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STATUTORY INSTRUMENTS

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**1974 No. 1242**

**TOWN AND COUNTRY PLANNING,  
ENGLAND AND WALES**

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

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|-------------------------------|---------|---------------------------|
| <i>Made</i>                   | - - - - | <i>16th July 1974</i>     |
| <i>Laid before Parliament</i> |         | <i>5th August 1974</i>    |
| <i>Coming into Operation</i>  |         | <i>1st September 1974</i> |

The Secretary of State for the Environment and the Secretary of State for Wales in exercise of the powers conferred on them by section 145 of the Town and Country Planning Act 1971 and of all other powers enabling them in that behalf, and the Secretary of State for the Environment in exercise of the powers conferred on him by sections 154(3), 156(1) and (2), 162, 167(3) and 287 of the Town and Country Planning Act 1971 and of all other powers enabling him in that behalf, hereby make the following regulations:—

**PART I  
GENERAL**

**Citation and commencement**

1. These regulations may be cited as the Town and Country Planning (Compensation and Certificates) Regulations 1974 and shall come into operation on 1st September 1974.

**Interpretation**

2.—(1) The Interpretation Act 1889 shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Town and Country Planning Act 1971;

“the Act of 1954” means the Town and Country Planning Act 1954;

“the Act of 1962” means the Town and Country Planning Act 1962;

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“the claimant” means the person by or on whose behalf a claim for compensation is made under Part VII of the Act;

“new apportionment” means an apportionment which relates wholly or partly to any matter to which no previous apportionment as defined by section 290(1) of the Act, related;

“original applicant” means a person entitled to exercise the right to claim compensation under Part VII of the Act, apart from these regulations;

“rentcharge payment” and “rentcharge claim” mean respectively a sum payable by the Secretary of State out of compensation under Part VII of the Act to which a rentcharge owner is entitled, if he makes a claim in that behalf under Schedule 2 to these regulations and a claim for a rentcharge payment.

## PART II

### CLAIMS FOR COMPENSATION UNDER PART VII OF THE ACT

#### **Form and delivery of claim**

3. A claim for compensation under Part VII of the Act shall be made in the form, or substantially in the form, prescribed by Schedule 1 to these regulations and shall be sent to the local planning authority making the decision or order in respect of which the claim is made.

#### **Action by local planning authorities**

4.—(1) The local planning authority shall in transmitting the claim to the Secretary of State furnish to the Secretary of State—

- (a) any evidence and other information provided by the claimant in relation to the claim;
- (b) where the claim relates to a planning decision of the authority, particulars of the application for planning permission and a copy of the planning decision;
- (c) where the planning decision to which the claim relates was determined by the Secretary of State on a reference under section 35 of the Act, or on an appeal under section 36 of the Act, brief particulars of such decision and the Secretary of State's reference number, if known.

(2) The local planning authority shall as soon as may be after the receipt of the claim or notice thereof furnish to the Secretary of State a statement as to the provisions of the development plan so far as material thereto and as to any more favourable decision or permission for alternative development which could in their opinion be given pursuant to section 38 of the Act, and shall also furnish from time to time such other information as the Secretary of State may require for the exercise of his powers under that section.

#### **Supporting material**

5. If required by the Secretary of State by a direction in writing—

- (a) to provide evidence (which may include a statutory declaration) in connection with any particulars required to be supplied by the form prescribed by regulation 3 of these regulations;
- (b) to provide further information as to his interest in the land to which the claim relates; or
- (c) to provide further information as to the interests of any other persons,

the claimant shall furnish to the Secretary of State such evidence or information as is available to him within such period (not being less than 30 days) as the Secretary of State may specify in the direction.

### **Determination of compensation**

6.—(1) Unless the claim is withdrawn, and subject to any modification made or having effect under section 155 of the Act, the Secretary of State shall cause such investigations to be made and such steps to be taken as he may deem requisite for a proper determination of the claim.

