



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART IV

#### COMPENSATION FOR EFFECTS OF CERTAIN ORDERS, NOTICES, ETC.

##### *Compensation for other planning decisions*

#### **114 Compensation for planning decisions restricting development other than new development**

- (1) This section applies where, on an application for planning permission to carry out development of any class specified in Part II of Schedule 3, the Secretary of State, either on appeal or on the reference of the application to him for determination, refuses the permission or grants it subject to conditions.
- (2) If, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that the value of the interest of any person in the land is less than it would have been if the permission had been granted or, as the case may be, had been granted unconditionally, the local planning authority shall pay that person compensation of an amount equal to the difference.
- (3) In determining, for the purposes of subsection (2), whether or to what extent the value of an interest in land is less than it would have been if the permission had been granted, or had been granted unconditionally—
  - (a) it shall be assumed that any subsequent application for similar planning permission would be determined in the same way; but
  - (b) if, in the case of a refusal of planning permission, the Secretary of State, on refusing that permission, undertook to grant planning permission for some other development of the land if an application were made for it, regard must be had to that undertaking; and
  - (c) no account shall be taken of any prospective use which would contravene the condition set out in Schedule 10.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Where, on such an application as is mentioned in subsection (1), planning permission is granted by the Secretary of State subject to conditions for regulating the design or external appearance or the size or height of buildings, the Secretary of State may direct that those conditions shall be disregarded, either altogether or to such extent as may be specified in the direction, in assessing the compensation (if any) payable under this section.
- (5) The Secretary of State shall only give a direction under subsection (4) if it appears to him to be reasonable to do so having regard to the local circumstances.
- (6) For the purposes of subsection (1)—
- (a) paragraph 3 of Schedule 3 shall be construed as not extending to the enlargement of a building which was in existence on 1st July 1948 if—
    - (i) the building contains two or more separate dwellings divided horizontally from each other or from some other part of the building; and
    - (ii) the enlargement would result in either an increase in the number of such dwellings contained in the building or an increase of more than one-tenth in the cubic content of any such dwelling contained in the building;
  - (b) that paragraph shall be construed as not extending to works involving any increase in the cubic content of a building erected after that date (including any building resulting from the carrying out of such works as are described in paragraph 1 of Schedule 3); and
  - (c) paragraph 7 of that Schedule shall not apply to any such building as mentioned in paragraph (b).
- (7) For the purposes of this section the conditions referred to in sections 91 and 92 shall be disregarded.
- (8) No compensation shall be payable under this section in respect of an interest in land in respect of which a purchase notice is served.

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

- (1) This section shall have effect where an order is made under section 102—
- (a) requiring a use of land to be discontinued,
  - (b) imposing conditions on the continuance of it, or
  - (c) requiring any buildings or works on land to be altered or removed.
- (2) If, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that any person has suffered damage in consequence of the order—
- (a) by depreciation of the value of an interest to which he is entitled in the land or in minerals in, on or under it, or
  - (b) by being disturbed in his enjoyment of the land or of such minerals,
- that authority shall pay to that person compensation in respect of that damage.
- (3) Without prejudice to subsection (2), any person who carries out any works in compliance with the order shall be entitled, on a claim made as mentioned in that subsection, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.

- (4) Any compensation payable to a person under this section by virtue of such an order as is mentioned in subsection (1) shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.
- (5) Subject to section 116, this section applies where such an order as is mentioned in subsection (6) is made as it applies where an order is made under section 102.
- (6) The orders referred to in subsection (5) are an order under paragraph 1 of Schedule 9—
  - (a) requiring a use of land to be discontinued, or
  - (b) imposing conditions on the continuance of it, or
  - (c) requiring any buildings or works or plant or machinery on land to be altered or removed,or an order under paragraph 3, 5 or 6 of that Schedule.

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

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