

Status: Point in time view as at 19/11/1998.

Changes to legislation: There are currently no known outstanding effects for the Road Traffic Regulation Act 1984, Part IV. (See end of Document for details)

SCHEDULES

SCHEDULE 4

CONTROL OF OFF-STREET PARKING

PART IV

RIGHT TO COMPENSATION IN CERTAIN CIRCUMSTANCES

- 19 Where a person who, at the date when the area is first designated as a controlled area by regulations of [^{F1}the local authority] under section 43 of this Act, is the operator of a public off-street parking place at premises in that area which have at that date been used as such a parking place for a continuous period of not less than six months duly makes an application to the local authority for a licence in respect of those premises before the expiration of the period prescribed for such applications in respect of parking places in operation at that date, and the local authority decide either—
- (a) to refuse the application; or
 - (b) to grant the applicant a licence on terms and conditions specified under subsection (4)(b) and (c) of section 43 such that under the licence the applicant will not be able to operate the premises as a parking place to such advantage or potential advantage as immediately before he made his application,
- paragraph 22 below shall apply to that decision of the local authority.

Textual Amendments

F1 Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 8(1), [Sch. 5 para. 4\(38\)\(d\)](#)

- 20 Where—
- (a) at the date when notice of a proposal to make regulations under section 43 of this Act designating an area as a controlled area for the purposes of that section is published by [^{F2}the local authority] under paragraph 1 above—
 - (i) planning permission has been granted for a development which consists of or includes the provision at any premises in that area of a public off-street parking place; and
 - (ii) that development involves substantial building or engineering operations within the meaning of [^{F3}section 336(1) of the Town and Country Planning Act 1990]; and
 - (iii) either one or more [^{F4}material operations within section 56(4) of the Town and Country Planning Act 1990] comprised in that development have begun to be carried out or a contract (other than a lease) has been entered into with a person carrying on a business consisting wholly or mainly of the execution of building operations

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- or of building operations and engineering operations whereby that person has undertaken to erect in the course of that business at the said premises a building or structure as a place for the provision of parking spaces for motor vehicles; and
- (b) at the date when the area is designated as a controlled area in pursuance of that proposal those premises have not been in use as such a parking place to the full extent provided for by the planning permission for a continuous period of not less than six months; and
 - (c) the person operating or proposing to operate those premises as such a parking place duly makes application to the local authority for a licence in respect of those premises before the expiration of the period prescribed for such applications in respect of parking places in operation at the date referred to in sub-paragraph (b) above; and
 - (d) the local authority decide either—
 - (i) to refuse the application; or
 - (ii) to grant the applicant a licence on terms and conditions specified under subsection (4)(b) and (c) of the said section 43 such that under the licence the applicant will not be able to operate the premises as such a parking place to such advantage or potential advantage as if the area had not been designated as a controlled area,

paragraph 22 below shall apply to that decision of the local authority.

Textual Amendments

- F2** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 8(1), [Sch. 5 para. 4\(38\)\(d\)](#)
- F3** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 64\(2\)\(b\)](#)
- F4** Words in Sch. 4 para. 20(a)(iii) substituted (19.11.1998) by [1998 c. 43, s. 1\(2\)](#), [Sch. 2 para. 12\(1\)\(2\)](#)

- 21 Paragraph 22 below shall apply to any decision of the local authority—
- (a) to revoke a permanent licence under paragraph 8 above; or
 - (b) to vary under paragraph 8 any of the terms and conditions specified in a permanent licence under section 43(4)(b) and (c) of this Act in such manner that the holder of the licence will not be able to operate the licensed parking place to such advantage or potential advantage as if the variation had not been made; or
 - (c) to refuse an application by the holder of a permanent licence for a special variation of the terms and conditions specified under section 43(4)(b) and (c) in a case where—
 - (i) by reason of a happening beyond the control of the holder of the licence he cannot continue to operate the licensed parking place in accordance with the licence as for the time being in force to such advantage or potential advantage as before that happening; and
 - (ii) the making of that variation would wholly or partly mitigate the adverse effects of that happening without enabling the holder of the licence to operate the licensed parking place to greater advantage or potential advantage than before that happening.

