

PART XII

Compensation

Chapter I

Compensation generally

183.—(1) Subject to *subsection (2)*, a claim for compensation under this Part shall be made not later than 6 months after— Compensation claims: time limits.

- (a) in the case of a claim under *section 190*, the date of the decision of the Board,
- (b) in the case of a claim under *section 195*, the date of the decision of the planning authority or the Board, as the case may be,
- (c) in the case of a claim under *section 196*, the removal or alteration of the structure,
- (d) in the case of a claim under *section 197*, the discontinuance or compliance,
- (e) in the case of a claim referred to in *section 198*, the date of the approval of a scheme under *section 85* or the date of complying with a notice under *section 88*, as the case may be,
- (f) in the case of a claim under *section 199*, the date on which the action of the planning authority occurred,
- (g) in the case of a claim under *section 200*, the date on which the order creating the public right of way commences to have effect, and
- (h) in the case of a claim under *section 201*, the date on which the damage is suffered.

(2) The High Court may, where it considers that the interests of justice so require, extend the period within which a claim for compensation under this Part may be brought, upon application being made to it in that behalf.

184.—A claim for compensation under this Part shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act, 1919, but subject to— Determination of compensation claim.

- (a) the *Second Schedule* in respect of a reduction in the value of an interest in land,
- (b) the proviso that the arbitrator shall have jurisdiction to make a nil award, and
- (c) the application of the *Second Schedule* to a claim for compensation under *Chapter III* of this Part for a reduction in the value of an interest as if a reference to “the relevant decision under Part III” or to “the decision” was, in relation to each of the sections in that Chapter set out in

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column A of the Table to this section, a reference to the matter set out in column B of that Table opposite the reference in column A to that section.

TABLE

A Section	B
196	the removal or alteration of a structure consequent upon a notice under <i>section 46</i> .
197	the discontinuance with, or the compliance with conditions on the continuance, of the use of land consequent upon a notice under <i>section 46</i> .
198	the approval of a scheme under <i>section 85</i> or the compliance with a notice under <i>section 88</i> .
199	the action by the planning authority under <i>section 182</i> .
200	the making by the planning authority of an order under <i>section 207</i> .

Regulations in relation to compensation.

185.—The Minister may make regulations to provide for the following:

- (a) the form in which claims for compensation are to be made;
- (b) the provision by a claimant of evidence in support of his or her claim, and information as to his or her interest in the land to which the claim relates;
- (c) a statement by a claimant of the names and addresses of all other persons (so far as they are known to him or her) having an interest in the land to which the claim relates and, unless the claim is withdrawn, the notification by the planning authority or the claimant of every other person (if any) appearing to it or him or her to have an interest in the land.

Prohibition of double compensation.

186.—Where a person would, but for this section, be entitled to compensation under this Part in respect of any matter or thing, and also to compensation under any other enactment in respect of the same matter or thing, he or she shall not be entitled to compensation in respect of the matter or thing both under this Part and under the other enactment, and shall not be entitled to any greater amount of compensation under this Part in respect of the matter or thing than the amount of the compensation to which he or she would be entitled under the other enactment in respect of the matter or thing.

Recovery of compensation from planning authority.

187.—(1) All compensation payable under this Part by the planning authority shall, when the amount thereof has been determined by agreement or by arbitration in accordance with this Part, be recoverable from that authority as a simple contract debt in any court of competent jurisdiction.

(2) All costs and expenses of parties to an arbitration to determine the amount of any compensation shall, in so far as the costs and expenses are payable by the planning authority, be recoverable from that authority as a simple contract debt in any court of competent jurisdiction.

(3) Sections 69 to 79 of the Lands Clauses Consolidation Act, 1845, as amended or adapted by or under the Second Schedule to the Housing of the Working Classes Act, 1890, or any other Act, shall apply in relation to compensation by this section made recoverable as a simple contract debt, as if the compensation were a price or compensation under the Lands Clauses Consolidation Act, 1845, as so amended or adapted. Pt.XII S.187

(4) Where money is paid into court by the planning authority under section 69 of the Lands Clauses Consolidation Act, 1845, as applied by this section, no costs shall be payable by that authority to any person in respect of any proceedings for the investment, payment of income, or payment of capital of that money.

188.—(1) Where, on a claim for compensation under *Chapter II* of this Part, compensation has become payable of an amount exceeding £500, the planning authority shall prepare and retain a statement of that fact, specifying the refusal of permission or grant of permission subject to conditions, or the revocation or modification of permission, the land to which the claim for compensation relates, and the amount of the compensation. Registration of compensation.