(2) The Secretary of State shall as soon as practicable thereafter cause to be prepared findings as to the amount (if any) which he determines as the amount of the compensation to be paid under the Act in respect of the said claim, and (except in a case where he determines that no compensation shall be paid in respect of the said claim, in which case the findings shall state such determination and the reason therefor) such findings shall state the depreciation in value of the claimant's interest and the amounts of the unexpended balances of established development value by reference to which the Secretary of State determines the amount of the compensation to be paid in respect of the said claim.

(3) Where the claimant has failed to furnish any particulars or evidence required by the Secretary of State under regulation 5 of these regulations, the Secretary of State may defer the determination of the claim until after such particulars and evidence have been duly furnished, or if he at any time thinks fit may determine the claim notwithstanding such failure, and in so doing may disregard any particulars already supplied by the claimant to which such requirement had reference.

(4) The Secretary of State shall give notice of his findings to the claimant, and to every other person (if any) who has made and not withdrawn a claim for compensation in respect of the same planning decision, and, in a case where the findings include an apportionment, the Secretary of State shall give particulars of such apportionment to any other person entitled to an interest in land which it appears to the Secretary of State is substantially affected by the apportionment.

### **Disputes**

7.—(1) Subject to the provisions of paragraph (2) of this regulation, if the claimant or any other person to whom notice of the Secretary of State's findings has been given, wishes to dispute the findings, or any other person, to whom particulars of an apportionment included in those findings have been given or who claims that he is entitled to an interest in land which is substantially affected by such apportionment, wishes to dispute the apportionment, he may within 30 days of the issue of the Secretary of State's findings, give notice in writing to the Lands Tribunal that he disputes the findings, or as the case may be, the apportionment, and thereupon the dispute shall be referred to the Tribunal, and the Secretary of State shall notify accordingly all other persons to whom notices were given under the last preceding regulation.

(2) Where after receipt of a notice under the last preceding regulation any person signifies in writing to the Secretary of State his agreement to the findings or, as the case may be, to the apportionment, he shall not thereafter be entitled to give the notice referred to in the preceding paragraph.

(3) The claimant and any other person to whom notice of the findings has been given and, so far as the dispute relates to an apportionment, any other person to whom particulars of that apportionment have been given or who establishes that he is entitled to an interest in land which is substantially affected by that apportionment shall, on compliance with the rules of the Lands Tribunal for the time being in force, be afforded an opportunity to be heard in any dispute before the Lands Tribunal under this regulation.

(4) The Lands Tribunal shall by their decision either confirm or vary the Secretary of State's findings, or, as the case may be, the apportionment, and shall notify the parties of their decision.

### Revision of findings by agreement

8.—(1) If at any time after notice of a dispute has been given under the last preceding regulation the Secretary of State, the claimant and every other person to whom notice of the findings has been given and, so far as the reference relates to an apportionment, all other persons to whom particulars of that apportionment have been given or who are parties to the reference shall in writing agree the amount and distribution of the compensation to be paid under the Act, or, as the case may be, particulars of the apportionment, then on withdrawal of the reference the Secretary of State may revise the findings in accordance with such agreement and shall give notice of such revised findings in the manner prescribed by paragraph (4) of regulation 6 of these regulations.

(2) Where no notice of a dispute in respect of any findings of the Secretary of State is given under the last preceding regulation within the time limited in that behalf or where all references relating to such findings are withdrawn, then the findings or, in a case falling within paragraph (1) of this regulation, the revised findings shall be treated as conclusive for the purposes of section 156 and section 157 of the Act.

## 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 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.

## PART IV

### CLAIMS BY RENTCHARGE OWNERS

#### **Rentcharge claims**

**10.—**(1) Where the Secretary of State receives from an original applicant a claim for any compensation payable under Part VII of the Act and that compensation is claimed by reference to an interest in land which is subject to a rentcharge created either before 1st July 1948, or on or after 1st January 1955, the Secretary of State shall give to any rentcharge owner appearing to him to be entitled to a rentcharge payment notice of the fact that such a claim has been made, and such notice may be sent to the last known address of any such rent-charge owner or his agent.

