



Town and Country Planning (Scotland) Act 1969

1969 CHAPTER 30

PART IV

ACQUISITION AND DISPOSAL OF LAND

Land acquisition by government departments and local authorities

28 Repeal of existing provisions for compulsory acquisition of land

Section 34 of the Act of 1947 (compulsory acquisition of designated land by Ministers, local authorities and statutory undertakers) and section 35 of that Act (compulsory acquisition by local authorities of land for development) shall cease to have effect, and section 47 of the Post Office Act 1953 shall cease to have effect so far as it authorises the Postmaster General to acquire land compulsorily ; and—

- (a) sections 29 and 30 below shall have effect instead of those sections; and
- (b) references in any other enactment to the designation in a development plan of land as land subject to compulsory acquisition and to land so designated shall cease to have effect.

29 Compulsory acquisition of land in connection with development and for other planning purposes

- (1) The Secretary of State may authorise a local authority to whom this section applies to acquire compulsorily any land within their area if he is satisfied—
 - (a) that the land is required in order to secure or assist the treatment as a whole, by development, redevelopment or improvement, or partly by one and partly by another method, of the land or of any area in which the land is situated; or
 - (b) that it is expedient in the public interest that the land should be held together with land so required ; or

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- (c) that the land is required for development or redevelopment, or both, as a whole for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the redevelopment or improvement, or both, of another area as a whole ; or
 - (d) that it is expedient to acquire the land immediately for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.
- (2) Where under subsection (1) above the Secretary of State has power to authorise a local authority to whom this section applies to acquire any land compulsorily, he may, after the requisite consultation, authorise the land to be so acquired by another authority, being a local authority within the meaning of the Act of 1947.
- (3) Before giving an authorisation under subsection (2) above, the Secretary of State shall—
- (a) where the land is in a county, consult with the county council;
 - (b) where the land is in a large burgh, consult with the town council;
 - (c) where the land is in a small burgh, consult with the town council and with the county council within whose area the burgh is situated.
- (4) The Acquisition Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act.
- (5) The local authorities to whom this section applies are the councils of counties, large burghs and small burghs.

30 Compulsory acquisition of land by certain Ministers

- (1) The Minister of Public Building and Works may acquire compulsorily any land necessary for the public service.
- (2) The Postmaster General may acquire compulsorily any land required for the purposes of the Post Office as defined in section 87 of the Post Office Act 1953.
- (3) The power of acquiring land compulsorily under this section shall include power to acquire a servitude or other right over land by the grant of a new right :
- Provided that this subsection shall not apply to a servitude or other right over any land which would, for the purposes of the Acquisition Act 1947, form part of a common or open space.
- (4) The Acquisition Act 1947 shall apply to any compulsory acquisition by the Minister of Public Building and Works or the Postmaster General under this section as it applies to a compulsory acquisition by another Minister in a case falling within section 1(1) of that Act.

31 Power of authorities possessing compulsory purchase powers to make general vesting declarations

- (1) Schedule 2 to this Act shall have effect for the purpose of enabling any authority to whom this section applies to vest in themselves by a declaration land which they are authorised by a compulsory purchase order to acquire and, with respect to the effect

of such a declaration, the payment and recovery of sums in respect of compensation for the acquisition of land so vested and other matters connected therewith.

- (2) This section applies to any Minister or local or other public authority authorised to acquire land by means of a compulsory purchase order, and any such authority is in the said Schedule 2 referred to as an acquiring authority.

32 Compulsory purchase or appropriation of open spaces

- (1) In paragraph 11 of Schedule 1 to the Acquisition Act 1947 (which applies special parliamentary procedure in the case of compulsory purchase of land forming part of a common or open space, and is applied by section 39 of the Act of 1947 to appropriation of land by local authorities under that section), in sub-paragraph (1)(b) (exemption where land is required for widening of an existing highway and the Secretary of State certifies that it is unnecessary to give land in exchange), for the words " that the land is " there shall be substituted the words " that the land does not exceed 250 square yards in extent or is ".
- (2) Nothing in this section applies to or affects an order made before the commencement of this section.

33 Grounds on which Secretary of State may refuse to confirm purchase notice

- (1) This section shall have effect where, on an application for planning permission to develop any land which has a restricted use by virtue of a previous planning permission, permission is refused or granted subject to conditions and an owner of the land serves a purchase notice under section 17 of the Act of 1947.
- (2) For the purposes of this section, land is to be treated as having a restricted use by virtue of a previous planning permission if it is part of a larger area in respect of which planning permission was previously granted (and has not been revoked) and either—
 - (a) it remains a condition of the planning permission (however expressed) that that part shall remain undeveloped or be preserved or laid out in a particular way as amenity land in relation to the remainder; or
 - (b) the planning permission was granted on an application which contemplated (expressly or by necessary implication) that the part should not be comprised in the development for which planning permission was sought, or should be preserved or laid out as aforesaid.
- (3) If a copy of the purchase notice is transmitted to the Secretary of State under section 17(2) of the Act of 1947 (action to be taken by authority on whom a purchase notice is served, when they are unwilling to comply with the notice) the Secretary of State, although satisfied that the land has become incapable of reasonably beneficial use in its existing state, shall nevertheless not be required under that subsection to confirm the notice if it appears to him that the land ought, in accordance with the previous planning permission, to remain undeveloped or, as the case may be, remain or be preserved or laid out as amenity land in relation to the remainder of the larger area for which that planning permission was granted.

