified by an order under section 97.

(2) Where planning permission granted by a development order [<sup>F8</sup>, a local development order or a neighbourhood development order] is withdrawn by revocation or amendment of the order, this section applies only if the application 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.

[<sup>F9</sup>(2A) Where—

- (a) planning permission granted by a development order for development [<sup>F10</sup> in England] of a prescribed description is withdrawn by the issue of directions under powers conferred by the order, or
- (b) planning permission granted by a local development order for development [<sup>F11</sup> in England] is withdrawn by the issue of directions under powers conferred by the order,

this section applies only if the application referred to in subsection (1)(b) is made before the end of the period of 12 months beginning with the date on which the directions took effect.]

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

[<sup>F12</sup>(3B) This section does not apply if—

- (a) in the case of planning permission granted by a development order, the condition in subsection (3C) is met;
- (b) in the case of planning permission granted by a local development order, the condition in subsection (3D) is met.

[<sup>F13</sup>(c) in the case of planning permission granted by a neighbourhood development order, the condition in subsection (3E) is met.]

(3C) The condition referred to in subsection (3B)(a) is that—

- (a) the planning permission is granted for development [<sup>F14</sup> in England] of a prescribed description,
- (b) the planning permission is withdrawn in the prescribed manner,

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- (c) notice of the withdrawal was published in the prescribed manner not less than 12 months or more than the prescribed period before the withdrawal took effect, and
  - (d) either—
    - (i) the development authorised by the development order had not started before the notice was published, or
    - (ii) the development order includes provision in pursuance of section 61D permitting the development to be completed after the permission is withdrawn.
- (3D) The condition referred to in subsection (3B)(b) is that—
- (a) [<sup>F15</sup>the planning permission is granted for development in England,]
  - (b) the planning permission is withdrawn by the revocation or amendment of the local development order, or by the issue of directions under powers conferred by the local development order,
  - (c) notice of the revocation, amendment or directions was published in the prescribed manner not less than 12 months or more than the prescribed period before the revocation, amendment or directions (as the case may be) took effect, and
  - (d) either—
    - (i) the development authorised by the local development order had not started before the notice was published, or
    - (ii) the local development order includes provision in pursuance of section 61D permitting the development to be completed after the permission is withdrawn.]
- [<sup>F16</sup>(3E) The condition referred to in subsection (3B)(c) is that—
- (a) the planning permission is withdrawn by the revocation of the neighbourhood development order,
  - (b) notice of the revocation was published in the prescribed manner not less than 12 months or more than the prescribed period before the revocation took effect, and
  - (c) either—
    - (i) the development authorised by the neighbourhood development order had not begun before the notice was published, or
    - (ii) section 61L(7) applies in relation to the development.]
- [<sup>F17</sup>(4) Regulations made by virtue of this subsection may provide that subsection (1) shall not apply where planning permission granted by a development order [<sup>F18</sup>or a local development order] for demolition of buildings or any description of buildings is withdrawn by the issue of directions under powers conferred by the order.]
- [<sup>F19</sup>(5) Regulations under this section prescribing a description of development may (in particular) do so by reference to one or more classes or descriptions of development specified in a development order.
- (6) In this section “prescribed” means prescribed by regulations made by the Secretary of State [<sup>F20</sup>in relation to England and the Welsh Ministers in relation to Wales.]]

