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Town and Country Planning Act 1990

1990 CHAPTER 8

PART VI

RIGHTS OF OWNERS ETC. TO REQUIRE PURCHASE OF INTERESTS

CHAPTER II

INTERESTS AFFECTED BY PLANNING PROPOSALS: BLIGHT

Miscellaneous and supplementary provisions

[^{F1}164A Power of Welsh Ministers to acquire land identified by National Development Framework for Wales where blight notice served

Where a blight notice has been served in respect of land falling within paragraph 1C of Schedule 13, the Welsh Ministers have power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.]

Textual Amendments

F1 S. 164A inserted (6.9.2015 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), ss. 10(7), 58(2)(b)(4)(b)

165 Power of Secretary of State to acquire land affected by orders relating to new towns etc. where blight notice served.

- (1) Where a blight notice has been served in respect of land falling within paragraph 7, 8 or 9 of Schedule 13, then until such time as a development corporation is established for the new town or, as the case may be, an urban development corporation is established for the urban development area the Secretary of State shall have power to acquire

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compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.

- (2) Where the Secretary of State acquires an interest under subsection (1), then—
- (a) if the land is or becomes land within paragraph 8 or, as the case may be, paragraph 9(b) of Schedule 13, the interest shall be transferred by him to the development corporation established for the new town or, as the case may be, the urban development corporation established for the urban development area; and
 - (b) in any other case, the interest may be disposed of by him in such manner as he thinks fit.
- (3) The ^{M1}Land Compensation Act 1961 shall have effect in relation to the compensation payable in respect of the acquisition of an interest by the Secretary of State under subsection (1) as if—
- (a) the acquisition were by a development corporation under the ^{M2}New Towns Act 1981 or, as the case may be, by an urban development corporation under Part XVI of the ^{M3}Local Government, Planning and Land Act 1980;
 - (b) in the case of land within paragraph 7 of Schedule 13, the land formed part of an area designated as the site of a new town by an order which has come into operation under section 1 of the New Towns Act 1981; and
 - (c) in the case of land within paragraph 9(a) of Schedule 13, the land formed part of an area designated as an urban development area by an order under section 134 of the ^{M4}Local Government, Planning and Land Act 1980 which has come into operation.

Marginal Citations

- M1** 1961 c. 33.
M2 1981 c. 64.
M3 1980 c. 65.
M4 1980 c. 65.

[^{F2}165Z] Power of Greater London Authority to acquire land affected by designation of Mayoral development area where blight notice served

- (1) Where a blight notice has been served in respect of land falling within paragraph 9A of Schedule 13 then, until such time as a Mayoral development corporation is established for the Mayoral development area, the Greater London Authority has power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.
- (2) Where the Greater London Authority acquires an interest under subsection (1), then—
- (a) if the land is or becomes land within paragraph 9A(b) of Schedule 13, the interest is to be transferred by the Authority to the Mayoral development corporation established for the Mayoral development area; and
 - (b) in any other case, the interest may be disposed of by the Authority in such manner as the Authority thinks fit.
- (3) The Land Compensation Act 1961 has effect in relation to the compensation payable in respect of the acquisition of an interest by the Greater London Authority under subsection (1) as if—

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- (a) the acquisition were by a Mayoral development corporation under Chapter 2 of Part 8 of the Localism Act 2011; and
- (b) the land formed part of an area for which a Mayoral development corporation has been established.]

Textual Amendments

F2 S. 165ZA inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(l), [Sch. 22 para. 33](#)

[^{F3}165A Power of Secretary of State to acquire land identified in national policy statements where blight notice served

Where a blight notice has been served in respect of land falling within paragraph 25 of Schedule 13, the Secretary of State has power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph.]

