



# 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.*

#### **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 [<sup>F1</sup>Upper Tribunal];

*Status: Point in time view as at 30/04/2012. This version of this provision has been superseded.*

*Changes to legislation: Town and Country Planning Act 1990, Section 109 is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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 [F1Upper 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 [F1Upper 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 [F1Upper Tribunal].
- (6) In this section and [F2section 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 [F3[F4, the local development order or the neighbourhood development order]].

#### Textual Amendments

- F1** 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**
- F2** 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)
- F3** 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
- F4** Words in s. 109(6) 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)(i)** (with s. 111); S.I. 2004/2097, art. 2; S.I. 2006/1061, art. 2(a); S.I. 2012/1100, art. 2

**Status:**

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