(2) (a) A planning authority shall enter in the register particulars of a statement prepared by it under this section.

(b) Every entry under *paragraph (a)* shall be made within the period of 2 weeks beginning on the day of the preparation of the statement.

189.—(1) No person shall carry out any development to which this section applies, on land in respect of which a statement (a “compensation statement”) stands registered (whether under section 72 of the Act of 1963, section 9 of the Act of 1990 or *section 188* of this Act) until that amount, as is recoverable under this section in respect of the compensation specified in the compensation statement, has been paid or secured to the satisfaction of the planning authority. Recovery by planning authority of compensation on subsequent development.

(2) This section applies to any development (other than exempted development) of a kind specified in *section 192(2)*, except that—

(a) this section shall not apply to any development by virtue of a permission to develop land under *Part III* referred to in *section 192(5)* where the permission was granted subject to conditions other than conditions of a class or description set out in the *Fifth Schedule*, and

(b) in a case where the compensation specified in the statement became payable in respect of the imposition of conditions on the granting of permission to develop land, this section shall not apply to the development for which that permission was granted.

(3) Subject to *subsection (4)*, the amount recoverable under this section in respect of the compensation specified in a compensation statement—

(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 compensation statement, shall be the amount of compensation specified in that statement, or

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(b) if the development area forms part of the land comprised in the compensation statement, or includes part of that land together with other land not comprised in that statement, shall be so much of the amount of compensation specified in that statement as is attributable to land comprised in that statement and falling within the development area.

(4) The attribution of compensation under *subsection (3)(b)* shall be in accordance with the following—

(a) the planning authority shall (if it appears to it to be practicable to do so) apportion the amount of the compensation between the different parts of the land, according to the way in which those parts appear to it to be differently affected by the refusal of permission or grant of permission subject to conditions;

(b) if no apportionment is made, the amount of the compensation shall be treated as distributed rateably according to area over the land to which the statement relates;

(c) if an apportionment is made, 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 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 of the land;

(d) if any person disputes an apportionment under this subsection, the dispute shall be submitted to and decided by a property arbitrator nominated under the Property Values (Arbitration and Appeals) Act, 1960.

(5) Where, in connection with the development of any land, an amount becomes recoverable under this section in respect of the compensation specified in a compensation statement, then no amount shall be recoverable, in so far as it is attributable to that land, in connection with any subsequent development thereof.

(6) An amount recoverable under this section in respect of any compensation shall be payable to the planning authority, and—

(a) shall be so payable, either as a single capital payment or as a series of instalments of capital and interest combined (the interest being determined at the same rate as for a judgment debt), or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the planning authority may direct, after taking into account any representations made by the person by whom the development is to be carried out, and

(b) except where the amount is payable as a single capital payment, shall be secured by that person in such manner (whether by mortgage, covenant or otherwise) as the planning authority may direct.

(7) If any person initiates any development to which this section applies in contravention of *subsection (1)*, the planning authority may serve a notice upon him or her, specifying the amount appearing to it to be the amount recoverable under this section in respect of the compensation in question, and requiring him or her to pay that amount to the planning authority within such period, not being less

than 12 weeks after the service of the notice, as may be specified in the notice, and, in default of the amount being paid to the planning authority within the period specified in the notice, it shall be recoverable as a simple contract debt in any court of competent jurisdiction. Pt.XII S.189

Chapter II

Compensation in relation to decisions under Part III

190.—If, on a claim made to the planning authority, it is shown that, as a result of a decision on an appeal under *Part III* involving a refusal of permission to develop land or a grant of permission to develop land subject to conditions, the value of an interest of any person existing in the land to which the decision relates at the time of the decision is reduced, that person shall, subject to the other provisions of this Chapter, be entitled to be paid by the planning authority by way of compensation— Right to compensation.

- (a) such amount, representing the reduction in value, as may be agreed,
- (b) in the absence of agreement, the amount of such reduction in value, determined in accordance with the *Second Schedule*, and
- (c) in the case of the occupier of the land, the damage (if any) to his or her trade, business or profession carried out on the land.

191.—(1) Compensation under *section 190* shall not be payable in respect of the refusal of permission for any development— Restriction of compensation.

- (a) of a class or description set out in the *Third Schedule*, or
- (b) if the reason or one of the reasons for the refusal is a reason set out in the *Fourth Schedule*.

