



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART V

RIGHTS OF OWNERS ETC. TO REQUIRE PURCHASE OF INTERESTS

CHAPTER II

INTERESTS AFFECTED BY PLANNING PROPOSALS: BLIGHT

Blight notices

101 Notice requiring purchase of blighted land

- (1) Where the whole or part of a hereditament or agricultural unit is comprised in blighted land and a person claims that—
- (a) he is entitled to a qualifying interest in that hereditament or unit,
 - (b) he has made reasonable endeavours to sell that interest or the land falls within paragraph 14 or 15 of Schedule 14 and the powers of compulsory acquisition remain exercisable, and
 - (c) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in blighted land, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land,

he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, this Chapter.

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- (2) Subject to subsection (3), subsection (1) shall apply in relation to an interest in part of a hereditament or unit as it applies in relation to an interest in the whole of a hereditament or unit.
- (3) Subsection (2) shall not enable any person—
- (a) if he is entitled to an interest in the whole of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of his interest in part of a hereditament or unit, or
 - (b) if he is entitled to an interest only in part of a hereditament or agricultural unit, to make or serve any such claim or notice in respect of his interest in less than the whole of that part.
- (4) In this Chapter—
- (a) subject to section 112(1), “the claimant”, in relation to a blight notice, means the person who served that notice, and
 - (b) any reference to the interest of the claimant, in relation to a blight notice, is a reference to the interest which the notice requires the appropriate authority to purchase as mentioned in subsection (1).
- (5) Where the claimant is a crofter or cottar, this section shall have effect as if—
- (a) in subsection (1)(b) for the word “sell” there were substituted the word “assign”,
 - (b) in subsection (1)(c) for the words from “sell that interest” to “to sell” there were substituted the words “assign his interest except at a price substantially lower than that for which he might reasonably have been expected to assign it”, and
 - (c) in subsections (1) and (4) for the word “purchase” there were substituted the words “take possession of”.

102 Counter-notice objecting to blight notice

- (1) Where a blight notice has been served in respect of a hereditament or an agricultural unit, the appropriate authority may serve on the claimant a counter-notice in the prescribed form objecting to the notice.
- (2) A counter-notice under subsection (1) may be served at any time before the end of the period of 2 months beginning with the date of service of the blight notice.
- (3) Such a counter-notice shall specify the grounds on which the appropriate authority object to the blight notice (being one or more of the grounds specified in subsection (4) or, as relevant, in section 110(1), 112(5) or 113(5)).
- (4) Subject to the following provisions of this section, the grounds on which objection may be made in a counter-notice to a notice served under section 101 are—
- (a) that no part of the hereditament or agricultural unit to which the notice relates is comprised in blighted land;
 - (b) that the appropriate authority (unless compelled to do so by virtue of this Chapter) do not propose to acquire any part of the hereditament, or in the case of an agricultural unit any part of the affected area, in the exercise of any relevant powers;
 - (c) that the appropriate authority propose in the exercise of relevant powers to acquire a part of the hereditament or, in the case of an agricultural unit, a part

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- of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of this Chapter) do not propose to acquire any other part of that hereditament or area in the exercise of any such powers;
- (d) in the case of land falling within paragraph 1 or 10 but not 11, 12 or 13 of Schedule 14, that the appropriate authority (unless compelled to do so by virtue of this Chapter) do not propose to acquire in the exercise of any relevant powers any part of the hereditament or, in the case of an agricultural unit, any part of the affected area during the period of 15 years from the date of the counter-notice or such longer period from that date as may be specified in the counter-notice;
 - (e) that, on the date of service of the notice under section 101, the claimant was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;
 - (f) that (for reasons specified in the counter-notice) the interest of the claimant is not a qualifying interest;
 - (g) that the conditions specified in paragraphs (b) and (c) of section 101(1) are not fulfilled.
- (5) Where the appropriate enactment confers power to acquire rights in or over land, subsection (4) shall have effect as if—
- (a) in paragraph (b) after the word “acquire” there were inserted the words “or to acquire any rights in or over”,
 - (b) in paragraph (c) for the words “do not propose to acquire” there were substituted the words “propose neither to acquire, nor to acquire any right in or over”, and
 - (c) in paragraph (d) after the words “affected area” there were inserted “or to acquire any right in or over any part of it”.
- (6) An objection may not be made on the grounds mentioned in paragraph (d) of subsection (4) if it may be made on the grounds mentioned in paragraph (b) of that subsection.
- (7) An objection may not be made on the grounds mentioned in paragraphs (b) or (c) of subsection (4) in a counter-notice to a blight notice served by virtue of paragraphs 8 or 9 of Schedule 14.
- (8) In this section, “relevant powers”, in relation to blighted land falling within any paragraph of Schedule 14, means any powers under which the appropriate authority are or could be authorised—
- (a) to acquire that land or any rights in or over it compulsorily as being land falling within such paragraph, or
 - (b) to acquire that land or any rights in or over it compulsorily for any of the relevant purposes;
- and “the relevant purposes”, in relation to any such land, means the purposes for which, in accordance with the circumstances by virtue of which that land falls within the paragraph in question, it is liable to be acquired or is indicated as being proposed to be acquired.