Textual Amendments

F3 S. 165A inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by [Planning Act 2008 \(c. 29\)](#), ss. [175\(5\)](#), [241](#) (with s. [226](#)); S.I. [2009/400](#), [art. 3](#); S.I. [2010/101](#), [art. 4\(f\)](#) (with art. 6)

166 Saving for claimant’s right to sell whole hereditament, etc.

- (1) The provisions of sections 151(4)(c), 153(6), 154(4) and (5) and 155(3) and (4) relating to hereditaments shall not affect—
 - (a) the right of a claimant under section 92 of the ^{M5}Lands Clauses Consolidation 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; ^{F4}...
 - ^{F4}(b)
- ^{F5}(2)

Textual Amendments

F4 S. 166(1)(b) and word omitted (3.2.2017) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), ss. [200\(3\)\(a\)](#), [216\(3\)](#); S.I. [2017/75](#), reg. [3\(h\)](#)

F5 S. 166(2) omitted (3.2.2017) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), ss. [200\(3\)\(b\)](#), [216\(3\)](#); S.I. [2017/75](#), reg. [3\(h\)](#)

Marginal Citations

M5 1845 c. 18.

167 No withdrawal of constructive notice to treat.

Without prejudice to the provisions of section 156(1) and (2), a notice to treat which is deemed to have been served by virtue of this Chapter may not be withdrawn under section 31 of the ^{M6}Land Compensation Act 1961.

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Marginal Citations

M6 1961 c. 33.

168 Meaning of “owner-occupier” and “resident owner-occupier”.

- (1) Subject to the following provisions of this section, in this Chapter “owner-occupier”, in relation to a hereditament, means—
- (a) a person who occupies the whole or a substantial part of the hereditament in right of an owner’s interest in it, and has so occupied the hereditament or that part of it during the whole of the period of six months ending with the date of service; or
 - (b) if the whole or a substantial part of the hereditament was unoccupied for a period of not more than 12 months ending with that date, a person who so occupied the hereditament or, as the case may be, that part of it during the whole of a period of six months ending immediately before the period when it was not occupied.
- (2) Subject to the following provisions of this section, in this Chapter “owner-occupier”, in relation to an agricultural unit, means a person who—
- (a) occupies the whole of that unit and has occupied it during the whole of the period of six months ending with the date of service; or
 - (b) occupied the whole of that unit during the whole of a period of six months ending not more than 12 months before the date of service,
- and, at all times material for the purposes of paragraph (a) or, as the case may be, paragraph (b) has been entitled to an owner’s interest in the whole or part of that unit.
- (3) In this Chapter “resident owner-occupier”, in relation to a hereditament, means—
- (a) an individual who occupies the whole or a substantial part of the hereditament as a private dwelling in right of an owner’s interest in it, and has so occupied the hereditament or, as the case may be, that part during the whole of the period of six months ending with the date of service; or
 - (b) if the whole or a substantial part of the hereditament was unoccupied for a period of not more than 12 months ending with that date, an individual who so occupied the hereditament or, as the case may be, that part during the whole of a period of six months ending immediately before the period when it was not occupied.
- (4) In this section—
- “owner’s interest”, in relation to a hereditament or agricultural unit, means a freehold interest in it or a tenancy of it granted or extended for a term of years certain not less than three years of which remain unexpired on the date of service; and
- “date of service”, in relation to a hereditament or agricultural unit, means the date of service of a notice in respect of it under section 150.

169 “Appropriate authority” for purposes of Chapter II.

- (1) Subject to the following provisions of this section, in this Chapter “the appropriate authority”, in relation to any land, means the government department, local authority [F6National Park authority] or other body or person by whom, in accordance with the

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circumstances by virtue of which the land falls within any paragraph of Schedule 13, the land is liable to be acquired or is indicated as being proposed to be acquired or, as the case may be, any right over the land is proposed to be acquired.