(2) Any rentcharge owner who has received a notice under the last preceding paragraph and who is entitled to receive any rentcharge payment shall make a rentcharge claim to the Secretary of State within thirty days of the date of the said notice.

(3) Any rentcharge claim shall be in writing and shall state—

- (a) the name and address of any agent whom the rentcharge owner appoints to act for him in connection with the payment of a rentcharge payment;
- (b) the names and addresses of the owner of the charged land and the rentcharge owner;
- (c) the amount of the rentcharge;
- (d) the date when the rentcharge was created;
- (e) particulars of the charged land, including if necessary such a plan of suitable size as may be requisite to identify the land; and
- (f) particulars of any other rentcharge affecting the charged land known to the rentcharge owner.

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(4) Where an original applicant has failed to claim any such compensation within the period prescribed in that behalf, the right to claim compensation shall, subject to the allowing of an extended or further extended period by the Secretary of State, be exercisable by any rentcharge owner, in so far as it is necessary to enable a rentcharge payment to be made to him or any other rentcharge owner, as if he were an original applicant, and such rentcharge owner shall with his claim under Part VII of the Act furnish to the Secretary of State a rentcharge claim; and where such right is so exercised, the original applicant shall be entitled to any compensation found to be payable in respect of the charged land in excess of any rentcharge payments, and subject as aforesaid may claim compensation only in respect of his interest in the part of the land (if any) not subject to the rentcharge.

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

### **Determination of payments**

**11.** The provisions of Schedule 2 to these regulations (being provisions substantially corresponding, subject to the necessary modifications, with those of section 25 of the War Damage Act 1943, and of Part I of Schedule 4 to that Act) shall have effect for the purpose of determining whether a rentcharge payment is payable in respect of a rentcharge claim, and the amount of any such payment.

### **Disputes**

**12.—**(1) Where a rentcharge claim has been duly made under paragraph (2) or paragraph (4) of regulation 10 in respect of a rentcharge (in this regulation referred to as “the rentcharge in question”) the Secretary of State shall, on giving notice of his findings as to the amount of compensation, send a notice (in this regulation referred to as “a rentcharge notice”) to the original applicant and the owner of the rentcharge in question.

(2) A rentcharge notice shall specify—

- (a) the amount of the rentcharge payment which the Secretary of State has determined to be payable in respect of the rentcharge in question, the annual equivalent of the rentcharge payment and the manner in which such amount and value have been ascertained under Schedule 2 to these regulations; and
- (b) the amount of any rentcharge payment which the Secretary of State has determined to be payable in respect of any prior rentcharge or would have so determined on a rentcharge claim by that rentcharge owner:

Provided that where no rentcharge payment is payable, the notice shall specify that fact as if an amount were determined to be payable.

(3) Subject to paragraph (5) of this regulation, if any person to whom a rentcharge notice has been sent wishes to dispute any part of that notice, he may, within thirty days of the issue of the rentcharge notice, give in writing to the Lands Tribunal a notice of dispute specifying the part or parts of the rentcharge notice to which the dispute relates, and thereupon the dispute shall be referred to the Lands Tribunal.

(4) Where a notice of dispute has been given under the last preceding paragraph, the Secretary of State shall notify the other person to whom the rentcharge notice was sent, and, where the dispute relates to or affects a rentcharge payment in respect of a rentcharge other than the rentcharge in question, shall notify the owner of that rentcharge.

(5) Where after receipt of a rentcharge notice any person signifies in writing to the Secretary of State his agreement to that notice, he shall not thereafter be entitled to give a notice of dispute under paragraph (3) of this regulation.

(6) The original applicant and the owner of the rentcharge in question and, so far as the dispute relates to or may affect the amount of a rentcharge payment in respect of a rentcharge other than the rentcharge in question, the owner of that rentcharge, shall, on compliance with the rules of the Lands Tribunal for the time being in force, be afforded an opportunity to be heard in any dispute before the Lands Tribunal under this regulation.