103 Further counter-notice where certain proposals have come into force

- (1) Where—

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- (a) an appropriate authority have served a counter-notice objecting to a blight notice in respect of any land falling within—
 - (i) paragraph 1 of Schedule 14 by virtue of paragraph 1(4),
 - (ii) paragraph 2 of that Schedule by virtue of paragraph 2(2), or
 - (iii) paragraph 11 of that Schedule, and
 - (b) the relevant plan or alterations or, as the case may be, the relevant order or scheme comes into force (whether in its original form or with modifications), the appropriate authority may serve on the claimant, in substitution for the counter-notice already served, a further counter-notice specifying different grounds of objection.
- (2) Such a further counter-notice shall not be served—
- (a) at any time after the end of the period of 2 months beginning with the date on which the relevant plan or alterations or, as the case may be, the relevant order or scheme come into force, or
 - (b) if the objection in the counter-notice already served has been withdrawn or the Lands Tribunal has already determined whether or not to uphold that objection.

104 Reference of objection to Lands Tribunal: general

- (1) Where a counter-notice has been served under section 102 objecting to a blight notice, the claimant may require the objection to be referred to the Lands Tribunal.
- (2) Such a reference may be required under subsection (1) at any time before the end of the period of 2 months beginning with the date of service of the counter-notice.
- (3) On any such reference, if the objection is not withdrawn, the Lands Tribunal shall consider—
 - (a) the matters set out in the notice served by the claimant, and
 - (b) the grounds of the objection specified in the counter-notice,
 and, subject to subsection (4), unless it is shown to the satisfaction of the Tribunal that the objection is not well-founded, the Tribunal shall uphold the objection.
- (4) An objection on the grounds mentioned in section 102(4)(b), (c) or (d) shall not be upheld by the Tribunal unless it is shown to the satisfaction of the Tribunal that the objection is well-founded.
- (5) If the Tribunal determines not to uphold the objection, the Tribunal shall declare that the notice to which the counter-notice relates is a valid notice.
- (6) If the Tribunal upholds the objection, but only on the grounds mentioned in section 102(4)(c), the Tribunal shall declare that the notice is a valid notice in relation to the part of the hereditament, or in the case of an agricultural unit the part of the affected area, specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in that notice, but not in relation to any other part of the hereditament or affected area.
- (7) In a case falling within subsection (5) or (6), the Tribunal shall give directions specifying the date on which notice to treat (as mentioned in section 105) or, in a case where the claimant is a crofter or cottar, notice of entry (as mentioned in that section) is to be deemed to have been served.

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- (8) This section shall have effect in relation to a further counter-notice served by virtue of section 103(1) as it has effect in relation to the counter-notice for which it is substituted.