- (2) If any question arises—
- (a) whether the appropriate authority in relation to any land for the purposes of this Chapter is the Secretary of State or a local highway authority; or
 - (b) which of two or more local highway authorities is the appropriate authority in relation to any land for those purposes; or
 - (c) which of two or more local authorities is the appropriate authority in relation to any land for those purposes,
- that question shall be referred to the Secretary of State, whose decision shall be final.
- (3) If any question arises which authority is the appropriate authority for the purposes of this Chapter—
- (a) section 151(2) shall have effect as if the reference to the date of service of the blight notice were a reference to that date or, if it is later, the date on which that question is determined;
 - (b) section 162(4)(b) shall 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; and
 - (c) section 168(1)(b), (2)(b) and (3)(b) shall apply with the substitution for the reference to 12 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.
- (4) In relation to land falling within paragraph 7, 8 or 9 of Schedule 13, until such time as a development corporation is established for the new town or, as the case may be, an urban development corporation is established for the urban development area, this Chapter shall have effect as if “the appropriate authority” were the Secretary of State.
- [^{F7}(4A) In relation to land falling within paragraph 9A of Schedule 13, until such time as a Mayoral development corporation is established for the Mayoral development area, this Chapter has effect as if “the appropriate authority” were the Mayor of London.]
- (5) In relation to land falling within paragraph 19 of Schedule 13, “the appropriate authority” shall be the highway authority for the highway in relation to which the order mentioned in that paragraph was made.
- [^{F8}(6) In relation to land falling within paragraph 25 of Schedule 13, “the appropriate authority” is—
- (a) if the national policy statement identifies a statutory undertaker as an appropriate person to carry out the specified description of development in the location, the statutory undertaker;
 - (b) in any other case, the Secretary of State.
- (7) If any question arises by virtue of subsection (6)—
- (a) whether the appropriate authority in relation to any land for the purposes of this Chapter is the Secretary of State or a statutory undertaker; or
 - (b) which of two or more statutory undertakers is the appropriate authority in relation to any land for those purposes,
- that question shall be referred to the Secretary of State, whose decision shall be final.

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- (8) In subsections (6) and (7) “statutory undertaker” means a person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part 11.]

Textual Amendments

- F6** Words in s. 169(1) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 32(5)** (with ss. 7(6), 115, 117, **Sch. 8 para. 3**); S.I. 1995/2950, **art. 2(1)**
- F7** S. 169(4A) inserted (15.1.2012) by **Localism Act 2011 (c. 20)**, s. 240(1)(l), **Sch. 22 para. 34**
- F8** S. 169(6)-(8) inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by **Planning Act 2008 (c. 29)**, **ss. 175(6)**, 241 (with s. 226); S.I. 2009/400, **art. 3**; S.I. 2010/101, **art. 4(f)** (with art. 6)

170 “Appropriate enactment” for purposes of Chapter II.

- (1) Subject to the following provisions of this section, in this Chapter “the appropriate enactment”, in relation to land falling within any paragraph of Schedule 13, means the enactment which provides for the compulsory acquisition of land as being land falling within that paragraph or, as respects paragraph 22(b), the enactment under which the compulsory purchase order referred to in that paragraph was made.
- (2) In relation to land falling within paragraph [^{F9}1B, 1C,] 2, 3 or 4 of that Schedule, an enactment shall for the purposes of subsection (1) be taken to be an enactment which provides for the compulsory acquisition of land as being land falling within that paragraph if—
- (a) the enactment provides for the compulsory acquisition of land for the purposes of the functions which are indicated in the development plan as being the functions for the purposes of which the land is allocated or is proposed to be developed; or
 - (b) where no particular functions are so indicated in the development plan, the enactment provides for the compulsory acquisition of land for the purposes of any of the functions of the government department, local authority [^{F10}National Park authority] or other body for the purposes of whose functions the land is allocated or is defined as the site of proposed development.

[^{F11}(2A) In relation to land falling within—

- (a) paragraph 1B of that Schedule by virtue of Note (2)(c) or (d) to that paragraph, or
 - (b) paragraph 1C of that Schedule by virtue of Note (1)(b) to that paragraph,
- “the appropriate enactment” is to be determined in accordance with subsection (2) as if references in that subsection to the development plan were references to any such plan, revision or draft as is mentioned in the Note in question.]
- (3) In relation to land falling within paragraph 2, 3 or 4 of that Schedule by virtue of Note (1) to that paragraph, “the appropriate enactment” shall be determined in accordance with subsection (2) as if references in that subsection to the development plan were references to any such plan, proposal or modifications as are mentioned in paragraph (a), (b) or (c) of that Note.
- (4) In relation to land falling within paragraph 5 or 6 of that Schedule, “the appropriate enactment” shall be determined in accordance with subsection (2) as if references in that subsection to the development plan were references to the resolution or direction in question.