Planning blight

34 New descriptions of land qualifying for protection

- (1) Section 38(1) of the Act of 1959 (land affected by planning proposals and qualifying for protection under Part IV of that Act) shall have effect as if the land specified therein included land which—
- (a) is land indicated in a structure plan in force either as land which may be required for the purposes of any functions of a government department, local authority or statutory undertakers, or of the National Coal Board, or as land which may be included in an action area; or
 - (b) is land allocated for the purposes of any such functions by a local plan in force, or is land defined in such a plan as the site of proposed development for the purposes of any such functions; or
 - (c) is land in respect of which a compulsory purchase order is in force, where the appropriate authority have power to serve, but have not served, notice to treat in respect of the land ; or
 - (d) is land on which the Secretary of State proposes to provide a trunk road or a special road and has given to the local planning authority written notice of his intention to provide the road, together with maps or plans sufficient to identify the proposed route of the road.
- (2) Subsection (1)(a) above shall not apply to land situated in an area for which a local plan is in force, where that plan—
- (a) allocates any land in the area for the purposes of such functions as are mentioned in that paragraph; or
 - (b) defines any land in the area as the site of proposed development for the purposes of any such functions.
- (3) In section 38(2) of the Act of 1959 (notice requiring purchase of claimant's interest on ground of planning blight), and for the purposes of that subsection as applied by section 38(3) of that Act, " the relevant date "—
- (a) in relation to land mentioned in subsection (1)(c) above, means the date when the order for its compulsory purchase was confirmed or made by the Secretary of State; and
 - (b) in relation to land mentioned in subsection (1)(d) above means the date on which the Secretary of State gave to the local planning authority the written notice specified in that paragraph.
- (4) Paragraphs (a) and (b) of subsection (1) above shall have effect instead of paragraphs (a) and (b) of the said section 38(1).

35 Power of heritable creditor to serve blight notice

- (1) The provisions of this section shall have effect for enabling heritable creditors to take advantage of the provisions of Part IV of the Act of 1959 (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 38(1) of the Act of 1959 or paragraphs (a) to (d) of section 34(1) of this Act and a person claims that—

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- (a) he is entitled as heritable creditor (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 42 of the Act of 1959 or, as the case may be, section 34(3) above) 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, Part IV of the Act of 1959.
- (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 heritable creditor 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 heritable creditor 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 heritable creditor claims he has the power to sell:—
- (a) the interest could be the subject of a notice under section 38 of the Act of 1959 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 38 of the Act of 1959 is outstanding with respect to the hereditament, unit or part; and no notice shall be so served under section 38 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 38 of the Act of 1959 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 39 of the Act of 1959, either—

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- (i) the period of two months specified in section 40(1) of the Act of 1959 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 39 of the Act of 1959 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 36(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 heritable creditor in any part of the hereditament or agricultural unit to which the notice relates ;
 - (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.
- (9) The provisions of the Act of 1959 specified in Schedule 3 to this Act (being provisions relating to blight notices and to proceedings arising out of such notices) shall be amended in accordance with that Schedule.

36 Extension of grounds of objection to blight notice

- (1) Where a blight notice is served under section 38 of the Act of 1959 or section 35 above, then in the case of land—
- (a) falling within section 38(1)(c) of the Act of 1959 or section 34(1)(a) of this Act, and
 - (b) not falling within section 38(1)(e) or (f) of that Act or section 34(1)(d) of this Act,

the grounds on which an objection may be made in a counter-notice under section 39 of the Act of 1959 shall include the grounds that the appropriate authority (unless compelled to do so by virtue of Part IV of that Act and section 35 above) 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 fifteen years from the date of the counter-notice or such longer period from that date as may be specified in the counter-notice.

- (2) An objection may not be made as aforesaid on the grounds mentioned in subsection (1) above if it may be made on the grounds mentioned in section 39(2)(b) of the Act of 1959 (objection on the grounds that the appropriate authority do not propose to acquire any part of the hereditament or affected area in question).
- (3) An objection on the grounds mentioned in subsection (1) above which is referred to the Lands Tribunal shall not be upheld by the Tribunal unless it is shown to the satisfaction of the Tribunal that the objection is well-founded.
- (4) Paragraph 11(1) and (2) of Schedule 5 to the Act of 1959 (lapsing of compulsory purchase powers when objection under section 39 of that Act is successful) shall apply

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in relation to an objection on the said grounds as they apply in relation to an objection on the grounds mentioned in section 39(2)(b) of that Act.