(7) The Lands Tribunal shall by their decision either confirm or vary the rentcharge notice relating to the rentcharge in question and shall notify the parties of their decision:

Provided that where on a reference of the Secretary of State's findings as to the compensation payable under Part VII of the Act the amount of such compensation has been varied by the Lands Tribunal, that variation shall be taken into account, but, save as aforesaid, the Tribunal shall not by their decision vary such amount.

(8) Where the Lands Tribunal vary a rentcharge notice under the last preceding paragraph, effect shall be given by the Secretary of State to such variation in making any rentcharge payment out of the said compensation whether or not the rentcharge notice relating to that payment has been varied by the Tribunal.

## PART V

### CLAIMS IN RESPECT OF SETTLED LAND

**13.** Where the right to claim any compensation under Part VII of the Act becomes exercisable by reference to an interest in land which is, at the time when the said right is exercisable, subject to a settlement, then—

- (a) the right to claim compensation shall be exercisable by the trustees of the settlement;
- (b) where a claim has been made by reference to such an interest as aforesaid and compensation falls to be paid, the compensation shall be paid to the trustees of the settlement, and to the extent that, as between the persons beneficially interested under the trusts of the settlement, any moneys so received by the said trustees ought to be treated as capital, such moneys shall be applicable as capital money under the Settled Land Act 1925, or as proceeds of sale arising under the trust for sale, as the case may be.

## PART VI

### CONTRIBUTIONS BY SECRETARY OF STATE UNDER PART VIII OF THE ACT TOWARDS COMPENSATION PAYABLE BY AUTHORITIES FOR REVOCATION OR MODIFICATION OF PLANNING PERMISSION

#### **Proposal for contribution**

**14.—**(1) Where the Secretary of State proposes to pay a contribution under section 167 of the Act, he shall prepare a statement of the amount of the contribution showing the manner in which such amount has been ascertained.

(2) The Secretary of State shall send a copy of the said statement to any person appearing to him to have an interest in land to which the proposal relates or an interest which is substantially affected by an apportionment involved in the proposal.

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(3) The Secretary of State shall also send a copy of the said statement to every other person who appears to him to be substantially affected by the reduction or extinguishment, as the case may be, of the unexpended balance of established development value of that land.

(4) Any person to whom a copy of the said statement has been sent may within 30 days thereafter give notice in writing to the Secretary of State that he objects to the proposal and shall specify whether his objection is made on the grounds—

- (a) that compensation would not have been payable under Part VII of the Act or Part II or Part V of the Act of 1954 or Part VI of the Act of 1962, as the case may be; or
- (b) that the amount of the compensation would have been less than the amount of the proposed contribution;

and the Secretary of State shall consider such objection.

(5) As soon as may be after giving effect to the preceding provisions of this regulation, the Secretary of State shall determine the amount of the contribution (if any) to be made, and shall serve notice in writing upon every person to whom a copy of the said statement was sent.

### **Disputes**

**15.**—(1) If any person who objected to the Secretary of State's proposal and did not withdraw his objection wishes to dispute the determination of the Secretary of State under the last preceding regulation, he may within 30 days of the Secretary of State's determination give notice in writing to the Lands Tribunal that he disputes the findings and shall specify whether he objects on the grounds—

- (a) that compensation would not have been payable under Part VII of the Act or Part II or Part V of the Act of 1954 or Part VI of the Act of 1962, as the case may be; or
- (b) that the amount of the compensation would have been less than the amount of the proposed contribution;

and thereupon the dispute shall be referred to the Lands Tribunal for determination and the Secretary of State shall notify accordingly all other persons to whom notices were given under the last preceding regulation.

(2) All persons to whom notices of any findings have been given shall be entitled to be heard in any dispute before the Lands Tribunal under paragraph (1) of this regulation.

(3) The Lands Tribunal shall by their decision either confirm or vary the Secretary of State's findings, or, as the case may be, the apportionment, and shall notify the parties of their decision.