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- 22 (1) If, on a claim made to the local authority in writing within the period of six months or such longer period as may be allowed under sub-paragraph (2) below beginning with the date when the person who is, or who proposes to become, the operator of a public off-street parking place is, or is deemed under paragraph 14(2) above to have been, notified of a decision of the local authority under section 43 of this Act or Part II of this Schedule relating to that parking place, that person or any other person entitled to an interest in the premises used or proposed to be used for the purposes of that parking place shows that the decision is one to which, under paragraph 19, 20 or 21 above, this paragraph is to apply and that the claimant has suffered damage in consequence of that decision by depreciation of the value of his interests in those premises, or by being disturbed in his enjoyment of those premises, the local authority shall pay the claimant compensation in respect of that damage.
- (2) If within the period of six months referred to in sub-paragraph (1) above any such person as is referred to in that sub-paragraph has made an application to the Secretary of State for that purpose and has given notice to the local authority of the making of that application, the Secretary of State may, if he thinks fit, in the circumstances of the case, direct that sub-paragraph (1) above shall apply in relation to the decision in question as if for the reference in that sub-paragraph to six months there were substituted a reference to such longer period as the Secretary of State thinks fit.
- (3) For the purpose of determining whether or not a claimant has suffered damage, there shall be taken into account any alternative use to which the premises could reasonably be put, being a use in the case of which the local authority show either—
- (a) that any necessary planning permission, whether conditional or unconditional, for that use has already been granted; or
 - (b) that the local planning authority have given an undertaking that if planning permission for that use is applied for it will be granted either unconditionally or subject to specified conditions;
- and in a case where this paragraph applies by virtue of paragraph 21(c) above there shall also be taken into account any alternative variation to that applied for by the holder of the licence in question which the local authority have undertaken to grant on an application being made for that purpose.
- (4) [^{F5}Section 117 of the Town and Country Planning Act 1990] shall apply to any compensation payable under sub-paragraph (1) above in respect of depreciation of the value of a claimant's interest in the premises concerned; and any question as to the right to, or the amount of, compensation under sub-paragraph (1) shall be referred to and determined by the Lands Tribunal, and in relation to the determination of any such question the provisions of sections 2 and 4 of the ^{M1}Land Compensation Act 1961 shall apply subject to any necessary modifications.
- (5) Where compensation has become payable under sub-paragraph (1) above in respect of an interest in any premises and subsequently an order with respect to the use of those premises as a parking place is made under [^{F6}section 97 or 102 of paragraph 1 of Schedule 9 to the said Act of 1990], the amount of that compensation shall be taken into account in assessing any compensation on a claim by reason of expenditure, loss or damage in consequence of that order made in respect of that interest under [^{F6}section 107 or, as the case may be, section 115 of that Act].

^{F7}(6)

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Textual Amendments

- F5** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 64\(2\)\(c\)\(i\)](#)
- F6** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 64\(2\)\(c\)\(i\)](#)
- F7** Sch. 4 para. 22(6) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\), ss. 1, 102\(2\)\(3\), Sch. 17](#)

Marginal Citations

- M1** [1961 c. 33\(28:1\)](#).

- 23 Where notice of appeal from any such decision of the local authority as is referred to in paragraph 19, 20 or 21 above has been duly given under Part III of this Schedule—
- (a) paragraph 22 above shall not have effect in relation to that decision until that appeal is determined or abandoned;
 - (b) the person who is, or who proposes to become, the operator of a public off-street parking place at the premises to which the decision relates shall be deemed for the purposes of paragraph 22 to have been notified of the local authority's decision on the date when the appeal is determined or abandoned; and
 - (c) if on that appeal the Secretary of State substitutes a different decision for that of the local authority, the local authority shall be deemed for the purposes of paragraph 22 to have made that substituted decision and not their original decision.
- 24 Where, in the case of a decision of the local authority relating to any premises, paragraph 22 above applies to that decision both by virtue of paragraph 19 and by virtue of paragraph 20 above, then—
- (a) upon the person who is, or who proposes to become, the operator of a public off-street parking place at those premises making a claim in respect of that decision under paragraph 22 by virtue of either of paragraphs 19 and 20, any subsequent claim in respect of thereof by that person by virtue of the other of those paragraphs, and any claim in respect thereof made whether before or after that person's claim by any other person by virtue of the other of those paragraphs, shall be of no effect; and
 - (b) subject to paragraph (a) above, if a claim in respect of that decision is made under paragraph 22 by any person by virtue of either of paragraphs 19 and 20 any subsequent claim in respect thereof by virtue of the other of those paragraphs shall be of no effect.

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