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- (5) In relation to land falling within paragraph 7, 8 [^{F12}, 9 or 9A] of that Schedule, until such time as a development corporation is established for the new town or, as the case may be, an urban development corporation is established for the urban development area [^{F13} or a Mayoral development corporation is established for the Mayoral development area] , this Chapter shall have effect as if “the appropriate enactment” were section 165(1).
- (6) In relation to land falling within paragraph 10 or 11 of that Schedule, “the appropriate enactment” shall be section 290 of the ^{M7}Housing Act 1985.
- (7) In relation to land falling within paragraph 19 of that Schedule, “the appropriate enactment” shall be section 239(6) of the ^{M8}Highways Act 1980.
- (8) In relation to land falling within paragraph 22 of that Schedule by virtue of Note (1) to that paragraph, “the appropriate enactment” shall be the enactment which would provide for the compulsory acquisition of the land or of the rights over the land if the relevant compulsory purchase order were confirmed or made.
- [^{F14}(8A) In relation to land falling within paragraph 24(a) or (b) of that Schedule, “the appropriate enactment” is the order granting development consent.
- (8B) In relation to land falling within paragraph 24(c) of that Schedule, “the appropriate enactment” is an order in the terms of the order applied for.
- (8C) In relation to land falling within paragraph 25 of that Schedule, “the appropriate enactment” is section 165A.]
- (9) Where, in accordance with the circumstances by virtue of which any land falls within any paragraph of that Schedule, it is indicated that the land is proposed to be acquired for highway purposes, any enactment under which a highway authority are or (subject to the fulfilment of the relevant conditions) could be authorised to acquire that land compulsorily for highway purposes shall, for the purposes of subsection (1), be taken to be an enactment providing for the compulsory acquisition of that land as being land falling within that paragraph.
- (10) In subsection (9) the reference to the fulfilment of the relevant conditions is a reference to such one or more of the following as are applicable to the circumstances in question—
 - (a) the coming into operation of any requisite order or scheme made, or having effect as if made, under the provisions of Part II of the Highways Act 1980;
 - (b) the coming into operation of any requisite scheme made, or having effect as if made, under section 106(3) of that Act;
 - (c) the making or approval of any requisite plans.
- (11) If, apart from this subsection, two or more enactments would be the appropriate enactment in relation to any land for the purposes of this Chapter, the appropriate enactment for those purposes shall be taken to be that one of those enactments under which, in the circumstances in question, it is most likely that (apart from this Chapter) the land would have been acquired by the appropriate authority.
- (12) If any question arises as to which enactment is the appropriate enactment in relation to any land for the purposes of this Chapter, that question shall be referred—
 - (a) where the appropriate authority are a government department, to the Minister in charge of that department;

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- (b) where the appropriate authority are statutory undertakers, to the appropriate Minister; and
 - (c) in any other case, to the Secretary of State,
- and the decision of the Minister or, as the case may be, the Secretary of State shall be final.

Textual Amendments

- F9** Words in s. 170(2) inserted (6.9.2015 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), [ss. 10\(8\)\(a\)](#), [58\(2\)\(b\)\(4\)\(b\)](#)
- F10** Words in s. 170(2) inserted (23.11.1995) by [1995 c. 25](#), s. 78, [Sch. 10 para. 32\(5\)](#) (with [ss. 7\(6\)](#), [115](#), [117](#)); [S.I. 1995/2950](#), [art. 2\(1\)](#)
- F11** S. 170(2A) inserted (6.9.2015 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), [ss. 10\(8\)\(b\)](#), [58\(2\)\(b\)\(4\)\(b\)](#)
- F12** Words in s. 170(5) substituted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(l), [Sch. 22 para. 35\(a\)](#)
- F13** Words in s. 170(5) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(l), [Sch. 22 para. 35\(b\)](#)
- F14** S. 170(8A)-(8C) inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by [Planning Act 2008 \(c. 29\)](#), [ss. 175\(7\)](#), [241](#) (with [s. 226](#)); [S.I. 2009/400](#), [art. 3](#); [S.I. 2010/101](#), [art. 4\(f\)](#) (with [art. 6](#))

Marginal Citations

- M7** [1985 c. 68](#).
- M8** [1980 c. 66](#).