### **Application of provisions of the Act**

**16.**—(1) The provisions of section 140(1) of the Act as to the reduction or extinguishment of the unexpended balance of established development value shall apply in a case where a contribution is paid under section 167 of the Act as they apply where compensation under Part VII of the Act becomes payable in respect of the depreciation of the value of an interest in land by a planning decision and as if the revocation or modification were such a decision.

(2) Where an amount becomes recoverable under section 160(6) as applied by section 168 of the Act, section 161 shall apply as if—

- (a) the reference to compensation specified in a compensation notice were a reference to compensation for depreciation specified in the notice under section 166;
- (b) the reference to section 160 were a reference to subsection (2) of that section as applied by section 168; and



- (c) the reference to the compensation attributable to the land were a reference to the Secretary of State's contribution attributable to the land.

## PART VII

### APPLICATIONS FOR CERTIFICATES UNDER SECTION 145 OF THE ACT

#### Applications for certificates under section 145(1)

**17.**—(1) An application for a certificate under section 145(1) of the Act shall be in the form prescribed in Schedule 3 to these regulations, or a form substantially to the like effect, and shall be made by sending the application to the District Valuer of the Board of Inland Revenue.

(2) A separate application shall be made in respect of each parcel of land which is in separate occupation or separately rated at the time of the application, except where a certificate is required in respect of two or more contiguous parcels of land by a person entitled to an interest (including a mortgage or rentcharge) in such parcels or for the purposes of a transaction relating thereto.

(3) A certificate issued under the said section 145(1) shall be in the form prescribed in Schedule 4 to these regulations or a form substantially to the like effect.

#### Applications for certificates under section 145(3)

**18.** An application for a certificate under section 145(3) of the Act shall be in the form prescribed in Schedule 5 to these regulations, or a form substantially to the like effect, and shall be made by sending the application to the District Valuer of the Board of Inland Revenue.

#### Payment of fees

**19.**—(1) Subject to the following paragraph of this regulation, the fee of twenty-five new pence payable on an application for a certificate under section 145(1) of the Act shall be paid by attaching to the application form adhesive postage stamps to the value of twenty-five new pence.

(2) Where an application involves a new apportionment the further fee of seventy-five new pence shall be sent to the Department of the Environment or the Welsh Office before the certificate is issued, or such further fee may be paid with the initial fee of twenty-five new pence by sending with the application a cheque or a money or postal order for the sum of one pound payable to the Department and crossed.

## PART VIII

### REVOCATION AND SAVING

**20.** The Town and Country Planning (Compensation and Certificates) Regulations 1963(1) are hereby revoked, but without prejudice to any claim, application, proposal or objection made in accordance with such regulations, which shall have effect as if made and be determined under and in accordance with the provisions of these regulations.

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(1) (1963 I, p. 1182).

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15th July 1974

*Anthony Crosland*  
Secretary of State for the Environment

16th July 1974

*John Morris*  
Secretary of State for Wales

## SCHEDULE 1

Regulation 3

### DEPARTMENT OF THE ENVIRONMENT/WELSH OFFICE CLAIM FOR PAYMENT OF COMPENSATION

## SCHEDULE 2

Regulation 11

### PROVISIONS FOR DETERMINING RENTCHARGE PAYMENTS

#### Definitions

1. In this Schedule—

“the relevant decision” means the planning decision in respect of which the right to claim compensation under Part VII of the Act becomes exercisable; and

“the material time” means the date of the relevant planning decision determined in accordance with the provisions of section 290(4) of the Act.