(2) Compensation under *section 190* shall not be payable in respect of the refusal of permission for any development based on any change of the zoning of any land as a result of the making of a new development plan under *section 12*.

(3) Compensation under *section 190* shall not be payable in respect of the imposition, on the granting of permission to develop land, of any condition of a class or description set out in the *Fifth Schedule*.

(4) Compensation under *section 190* shall not be payable in respect of the refusal of permission, or of the imposition of conditions on the granting of permission, for the retention on land of any unauthorised structures.

192.—(1) Where a claim for compensation is made under *section 190*, the planning authority concerned may, not later than 12 weeks after the claim is received, and having regard to all the circumstances of the case, serve a notice in such form as may be prescribed on the person by whom or on behalf of whom the claim has been made stating that, notwithstanding the refusal of permission to develop Notice preventing compensation.

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land or the grant of permission to develop land subject to conditions, the land in question is in its opinion capable of other development for which permission under *Part III* ought to be granted.

(2) For the purpose of *subsection (1)*, “other development” means development of a residential, commercial or industrial character, consisting wholly or mainly of the construction of houses, shops or office premises, hotels, garages and petrol filling stations, theatres or structures for the purpose of entertainment, or industrial buildings (including warehouses), or any combination thereof.

(3) A notice under *subsection (1)* shall continue in force for a period of 5 years commencing on the day of service of the notice, unless before the expiration of that period—

- (a) the notice is withdrawn by the planning authority,
- (b) a permission is granted under *Part III* to develop the land to which the notice relates in a manner consistent with the other development specified in the notice, subject to no conditions or to conditions of a class or description set out in the *Fifth Schedule*, or
- (c) the notice is annulled by virtue of *subsection (5)*.

(4) Compensation shall not be payable on a claim made under *section 190* where—

- (a) a notice under *subsection (1)* is in force in relation to that claim,
- (b) a notice under *subsection (1)* was in force in relation to that claim but has ceased to be in force by reason of the expiration of the period referred to in *subsection (3)*, and an application for permission under *Part III* to develop the land to which the notice relates, in a manner consistent with the other development specified in the notice, has not been made within that period, or
- (c) a notice under *subsection (1)* was in force in relation to the claim but has ceased to be in force by virtue of *subsection (3)(b)*.

(5) A notice under *subsection (1)* shall be annulled where, upon an application for permission under *Part III* to develop the land to which the notice relates in a manner consistent with the other development specified in the notice, the permission is refused or is granted subject to conditions other than conditions of a class or description set out in the *Fifth Schedule*.

(6) No claim for compensation under *section 190* shall lie in relation to a decision under *Part III* referred to in *subsection (5)*.

Special provision
for structures
substantially
replacing structures
demolished or
destroyed by fire.

193.—(1) Nothing in *section 191* shall prevent compensation being paid—

- (a) in a case in which there has been a refusal of permission for the erection of a new structure substantially replacing a structure (other than an unauthorised structure) which has been demolished or destroyed by fire or otherwise than by an unlawful act of the owner or of the occupier

with the agreement of the owner within the 2 years preceding the date of application for permission, or there has been imposed a condition in consequence of which the new structure may not be used for the purpose for which the demolished or destroyed structure was last used, or

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- (b) in a case in which there has been imposed a condition in consequence of which the new structure referred to in *paragraph (a)* or the front thereof, or the front of an existing structure (other than an unauthorised structure) which has been taken down in order to be re-erected or altered, is set back or forward.

(2) Every dispute and question as to whether a new structure would or does replace substantially within the meaning of *subsection (1)* a demolished or destroyed structure shall be referred to the Board for determination.

194.—A person shall not be entitled to assign to any other person all or any part of any prospective compensation under *section 190*, and every purported assignment or promise, express or implied, to pay any other person any money in respect of any such compensation is void.

Restriction on assignment of compensation under *section 190*.

195.—(1) Where permission to develop land has been revoked or modified by a decision under *section 44*—

Compensation where permission is revoked or modified.

- (a) if, on a claim made to the planning authority, it is shown that any person interested in the land has incurred expenditure or entered into a contract to incur expenditure in respect of works which are rendered abortive by the revocation or modification, the planning authority shall pay to that person compensation in respect of that expenditure or contract,

- (b) the provisions of this Part shall apply in relation to the decision where it revoked the permission or modified it by the imposition of conditions—

(i) in case it revoked the permission, as they apply in relation to refusal of permission to develop land, and

(ii) in case it modified the permission by the imposition of conditions, as they apply in relation to a grant of permission to develop land subject to conditions.