- (5) A county council or a town council may, subject to such conditions as may be approved by the Secretary of State, advance money to any person for the purpose of enabling him to acquire a hereditament or agricultural unit in respect of which a counter-notice has been served under section 39 of the Act of 1959 specifying the grounds mentioned in subsection (1) above as, or as one of, the grounds of objection, if, in the case of a hereditament, its annual value does not exceed such amount as may be prescribed for the purposes of section 38(4)(a) of that Act (interests qualifying for protection under that Act).
- (6) Paragraph (c) of section 39(2) of the Act of 1959 (objection on the grounds that the appropriate authority propose to acquire part only of the affected area of an agricultural unit) and the following provisions of that Act, that is to say, sections 40(5) and 41(3) (subsequent proceedings where such an objection made) and paragraph 12(1) and (2) of Schedule 5 to that Act (lapsing of compulsory purchase powers when objection under section 39 is successful) shall apply to hereditaments as they apply to any such area, references in those provisions to the affected area being construed as references to the hereditament.
- (7) Subsection (6) above shall not affect the right of a claimant under section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 to sell the whole of the hereditament, or (in the case of an agricultural unit) the whole of the affected area, which he has required the authority to purchase.
- (8) Subsection (6) above shall not affect the right of a claimant under paragraph 4 of Schedule 2 to the Acquisition Act 1947 to sell (unless the Lands Tribunal otherwise determines) the whole of the hereditament, or (in the case of an agricultural unit) the whole of the affected area, which he has required the authority to purchase; and accordingly, in determining whether or not to uphold an objection relating to a hereditament on the grounds mentioned in paragraph (c) of section 39(2) of the Act of 1959, the Tribunal shall consider (in addition to the other matters which they are required to consider) whether—
 - (a) in the case of a house, building or manufactory, the part proposed to be acquired can be taken without material detriment to the house, building or manufactory ; or
 - (b) in the case of a park or garden belonging to a house the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house.

37 Compensation for compulsory purchase of land in clearance areas and of historic buildings

Where an interest in land is acquired in pursuance of a blight notice and the interest is one—

- (a) in respect of which a compulsory purchase order is in force under section 1 of the Acquisition Act 1947 (as applied by section 50 of this Act) containing a direction for minimum compensation under section 53 of this Act; or
- (b) in respect of which a compulsory purchase order is in force under Part III of the Housing (Scotland) Act 1966,

the compensation payable for the acquisition shall, in a case falling within paragraph (a) above, be assessed in accordance with the direction mentioned in that

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paragraph and, in a case falling within paragraph (b) above, be assessed in accordance with Part III of the said Act of 1966, in either case as if the notice to treat deemed to have been served in respect of the interest under section 41 of the Act of 1959 had been served in pursuance of the compulsory purchase order.

38 Miscellaneous amendments of Act of 1959

- (1) Paragraphs 6 and 7 of Schedule 5 to the Act of 1959 (exclusion of compensation for severance and disturbance) shall cease to have effect.
- (2) For a person to be treated under section 42(2) or (4) of the Act of 1959 (definitions for purposes of blight notice provisions) as owner-occupier or resident owner-occupier of a hereditament, his occupation thereof at a relevant time or during a relevant period, if not occupation of the whole of the hereditament, must be or, as the case may be, have been occupation of a substantial part of it.
- (3) In subsections (2)(b), (3)(b) and (4)(b) of the said section 42, the period of six months ending not more than six months before the date of service shall in each case be replaced by a period of six months ending not more than twelve months before that date.
- (4) If any question arises which authority is the appropriate authority for the purposes of the said Part IV or section 35 of this Act—
 - (a) section 39(1) of the Act of 1959 (objection to blight notice) shall have effect as if the reference to the date of service of that notice were a reference to that date or the date on which that question is determined, whichever is the later; and
 - (b) subsections (2)(b), (3)(b) and (4)(b) of section 42 of that Act shall apply with the substitution for the reference to twelve months before the date of service of a reference to that period extended by so long as it takes to obtain a determination of the question.

Disposal of land by public authorities

39 Restriction on exercise by public authorities of power of disposing of land

Section 27(1) of the Act of 1959 (power of local and other public authorities to dispose of land without consent of a Minister) shall not apply to the exercise of a power to dispose of land conferred by any enactment if the power is exercised in respect of

- (a) an approved house within the meaning of section 1 of the Housing (Financial Provisions) (Scotland) Act 1968; or
- (b) housing accommodation in respect of which there has been made to a local authority (whether before or after the commencement of the Act of 1959) an Exchequer contribution within the meaning of section 67(2) of the said Act of 1968.