#### Entitlement to rentcharge payment

2.—(1) Where the right to claim any compensation under Part VII of the Act is exercisable by reference to an interest in land (being either a fee simple or a tenancy granted for a term of one hundred years or more) and—

- (a) there was subsisting at the material time a rentcharge created either before 1st July 1948, or on or after 1st January 1955 and created out of part or the whole of the area of land by reference to which the said right is exercisable, or out of that land together with other land; and
- (b) the amount of the rentcharge so far as attributable to the land subject thereto by reference to which the said right is exercisable (in this Schedule referred to as “the charged land”) exceeds the available annual limited value of the charged land ascertained in accordance with paragraph 6 of this Schedule,

then, subject to paragraph 4 of this Schedule, that rentcharge owner shall be entitled, if he makes a rentcharge claim, to receive from the Secretary of State, out of the compensation which falls to be paid under Part VII of the Act, a sum equal to the capital equivalent of the excess:

Provided that the said sum shall not exceed the amount of the said compensation.

(2) Where the interest in land by reference to which the right to claim compensation is exercisable was subject at the material time to more than one such rentcharge as is mentioned in the preceding sub-paragraph, then—

- (a) where more than one rentcharge owner has made a rentcharge claim the rentcharge payment to each of them who has so claimed shall be so paid out of the compensation that each rentcharge owner receives the payment to which he is entitled, or so much thereof as can be satisfied out of the compensation after rentcharge payments have been made to owners of any rentcharge having priority;
- (b) where a rentcharge owner fails to make a rentcharge claim he shall not be entitled to the payment of any sum under this Schedule but the foregoing provisions of this paragraph shall have effect to enable such rentcharge payments to be made to other rentcharge owners as would have been payable if he had made such a claim.

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### **Extinguishment of part of rentcharge**

3. Where a rentcharge owner receives any sum under paragraph 2 of this Schedule, so much of the rentcharge as is equal to the annual equivalent of the said sum shall be extinguished on the date on which the said sum is paid, and as between the persons interested in the charged land on the one hand and any other land subject to the rentcharge on the other hand, the proper share of the persons interested in the charged land of the liability for the residue of the rentcharge in respect of any period after the extinguishment shall be treated as being the rentcharge attributable to the charged land, less the annual equivalent of the sum so paid.

### **Priority between rentcharges and mortgages**

4. Where a rentcharge owner makes a rentcharge claim and the right to receive the compensation in respect of the interest in land out of which (or out of which together with any other interest) the rentcharge was created is vested by virtue of the provisions of regulation 9 of these regulations in a mortgagee of that interest, then—

- (a) if the rentcharge had priority to the mortgage, the sum payable to the mortgagee under regulation 9 shall be reduced by the amount required for giving effect to the right conferred upon the rentcharge owner under paragraph 2 of this Schedule; and
- (b) if the mortgage had priority to the rentcharge, the Secretary of State shall, when making the payment of any compensation to a mortgagee in pursuance of regulation 9, give to that mortgagee notice of—
  - (i) the name and address of the rentcharge owner who has claimed the rentcharge payment, or, if that owner has appointed any agent to act for him in connection with the payment of such a sum, the name and address of that agent; and
  - (ii) the amount of the rentcharge payment which the Secretary of State, or the Lands Tribunal if any dispute has been referred to them, has determined to be payable to the rentcharge owner out of compensation,

and the mortgagee to whom the compensation is paid under regulation 9 shall give effect to the right conferred by paragraph 2 of this Schedule on the rentcharge owner out of the sum to which the person who would have been entitled to the compensation apart from regulation 9 will become entitled under the provisions of paragraph (5) of regulation 9 relating to a mortgagee accounting for any compensation as if it were proceeds of a sale.

### **Provisions as to registered land**

5. In cases in which the title to a rentcharge or to land subject thereto is registered under the Land Registration Act 1925, such provision may, without prejudice to the generality of section 144 of that Act, be made by rules under that section as may be expedient in consequence of the provisions of this Schedule, and in particular for securing (by the imposition of conditions as to the exercise of the right thereby conferred or otherwise) that the extinguishment of any part of a rentcharge by virtue of this Schedule shall not take effect without notice thereof being entered in the register.