105 Effect of valid blight notice

- (1) Subsection (2) applies where a blight notice has been served and either—
- (a) no counter-notice objecting to that notice is served in accordance with this Chapter, or
 - (b) where such a counter-notice has been served, the objection is withdrawn or, on a reference to the Lands Tribunal, is not upheld by the Tribunal.
- (2) Where this subsection applies, the appropriate authority shall be deemed—
- (a) to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in the hereditament, or in the case of an agricultural unit the interest of the claimant in so far as it subsists in the affected area, and
 - (b) to have served a notice to treat in respect of it on the date mentioned in subsection (3).
- (3) The date referred to in subsection (2)—
- (a) in a case where, on a reference to the Lands Tribunal, the Tribunal determines not to uphold the objection, is the date specified in directions given by the Tribunal in accordance with section 104(7), and
 - (b) in any other case, is the date on which the period of 2 months beginning with the date of service of the blight notice comes to an end.
- (4) Subsection (5) applies where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 102(4)(c) and either—
- (a) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired—
 - (i) gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the hereditament or affected area specified in the counter-notice, and
 - (ii) withdraws his claim as to the remainder of that hereditament or area, or
 - (b) on a reference to the Lands Tribunal, the Tribunal makes a declaration in accordance with section 104(6) in respect of that part of the hereditament or affected area.
- (5) Where this subsection applies, the appropriate authority shall be deemed—
- (a) to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the part of the hereditament or affected area specified in the counter-notice (but not in so far as it subsists in any other part of that hereditament or area), and
 - (b) to have served a notice to treat in respect of it on the date mentioned in subsection (6).
- (6) The date referred to in subsection (5)—
- (a) in a case falling within paragraph (a) of subsection (4), is the date on which notice is given in accordance with that paragraph, and

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(b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Lands Tribunal in accordance with section 104(7).

(7) Where the claimant is a crofter or cottar, this section applies as if in subsections (2) and (5) for the words from “acquire” to “in respect of it” there were substituted the words “require the crofter or cottar to give up possession of the land occupied by him and to have served a notice of entry in respect thereof under paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947”.

106 Effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire

(1) Subsection (2) shall have effect where the grounds of objection specified in a counter-notice served under section 102 consist of or include the grounds mentioned in paragraph (b) or (d) of subsection (4) of that section and either—

- (a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal, or
- (b) the time for referring that objection to the Lands Tribunal expires without its having been so referred.

(2) If—

- (a) a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes the whole or part of the hereditament or agricultural unit to which the counter-notice relates, or
- (b) the land in question falls within paragraph 14 of Schedule 14,

any power conferred by that order or, as the case may be, by special enactment for the compulsory acquisition of the interest of the claimant in the hereditament or agricultural unit or any part of it shall cease to have effect.

(3) Subsection (4) shall have effect where the grounds of objection specified in a counter-notice under section 102 consist of or include the grounds mentioned in paragraph (c) of subsection (4) of that section and either—

- (a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal, or
- (b) the time for referring that objection to the Lands Tribunal expires without its having been so referred;

and in subsection (4) any reference to “the part of the hereditament or affected area not required” is a reference to the whole of that hereditament or area except the part specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in the counter-notice.

(4) If—

- (a) a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes any of the part of the hereditament or affected area not required, or
- (b) the land in question falls within paragraph 14 of Schedule 14,

any power conferred by that order or, as the case may be, by the special enactment for the compulsory acquisition of the interest of the claimant in any land comprised in the part of the hereditament or affected area not required shall cease to have effect.

(5) Where the claimant is a crofter or cottar, this section shall have effect as if in subsections (2) and (4) for the words from “or, as the case may be, by” to “claimant in”

there were substituted the words “to require the crofter or cottar to give up possession of”.

107 Withdrawal of blight notice

- (1) Subject to subsection (3), the claimant may withdraw a blight notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the notice has been determined by the Lands Tribunal or, if there has been such a determination, at any time before the end of the period of 6 weeks beginning with the date of the determination.
- (2) Where a blight notice is withdrawn by virtue of subsection (1) any notice to treat deemed to have been served in consequence of it shall be deemed to have been withdrawn.
- (3) A claimant shall not be entitled by virtue of subsection (1) to withdraw a notice after the appropriate authority have exercised a right of entering and taking possession of land in pursuance of a notice to treat deemed to have been served in consequence of that notice.
- (4) No compensation shall be payable in respect of the withdrawal of a notice to treat which is deemed to have been withdrawn by virtue of subsection (2).