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## Textual Amendments

- F3** Words in s. 108 title substituted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), [Sch. 12 para. 15\(6\)](#); [S.I. 2012/57](#), art. 4(1)(h) (with arts. 6, 7, 9-11); [S.I. 2012/628](#), art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4); [S.I. 2012/2029](#), arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797](#), art. 4); [S.I. 2013/797](#), arts. 1(2), 2
- F4** Words in s. 108(1)(a) substituted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), [Sch. 12 para. 15\(2\)\(a\)](#); [S.I. 2012/57](#), art. 4(1)(h) (with arts. 6, 7, 9-11); [S.I. 2012/628](#), art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4); [S.I. 2012/2029](#), arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797](#), art. 4); [S.I. 2013/797](#), arts. 1(2), 2
- F5** Words in s. 108(1)(b) inserted (7.6.2006) by [The Planning and Compulsory Purchase Act 2004 \(Commencement No. 9 and Consequential Provisions\) Order 2006 \(S.I. 2006/1281\)](#), [art. 5\(a\)\(i\)](#)
- F6** Words in s. 108(1) substituted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), [Sch. 12 para. 15\(2\)\(b\)](#); [S.I. 2012/57](#), art. 4(1)(h) (with arts. 6, 7, 9-11); [S.I. 2012/628](#), art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4); [S.I. 2012/2029](#), arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797](#), art. 4); [S.I. 2013/797](#), arts. 1(2), 2
- F7** Words in s. 108(1)(b)(i) inserted (7.6.2006) by [The Planning and Compulsory Purchase Act 2004 \(Commencement No. 9 and Consequential Provisions\) Order 2006 \(S.I. 2006/1281\)](#), [art. 5\(a\)\(ii\)](#)
- F8** Words in s. 108(2) substituted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), [Sch. 12 para. 15\(3\)](#); [S.I. 2012/57](#), art. 4(1)(h) (with arts. 6, 7, 9-11); [S.I. 2012/628](#), art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4); [S.I. 2012/2029](#), arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797](#), art. 4); [S.I. 2013/797](#), arts. 1(2), 2
- F9** S. 108(2A) inserted (6.4.2010) by [Planning Act 2008 \(c. 29\)](#), [ss. 189\(2\)](#), 241 (with s. 226); [S.I. 2010/566](#), [art. 3\(a\)](#) (with art. 4)
- F10** Words in s. 108(2A)(a) omitted (W.) (31.1.2012) by virtue of [The Planning Permission \(Withdrawal of Development Order or Local Development Order\) \(Compensation\) \(Wales\) Order 2012 \(S.I. 2012/210\)](#), arts. 1(2), [2\(a\)](#)
- F11** Words in s. 108(2A)(b) omitted (W.) (31.1.2012) by virtue of [The Planning Permission \(Withdrawal of Development Order or Local Development Order\) \(Compensation\) \(Wales\) Order 2012 \(S.I. 2012/210\)](#), arts. 1(2), [2\(b\)](#)
- F12** S. 108(3B)-(3D) inserted (6.4.2010) by [Planning Act 2008 \(c. 29\)](#), [ss. 189\(3\)](#), 241 (with s. 226); [S.I. 2010/566](#), [art. 3\(a\)](#) (with art. 4)
- F13** S. 108(3B)(c) inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), [Sch. 12 para. 15\(4\)](#); [S.I. 2012/57](#), art. 4(1)(h) (with arts. 6, 7, 9-11); [S.I. 2012/628](#), art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4); [S.I. 2012/2029](#), arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797](#), art. 4); [S.I. 2013/797](#), arts. 1(2), 2
- F14** Words in s. 108(3C)(a) omitted (W.) (31.1.2012) by virtue of [The Planning Permission \(Withdrawal of Development Order or Local Development Order\) \(Compensation\) \(Wales\) Order 2012 \(S.I. 2012/210\)](#), arts. 1(2), [2\(c\)](#)
- F15** S. 108(3D)(a) omitted (W.) (31.1.2012) by virtue of [The Planning Permission \(Withdrawal of Development Order or Local Development Order\) \(Compensation\) \(Wales\) Order 2012 \(S.I. 2012/210\)](#), arts. 1(2), [2\(d\)](#)