### **Computation of rentcharge payment**

6. The following provisions of this paragraph shall have effect for the purpose of ascertaining the amounts and values mentioned in the foregoing paragraphs of this Schedule, that is to say—

- (a) the annual limited value of the charged land shall—
  - (i) if the charged land is co-terminous with or greater in area than the land by reference to which compensation under Part VII of the Act falls to be paid, be taken to be five per cent. of the value of that land after the relevant decision;

- (ii) if the charged land is part of the land by reference to which the said compensation falls to be paid, be determined by apportioning to the charged land the appropriate part of the said percentage of the said value, and, in either case, the charged land shall be treated as if it were free from incumbrances, but subject to any easement or other restriction affecting the land at the material time;
- (b) the available annual limited value of the charged land shall be taken to be the annual limited value thereof less the amount so far as attributable to any of the charged land, of—
  - (i) any rentcharge having priority to the rentcharge in question to which the fee simple in the charged land was subject at the material time, or, where that rentcharge was created out of a tenancy of the land, to which either the fee simple therein or that tenancy or any superior tenancy thereof was subject at that time; and
  - (ii) where that rentcharge was created out of a tenancy of the charged land, the rent reserved by the lease for the year current at the material time:

Provided that in ascertaining the available annual limited value of the charged land no deduction shall be made from the annual limited value thereof in respect of any such amount as aforesaid, in so far as the owner of the rentcharge in question is liable for the payment of that amount as between himself and the owner of the interest out of which the rentcharge was created;
- (c) the amount attributable to any land of a rentcharge, or of rent reserved by a lease, shall, where at the material time that land was the only land subject to the rentcharge, or out of which the rent issued, be taken to be the whole amount of the rentcharge payable or of the rent reserved for the year current at the said time, and where the charged land was not the only land subject to the rentcharge, shall be determined by apportioning or allocating to that land so much (if any) of the whole amount as may be appropriate having regard—
  - (i) primarily to any apportionment or allocation of that rentcharge or rent which may have been made otherwise than so as to be binding on the owner of that rentcharge or on the landlord, as the case may be, before the material time; and
  - (ii) subject as aforesaid, to the proportion borne by the annual value of that land immediately before the relevant decision to the annual value of the other land subject to the rentcharge or rent immediately before that decision;
- (d) the capital equivalent of the excess of the amount of the rentcharge so far as attributable to the charged land over the available annual limited value of that land shall be taken to be that excess multiplied by the number of years purchase which the rentcharge might have been expected to realise on a sale thereof made in the open market immediately after the relevant decision if at that time the relevant decision had been a decision to the contrary effect.

SCHEDULE 3

Regulation 17(1)

DEPARTMENT OF THE ENVIRONMENT/WELSH OFFICE  
Original Unexpended Balance of Established Development Value APPLICATION FOR A  
CERTIFICATE UNDER SECTION 145(1)

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SCHEDULE 4

Regulation 17(3)

DEPARTMENT OF THE ENVIRONMENT/WELSH OFFICE  
ORIGINAL UNEXPENDED BALANCE OF ESTABLISHED DEVELOPMENT VALUE

SCHEDULE 5

Regulation 18

DEPARTMENT OF THE ENVIRONMENT/WELSH OFFICE  
Unexpended Balance of Established Development Value Application for a Certificate under section 145(3)

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**EXPLANATORY NOTE**

1. These Regulations made under the Town and Country Planning Act 1971, revoke and re-enact with minor amendments, the Town and Country Planning (Compensation and Certificates) Regulations 1963.
2. Part II of the regulations prescribes the procedure and form of claim for compensation payable by the Secretary of State in respect of decisions refusing planning permission or granting it conditionally.
3. Parts III, IV and V of the regulations contain provisions relating to claims (for such compensation as is dealt with in Part II) by mortgagees, by rentcharge owners and in respect of settled land.
4. Part VI of the regulations prescribes the procedure to be followed when the Secretary of State proposes to make contributions towards compensation payable by planning authorities in respect of orders revoking or modifying planning permissions.
5. Part VII of the regulations prescribes the forms to be used, the manner in which applications are to be made, and the method by which fees payable under section 145 of the Act of 1971 are to be paid.