(2) For the purposes of this section, any expenditure reasonably incurred in the preparation of plans for the purposes of any works or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out those works but, no compensation shall be paid by virtue of this section in respect of any works carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that permission.

Compensation in relation to sections 46, 85, 88, 182, 207 and 252

Compensation regarding removal or alteration of structure.

196.—If, on a claim made to the planning authority, it is shown that, as a result of the removal or alteration of any structure consequent upon a notice under *section 46*, the value of an interest of any person in the structure existing at the time of the confirmation of the notice is reduced, or that any person having an interest in the structure at that time has suffered damage by being disturbed in his or her enjoyment of the structure, that person shall, subject to the other provisions of this Part, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding discontinuance of use.

197.—(1) If, on a claim made to the planning authority, it is shown that, as a result of the discontinuance, or the compliance with conditions on the continuance, of any use of land consequent upon a notice under *section 46*, the value of an interest of any person in the land existing at the time of the confirmation of the notice is reduced, or that any person having an interest in the land at that time has suffered damage by being disturbed in his or her enjoyment of the land, that person shall, subject to the other provisions in this Part, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

(2) Notwithstanding *subsection (1)*, no compensation shall be paid under this section in relation to reduction in value or damage resulting from the imposition under *section 46* of conditions on the continuance of the use of land, being conditions imposed in order to avoid or reduce serious water pollution or the danger of such pollution.

(3) *Subsection (1)* shall not apply where the use of land is for the exhibition of advertising unless at the time of the discontinuance or compliance, the land has been used for the exhibition of advertising for less than 5 years, whether the use was continuous or intermittent or whether or not, while the land was being so used, advertising was exhibited at the same place on the land.

Compensation claim relating to area of special planning control.

198.—If, on a claim made to a planning authority, it is shown that—

- (a) the value of an interest of any person in land in an area of special planning control has been reduced, or
- (b) as a result of complying with a notice under *section 88*, the value of an interest of any person in the land existing at the time of the notice has been reduced, or that any person, having an interest in the land at the time, has suffered damage by being disturbed in his or her enjoyment of the structure or other land,

that person shall be paid by the planning authority, by way of compensation, a sum equal to the amount of the reduction in value or a sum in respect of the damage suffered.

199.—If, on a claim made to the local authority, it is shown that, as a result of the action of the authority pursuant to *section 182* in placing, renewing or removing any cable, wire or pipeline, attaching any bracket or fixture or affixing any notice, the value of an interest of any person in the land or structure existing at the time of the action of the planning authority is reduced, or that any person having an interest in the land or structure at that time has suffered damage by being disturbed in his or her enjoyment of the land or structure, that person shall, subject to the other provisions of this Part, be entitled to be paid by the local authority by way of compensation the amount of the reduction in value or the amount of the damage.

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Compensation regarding cables, wires and pipelines.

200.—If, on a claim made to the planning authority, it is shown that the value of an interest of any person in land, being land over which a public right of way has been created by an order under *section 207* made by that authority, is reduced, or that any person having an interest in the land has suffered damage by being disturbed in his or her enjoyment of the land, in consequence of the creation of the public right of way, that person shall, subject to the other provisions of this Part, be entitled to be paid by the planning authority by way of compensation the amount of the reduction in value or the amount of the damage.

Compensation regarding creation of public rights of way.

201.—If, on a claim made to the planning authority, it is shown that, as a result of anything done under *section 252* or *253*, any person has suffered damage, the person shall, subject to the other provisions of this Part, be entitled to be paid by the planning authority by way of compensation the amount of the damage.

Compensation regarding entry on land.

PART XIII

Amenities

202.—(1) Where, in the opinion of the planning authority, by reason of—

Area of special amenity.

(a) its outstanding natural beauty, or

(b) its special recreational value,

and having regard to any benefits for nature conservation, an area should be declared under this section to be an area of special amenity, it may, by resolution, make an order to do so and the order may state the objective of the planning authority in relation to the preservation or enhancement of the character or special features of the area, including objectives for the prevention or limitation of development in the area.

(2) Where it appears to the Minister that an area should be declared under this section to be an area of special amenity by reason of—

(a) its outstanding natural beauty, or

(b) its special recreational value,

and having regard to any benefits for nature conservation, he or she may, if he or she considers it necessary, direct a planning authority to make an order under this section in relation to an area specified