171 General interpretation of Chapter II.

(1) Subject to the following provisions of this section, in this Chapter—

“the affected area”, in relation to an agricultural unit, means so much of that unit as, on the date of service, consists of land falling within any paragraph of Schedule 13;

“agricultural” has the same meaning as in section 109 of the ^{M9}Agriculture Act 1947 and references to the farming of land include references to the carrying on in relation to the land of agricultural activities;

“agricultural unit” means land which is occupied as a unit for agricultural purposes, including any dwellinghouse or other building occupied by the same person for the purpose of farming the land;

“annual value” means—

- (a) in the case of a hereditament which is shown in a local non-domestic rating list and none of which consists of domestic property or property exempt from local non-domestic rating, the value shown in that list as the rateable value of that hereditament on the date of service;
- (b) in the case of a hereditament which is shown in a local non-domestic rating list and which includes domestic property or property exempt from local non-domestic rating, the sum of—
 - (i) the value shown in that list as the rateable value of that hereditament on the date of service; and
 - (ii) the value attributable to the non-rateable part of that hereditament in accordance with subsections (2) and (3);
- (c) in the case of any other hereditament, the value attributable to that hereditament in accordance with subsections (2) and (3);

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“blight notice” has the meaning given in section 149(5);

“the claimant” has the meaning given in section 150(4);

“hereditament” means a relevant hereditament within the meaning of section 64(4)(a) to (c) of the ^{M10}Local Government Finance Act 1988;

[^{F15}“national policy statement” has the meaning given by section 5(2) of the Planning Act 2008;]

“special enactment” means a local enactment, or a provision contained in an Act other than a local or private Act, which is a local enactment or provision authorising the compulsory acquisition of land specifically identified in it; and in this definition “local enactment” means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure.

- (2) The value attributable to a hereditament, or the non-rateable part of it, in respect of domestic property shall be the value certified by the relevant valuation officer as being 5 per cent. of the compensation which would be payable in respect of the value of that property if it were purchased compulsorily under statute with vacant possession and the compensation payable were calculated in accordance with Part II of the ^{M11}Land Compensation Act 1961 by reference to the relevant date.
- (3) The value attributable to a hereditament, or the non-rateable part of it, in respect of property exempt from local non-domestic rating shall be the value certified by the relevant valuation officer as being the value which would have been shown as the rateable value of that property on the date of service if it were a relevant non-domestic hereditament consisting entirely of non-domestic property, none of which was exempt from local non-domestic rating.
- (4) Land which (apart from this subsection) would comprise separate hereditaments solely by reason of being divided by a boundary between rating areas shall be treated for the purposes of the definition of “hereditament” in subsection (1) as if it were not so divided.
- (5) In this section—

“date of service” has the same meaning as in section 168;

“relevant valuation officer” means the valuation officer who would have determined the rateable value in respect of the hereditament for the purposes of Part III of the ^{M12}Local Government Finance Act 1988 if the hereditament had fulfilled the conditions set out in section 42(1)(b) to (d) of that Act;

“relevant date” is the date by reference to which that determination would have been made;

and expressions used in the definition of “annual value” in subsection (1) or in subsection (2) or (3) which are also used in Part III of that Act have the same meaning as in that Part.

Textual Amendments

- F15** S. 171(1): definition of “national policy statement” inserted (6.4.2009 for certain purposes and otherwise 1.3.2010) by [Planning Act 2008 \(c. 29\)](#), **ss. 175(8)**, 241 (with s. 226); [S.I. 2009/400](#), **art. 3**; [S.I. 2010/101](#), **art. 4(f)** (with art. 6)

Marginal Citations

- M9** 1947 c.48.

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M10 1988 c. 41.

M11 1961 c. 33.

M12 1988 c.41.

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