
STATUTORY INSTRUMENTS

1974 No. 1242

**The Town and Country Planning (Compensation
and Certificates) Regulations 1974**

PART III

CLAIMS BY MORTGAGEES

9.—(1) This regulation applies to any compensation payable under Part VII of the Act, where, at the time when the right to claim the compensation has become exercisable, the said right is exercisable by reference to an interest in land, as defined in section 134(4) of the Act, which is subject to a mortgage created before 1st July 1948 or on or after 1st January 1955 and the moneys secured thereby have not been paid in full or charged exclusively on other land:

Provided that this regulation shall have effect, as regards any mortgage created on or after 1st January 1955, subject to any provision to the contrary in that mortgage.

(2) Where the Secretary of State has received from an original applicant a claim for any compensation to which this regulation applies and it appears to the Secretary of State that a mortgagee would be entitled on compliance with paragraph (3) of this regulation to receive the compensation or part of the compensation under paragraph (5) hereof the Secretary of State shall give notice to that mortgagee that such a claim has been made, and shall send a copy of the notice to any other mortgagee who might in his opinion be so entitled if he had priority and any such notice or copy may be sent to the last known address of any such mortgagee or his agent.

(3) Any mortgagee who has received a notice or copy under the last preceding paragraph and who may be entitled to receive in accordance with paragraph (5) of this regulation any compensation or part of any compensation to which this regulation applies, shall if he wishes to receive such payment or part notify the Secretary of State in writing within thirty days of the date of the notice, declaring that the moneys secured by the mortgage have not been paid in full or charged exclusively on other land, stating whether any other mortgagee has priority to him, and giving particulars of the interest to which the mortgage relates or related.

(4) Where an original applicant has failed to claim any compensation to which this regulation applies within the period prescribed in that behalf by the Act, the right to claim shall, in so far as it is exercisable by reference to any interest in land which is, or was, subject to a mortgage and subject to the allowing of an extended or further extended period by the Secretary of State, be exercisable by a mortgagee of the said interest, and where such right is so exercised paragraphs (2) and (3) of this regulation shall apply as if that mortgagee were an original applicant as well as a mortgagee and the original applicant shall be entitled, subject as aforesaid, to claim compensation only in respect of his interest in the part of the land (if any) not subject to the mortgage.

(5) Subject to the foregoing provisions of this regulation and to paragraph (7) hereof where any compensation to which this regulation applies falls to be paid and the moneys secured by the mortgage have not been paid in full or charged exclusively on other land comprised in the mortgage, the compensation shall be paid to the mortgagee who has given notice to the Secretary of State under paragraph (3) of this regulation, or where there is more than one such mortgagee, to the mortgagee having priority, and in either case the mortgagee shall be liable to account therefor as

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if such compensation had been proceeds of sale of the interest in land subject to the mortgage, or which was so subject, arising under a power of sale exercised by that mortgagee on the date when the compensation is paid:

Provided that where the rights of the mortgagee extend or extended only to part of the land by reference to which the compensation falls to be paid, this paragraph shall have effect in relation only to so much of the compensation as is attributable to the land subject to the mortgage, or which was so subject.

(6) Notwithstanding anything contained in the last preceding paragraph, where no mortgagee has notified the Secretary of State in accordance with paragraph (3) of this regulation that he wishes to receive any compensation the Secretary of State may pay the compensation to the person otherwise entitled thereto.

(7) The Secretary of State may require any mortgagee, empowered by these regulations or by regulations revoked by these regulations to give any notice or claim any compensation, to provide further particulars or evidence in support of his notice or claim (including further information as to any relevant interest in land and as to any other persons interested in such land) and the mortgagee shall furnish any particulars or evidence available to him within thirty days of any such requirement.