



Town and Country Planning Act 1990

1990 CHAPTER 8

PART VI

RIGHTS OF OWNERS ETC. TO REQUIRE PURCHASE OF INTERESTS

CHAPTER I

INTERESTS AFFECTED BY PLANNING DECISIONS OR ORDERS

Special provisions for requiring purchase of whole of partially affected agricultural unit

145 Counter-notice requiring purchase of remainder of agricultural unit.

- (1) This section applies where—
 - (a) an acquiring authority is deemed under this Chapter to have served notice to treat in respect of any agricultural land on a person (“the claimant”) who has a greater interest in the land than as tenant for a year or from year to year (whether or not he is in occupation of the land), and
 - (b) the claimant has such an interest in other agricultural land (“the unaffected area”) comprised in the same agricultural unit as that to which the notice relates.
- (2) Where this section applies the claimant may serve on the acquiring authority a counter-notice—
 - (a) claiming that the unaffected area is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
 - (b) requiring the acquiring authority to purchase his interest in the whole of the unaffected area.
- (3) Subject to subsection (4), “other relevant land” in subsection (2) means—

Status: Point in time view as at 06/11/2012.

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- (a) land which is comprised in the same agricultural unit as the land to which the notice to treat relates and in which the claimant does not have such an interest as is mentioned in subsection (1); and
 - (b) land which is comprised in any other agricultural unit occupied by the claimant on the date on which the notice to treat is deemed to have been served and in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.
- (4) Where a notice to treat has been served or is deemed under this Chapter or under Part III of the ^{M1}Compulsory Purchase (Vesting Declarations) Act 1981 to have been served in respect of any of the unaffected area or in respect of other relevant land as defined in subsection (3), then, unless and until the notice to treat is withdrawn, this section and section 146 shall have effect as if that land did not form part of the unaffected land or, as the case may be, did not constitute other relevant land.
- (5) Where a counter-notice is served under subsection (2) the claimant shall also serve a copy of it on any other person who has an interest in the unaffected area (but failure to comply with this subsection shall not invalidate the counter-notice).
- (6) A counter-notice under subsection (2) and any copy of that notice required to be served under subsection (5) must be served within the period of two months beginning with the date on which the notice to treat is deemed to have been served.
- (7) This section is without prejudice to the rights conferred by sections 93 and 94 of the ^{M2}Lands Clauses (Consolidation) Act 1845 or section 8(2) and (3) of the ^{M3}Compulsory Purchase Act 1965 (provisions as to divided land).

Marginal Citations

- M1** 1981 c. 66.
- M2** 1845 c. 18.
- M3** 1965 c. 56.

146 Effect of counter-notice under s. 145.

- (1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 145 agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the [^{F1}Upper Tribunal].
- (2) On such a reference the Tribunal shall determine whether the claim in the counter-notice is justified and declare the counter-notice valid or invalid accordingly.
- (3) Where a counter-notice is accepted as valid under subsection (1) or declared to be valid under subsection (2), the acquiring authority shall be deemed—
 - (a) to be authorised to acquire compulsorily the interest of the claimant in the land to which the requirement in the counter-notice relates under the same provision of this Chapter as they are authorised to acquire the other land in the agricultural unit in question; and
 - (b) to have served a notice to treat in respect of it on the date on which notice to treat is deemed to have been served under that provision.

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- (4) A claimant may withdraw a counter-notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the counter-notice has been determined by the [^{F1}Upper Tribunal] or at any time before the end of six weeks beginning with the date on which it is determined.
- (5) Where a counter-notice is withdrawn by virtue of subsection (4) any notice to treat deemed to have been served in consequence of it shall be deemed to have been withdrawn.
- (6) Without prejudice to subsection (5), a notice to treat deemed to have been served by virtue of this section may not be withdrawn under section 31 of the ^{M4}Land Compensation Act 1961.
- (7) The compensation payable in respect of the acquisition of an interest in land in pursuance of a notice to treat deemed to have been served by virtue of this section shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) of the ^{M5}Land Compensation Act 1973.
- (8) Where by virtue of this section the acquiring authority become or will become entitled to a lease of any land but not to the interest of the lessor—
 - (a) the authority shall offer to surrender the lease to the lessor on such terms as the authority consider reasonable;
 - (b) the question of what is reasonable may be referred to the [^{F1}Upper Tribunal] by the authority or the lessor and, if at the expiration of the period of three months after the date of the offer mentioned in paragraph (a) the authority and the lessor have not agreed on that question and that question has not been referred to the Tribunal by the lessor, it shall be so referred by the authority;
 - (c) if that question is referred to the Tribunal, the lessor shall be deemed—
 - (i) to have accepted the surrender of the lease at the expiry of one month after the date of the determination of the Tribunal or on such other date as the Tribunal may direct, and
 - (ii) to have agreed with the authority on the terms of surrender which the Tribunal has held to be reasonable.
- (9) For the purposes of subsection (8) any terms as to surrender contained in the lease shall be disregarded.
- (10) Where the lessor—
 - (a) refuses to accept any sum payable to him by virtue of subsection (8), or
 - (b) refuses or fails to make out his title to the satisfaction of the acquiring authority,they may pay into court any such sum payable to the lessor and section 9(2) and (5) of the ^{M6}Compulsory Purchase Act 1965 (deposit of compensation in cases of refusal to convey etc.) shall apply to that sum with the necessary modifications.
- (11) Where an acquiring authority who become entitled to the lease of any land as mentioned in subsection (8) are a body incorporated by or under any enactment, the corporate powers of the authority shall, if they would not otherwise do so, include the power to farm that land.

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Textual Amendments

- F1** Words in s. 146(1)(4)(8)(b) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 196**

Marginal Citations

- M4** 1961 c. 33.
M5 1973 c. 26.
M6 1965 c. 56

147 Provisions supplemental to ss. 145 and 146.

- (1) Sections 145 and 146 apply in relation to the acquisition of interests in land by government departments which possess compulsory purchase powers as they apply in relation to the acquisition of interests in land by authorities who are not government departments.
- (2) In sections 145, 146 and this section—
- “agricultural” and “agricultural land” have the meaning given in section 109 of the ^{M7}Agriculture Act 1947 and references to the farming of land include references to the carrying on in relation to the land of any agricultural activities;
- “agricultural unit” has the meaning given in section 171(1);
- “acquiring authority” has the same meaning as in the ^{M8}Land Compensation Act 1961 ; and
- “government departments which possess compulsory purchase powers” means government departments being authorities possessing compulsory purchase powers within the meaning of that Act.

Marginal Citations

- M7** 1947 c. 48.
M8 1961 c. 33.

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