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- F16** S. 108(3E) inserted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\), s. 240\(5\)\(j\)](#), [Sch. 12 para. 15\(5\)](#); [S.I. 2012/57, art. 4\(1\)\(h\)](#) (with arts. 6, 7, 9-11); [S.I. 2012/628, art. 8\(a\)](#) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029, arts. 2, 4](#)); [S.I. 2012/2029, arts. 2, 3\(a\)](#) (with art. 5) (as amended (6.4.2013) by [S.I. 2013/797, art. 4](#)); [S.I. 2013/797, arts. 1\(2\), 2](#)
- F17** S. 108(4) inserted (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 13\(3\)](#) (with s. 84(5)); [S.I. 1992/1279, art. 2](#) (with art. 3)
- F18** Words in s. 108 inserted (6.8.2004 for specified purposes, 10.5.2006 for E. so far as not already in force, 30.4.2012 for W. so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 40\(2\)\(h\)](#) (with s. 111); [S.I. 2004/2097, art. 2](#); [S.I. 2006/1061, art. 2\(a\)](#); [S.I. 2012/1100, art. 2](#)
- F19** S. 108(5)(6) inserted (6.4.2010) by [Planning Act 2008 \(c. 29\), ss. 189\(4\), 241](#) (with s. 226); [S.I. 2010/566, art. 3\(a\)](#) (with art. 4)
- F20** Words in s. 108(6) inserted (W.) (31.1.2012) by [The Planning Permission \(Withdrawal of Development Order or Local Development Order\) \(Compensation\) \(Wales\) Order 2012 \(S.I. 2012/210\), arts. 1\(2\), 2\(e\)](#)

## 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 [F21Upper 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 [F21Upper Tribunal] under this section it is shown that an apportionment—
  - (a) relates wholly or partly to the same matters as a previous apportionment, and

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- (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 [F21Upper 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 [F21Upper Tribunal].
- (6) In this section and [F22section 110]—
- “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 [F23, the local development order or the neighbourhood development order].

#### Textual Amendments

- F21** Words in s. 109(3)(a)(4)(5) substituted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 194**
- F22** Words in s. 109(6) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 31, **Sch. 6 para.14** (with s. 84(5)); S.I. 1991/2067, **art. 3** (subject to art. 4)
- F23** Words in s. 109(6) substituted (15.11.2011 for specified purposes, 15.1.2012 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(5)(j), **Sch. 12 para. 16**; S.I. 2012/57, art. 4(1)(h) (with arts. 6, 7, 9-11); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts. 1(2), 2

#### 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 [F24, Welsh county, county borough] 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—

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- (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 <sup>M1</sup>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.

#### Textual Amendments

**F24** Words in s. 110(2) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 24(2)** (with ss. 54(5) (7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

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

**C8** S. 110 applied (with modifications) (1.10.2011) by **The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011** (S.I. 2011/2055), regs. 1, **64**

#### Marginal Citations

**M1** 1975 c. 76.

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

- (1) No person shall carry out any <sup>F25</sup> . . . 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) [<sup>F26</sup>to (5)], this section applies to any <sup>F25</sup> . . . 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.



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- (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.
- [<sup>F27</sup>(5) This section does not apply to any development—
  - (a) of a class specified in paragraph 1 of Schedule 3 which is carried out in accordance with the condition set out in Schedule 10; or
  - (b) of a class specified in paragraph 2 of Schedule 3.]

#### Textual Amendments

- F25** Word in s. 111(1)(2) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31, 84(6), [Sch. 6 para. 15\(a\)](#), [Sch. 19 Pt.II](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#) (subject to art. 4)
- F26** Words in s. 111(2) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 31, [Sch. 6 para. 15\(b\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#) (subject to art. 4)
- F27** S. 111(5) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 31, [Sch. 6 para. 15\(c\)](#) (with s. 84(5)); S.I. 1991/2067, [art. 3](#) (subject to art. 4)

## 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 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

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- 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 <sup>F28</sup> . . . 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—
    - <sup>F29</sup>(a) . . . . .
    - (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,

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any deduction to be made under <sup>F30</sup> . . . 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.

**Textual Amendments**

- F28** Word in s. 112(9) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31, 84(6), [Sch. 6 para. 16\(a\)](#), [Sch. 19](#), Pt.II (with s. 84(5)); S.I. 1991/2067, [art. 3](#) (subject to art. 4)
- F29** S. 112(12)(a) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31, 84(6), [Sch. 6 para. 16\(b\)](#), [Sch. 19](#), Pt.II (with s. 84(5)); S.I. 1991/2067, [art. 3](#) (subject to art. 4)
- F30** Words in s. 112(13) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31, 84(6), [Sch. 6 para. 16\(c\)](#), [Sch. 19](#), Pt.II (with s. 84(5)); S.I. 1991/2067, [art. 3](#) (subject to art. 4)

<sup>F31</sup> **113** .....

