



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART IV

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

##### *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>—

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- (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 [F2]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)

- C1** S. 107 applied (with modifications) (3.11.1995) by [S.I. 1995/2863](#), reg. 3, [Sch.](#)
- C2** 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](#))

### 108 Compensation for refusal or conditional grant of planning permission formerly granted by development order [F3] or a local development order].

- (1) Where—
- (a) planning permission granted by a development order [F3] or a local 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 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 [F3] or a local development order]—
- (i) had been granted by the local planning authority under Part III; and
  - (ii) had been revoked or modified by an order under section 97.
- (2) Where planning permission granted by a development order [F3] or a local 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.
- (3) This section shall not apply in relation to planning permission for the development of operational land of statutory undertakers.
- [F4] (4) Regulations made by virtue of this subsection may provide that subsection (1) shall not apply where planning permission granted by a development order [F3] 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.]

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#### Textual Amendments

- F3** 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
- F4** 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)

### 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 Lands 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 Lands Tribunal under this section it is shown that an apportionment—
  - (a) relates wholly or partly to the same matters as a previous apportionment, and
  - (b) is consistent with that previous apportionment in so far as it relates to those matters,the Tribunal shall not vary the apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.
- (5) On a reference to the Lands 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 Lands Tribunal.

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(6) In this section and [<sup>F5</sup>section 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 [<sup>F6</sup>or a local development order].

#### Textual Amendments

- F5** 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](#))
- F6** Words in s. 109(6) inserted (6.8.2004 for certain purposes, 10.5.2006 for E. and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 40\(2\)\(i\)](#), 121 (with s. 111); S.I. 2004/2097, [art. 2](#); S.I. 2006/1061, [art. 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 [<sup>F7</sup>, 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—
  - (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—

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- (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

**F7** 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**

#### Marginal Citations

**M1** 1975 c. 76.

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

- (1) No person shall carry out any <sup>F8</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>F9</sup>to (5)], this section applies to any <sup>F8</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.
- (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>F10</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.]

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#### **Textual Amendments**

- F8** 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)
- F9** 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)
- F10** 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 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

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- (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>F11</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>F12</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,any deduction to be made under <sup>F13</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**

**F11** 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)

**F12** 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)

**F13** 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)

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#### Textual Amendments

- F14** 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](#))



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