



# Town and Country Planning Act 1968

## 1968 CHAPTER 72

### PART IV

#### ACQUISITION AND DISPOSAL OF LAND

##### *Planning blight*

#### **34 Power of mortgagee to serve blight notice.**

- (1) The provisions of this section shall have effect for enabling mortgagees to take advantage of the provisions of sections 138 to 151 of the principal Act (notice requiring purchase by local planning authority on grounds of planning blight).
- (2) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the descriptions contained in paragraphs (b) to (f) of section 138(1) of the principal Act or paragraphs (a) to (d) of section 33(1) of this Act and a person claims that—
  - (a) that he is entitled as mortgagee (by virtue of a power which has become exercisable) to sell an interest in the hereditament or unit, giving immediate vacant possession of the land; and
  - (b) since the relevant date (within the meaning of section 139 of the principal Act or, as the case may be, section 33(3) of this Act) he has made reasonable endeavours to sell that interest; and
  - (c) he has been unable to sell it 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 comprised in land of any of the said descriptions,then, subject to the provisions of this section, 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, sections 138 to 151 of the principal Act.

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- (3) Subsection (2) above shall apply in relation to an interest in part of a hereditament or agricultural unit as it applies in relation to an interest in the entirety of a hereditament or agricultural unit:

Provided that this subsection shall not enable a person—

- (a) if his interest as mortgagee is in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of any interest in part of the hereditament or unit; or
  - (b) if his interest as mortgagee is only in part of a hereditament or agricultural unit, to make or serve any such notice or claim in respect of any interest in less than the entirety of that part.
- (4) Notice under this section shall not be served unless one or other of the following conditions is satisfied with regard to the interest which the mortgagee claims he has the power to sell:—
- (a) the interest could be the subject of a notice under section 139 of the principal Act served by the person entitled thereto on the date of service of the notice under this section ; or
  - (b) the interest could have been the subject of such a notice served by that person on a date not more than six months before the date of service of the notice under this section.
- (5) If any question arises which authority are the appropriate authority for the purposes of subsection (2) above, subsection (4)(b) above shall then apply with the substitution for the period of six months of a reference to that period extended by so long as it takes to obtain a determination of the question.
- (6) No notice under this section shall be served in respect of a hereditament or agricultural unit, or any part of a hereditament or agricultural unit, at a time when a notice already served under section 139 of the principal Act is outstanding with respect to the hereditament, unit or part; and no notice shall be so served under section 139 of that Act at a time when a notice already served under this section is so outstanding.
- (7) For the purposes of subsection (6) above, a notice served under this section or section 139 of the principal Act shall be treated as outstanding with respect to a hereditament or agricultural unit, or to part of a hereditament or agricultural unit, until—
- (a) it is withdrawn in relation to the hereditament, unit or part; or
  - (b) an objection to the notice having been made by a counter-notice under section 140 of the principal Act, either—
    - (i) the period of two months specified in section 141(1) of the principal Act elapses without the claimant having required the objection to be referred to the Lands Tribunal under that section; or
    - (ii) the objection, having been so referred to the Lands Tribunal, is upheld by the Tribunal with respect to the hereditament, unit or part.
- (8) The grounds on which objection may be made in a counter-notice under section 140 of the principal Act to a notice under this section are those specified in paragraphs (a) to (c) of subsection (2) of that section and, in a case to which section 35(1) below applies, the ground specified in (that subsection and also the following grounds:—
- (a) that, on the date of service of the notice under this section, the claimant had no interest as mortgagee in any part of the hereditament or agricultural unit to which the notice relates ;

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- (b) that (for reasons specified in the counter-notice) the claimant had not on that date the power referred to in subsection (2) (a) above ;
- (c) that the conditions specified in subsection (2) (b) and (c) above are not fulfilled ;
- (d) that (for reasons specified in the counter-notice) neither of the conditions specified in subsection (4) above was, on the date of service of the notice under this section, satisfied with regard to the interest referred to in that subsection.