**Textual Amendments**

- F31** S. 113 repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31, 84(6), [Sch. 6 para. 17](#), [Sch. 19](#), Pt.II (with ss. 31(7)(8), 84(5), [Sch. 6 paras. 1\(2\), 5\(2\), 13\(2\)](#)); S.I. 1991/2067, [art.3](#) (subject to art. 4)

*Compensation for other planning decisions*

<sup>F32</sup> **114 Compensation for planning decisions restricting development other than new development.**

.....

**Textual Amendments**

- F32** S. 114 repealed (25.7.1991 with effect or to be treated as having had effect, where the application for planning permission was made on or after 16.11.1990) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31(2)(7), 84(2)(4)(6), [Sch. 19 Pt. II](#) (with s. 84(5))

**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,

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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)**

**C9** S. 115 applied (with modifications) (25.3.1997) by [S.I. 1997/1111](#), [reg. 5\(1\)\(3\)](#)

**[<sup>F33</sup>116 Modification of compensation provisions in respect of mineral working etc.**

- (1) Regulations made by virtue of this section with the consent of the Treasury may provide that where an order is made under—
  - (a) section 97 modifying planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste; or
  - (b) paragraph 1, 3, 5 or 6 of Schedule 9 with respect to such winning and working or depositing,
 sections 107, 115, 117, 279 and 280 shall have effect subject, in such cases as may be prescribed, to such modifications as may be prescribed.
- (2) Any such regulations may make provision—
  - (a) as to circumstances in which compensation is not to be payable;
  - (b) for the modification of the basis on which any amount to be paid by way of compensation is to be assessed;
  - (c) for the assessment of any such amount on a basis different from that on which it would otherwise have been assessed,
 and may also make different provision for different cases and incidental or supplementary provision.
- (3) No such regulations shall be made unless a draft of the instrument is laid before and approved by a resolution of each House of Parliament.
- (4) Before making any such regulations the Secretary of State shall consult such persons as appear to him to be representative—
  - (a) of persons carrying out mining operations;

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- (b) of owners of interests in land containing minerals; and
- (c) of mineral planning authorities.]

#### Textual Amendments

**F33** S. 116 substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 21, [Sch. 1 para.9](#); S.I. 1991/2067, [art.3](#) (subject to art. 4)

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

**C10** S. 116 modified (1.11.1995) by [1995 c. 25, s. 96, Sch. 13 para. 15\(6\)](#) (with ss. 7(6), 115, 117); S.I. 1995/2765, [art. 2](#)  
S. 116 modified (1.11.1995) by [1995 c. 25, s. 96, Sch. 14 para. 13\(6\)](#) (with ss. 7(6), 115, 117); S.I. 1995/2765, [art. 2](#)

### *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 <sup>M2</sup>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 [<sup>F34</sup>by virtue of section 116], 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.

#### Textual Amendments

**F34** Words in s. 117(2) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 21, [Sch. 1, para.10](#) (with s. 84(5)); S.I. 1991/2067, [art.3](#) (subject to art. 4)

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

**C11** Ss. 117, 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

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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](#)

**C12** S. 117 applied (1.10.2011) by [The Infrastructure Planning \(Changes to, and Revocation of, Development Consent Orders\) Regulations 2011 \(S.I. 2011/2055\)](#), [regs. 1, 65](#)

#### 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 [<sup>F35</sup>Upper Tribunal].
- (2) In relation to the determination of any such question, the provisions of [<sup>F36</sup>section] 4 of the <sup>M3</sup>Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

#### Textual Amendments

**F35** Words in s. 118(1) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), [art. 5\(1\)\(2\)](#), [Sch. 1 para. 195\(a\)](#)

**F36** Words in s. 118(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), [art. 5\(1\)\(2\)](#), [Sch. 1 para. 195\(b\)](#)

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

**C13** 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](#)

**C14** 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](#))

**C15** 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](#))

#### Marginal Citations

**M3** 1961 c.33.

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