



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

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

109 Inclusion in blight notice of requirement to purchase part of agricultural unit unaffected by blight

- (1) This section applies where—
 - (a) a blight notice is served in respect of an interest in the whole or part of an agricultural unit, and
 - (b) on the date of service that unit or part contains land (“the unaffected area”) which is not blighted land as well as land (“the affected area”) which is such land.
- (2) Where this section applies the claimant may include in the blight notice—
 - (a) a claim 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) a requirement that the appropriate authority shall purchase his interest in the whole of the unit or, as the case may be, in the whole of the part of it to which the notice relates.
- (3) Subject to section 110(4), “other relevant land” in subsection (2) means—

Status: This is the original version (as it was originally enacted).

- (a) if the blight notice is served only in respect of part of the land comprised in the agricultural unit, the remainder of it, and
 - (b) land which is comprised in any other agricultural unit occupied by the claimant on the date of service and in respect of which he is then entitled to an owner's interest as defined in section 119(4).
- (4) Where a blight notice to which this section applies is served by a crofter or cottar, subsection (2) shall have effect as if for paragraph (b) there were substituted the following paragraph—
- “(b) a requirement that the appropriate authority shall take possession of the whole of the unit or, as the case may be, the whole of the part of it to which the notice relates.”

110 Objection to section 109 notice

- (1) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of section 109 shall include the ground that the claim made in the notice is not justified.
- (2) Objection shall not be made to a blight notice served by virtue of section 109 on the grounds mentioned in section 102(4)(c) unless it is also made on the grounds mentioned in subsection (1).
- (3) The Lands Tribunal shall not uphold an objection to a notice served by virtue of section 109 on the grounds mentioned in section 102(4)(c) unless it also upholds the objection on the grounds mentioned in subsection (1).
- (4) Where objection is made to a blight notice served by virtue of section 109 on the ground mentioned in subsection (1) and also on those mentioned in section 102(4)(c), the Lands Tribunal, in determining whether or not to uphold the objection, shall treat that part of the affected area which is not specified in the counter-notice as included in “other relevant land” as defined in section 109(3).
- (5) If the Lands Tribunal upholds an objection but only on the ground mentioned in subsection (1), the Tribunal shall declare that the blight notice is a valid notice in relation to the affected area but not in relation to the unaffected area.
- (6) If the Lands Tribunal upholds an objection both on the ground mentioned in subsection (1) and on the grounds mentioned in section 102(4)(c) (but not on any other grounds) the Tribunal shall declare that the blight notice is a valid notice in relation to 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 affected area or in relation to the unaffected area.
- (7) In a case falling within subsection (5) or (6), the Lands Tribunal shall give directions specifying a date on which notice to treat (as mentioned in sections 105 and 111) is to be deemed to have been served.
- (8) Section 104(6) shall not apply to any blight notice served by virtue of section 109.

111 Effect of section 109 notice

- (1) In relation to a blight notice served by virtue of section 109—

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- (a) subsection (2) of section 105 shall have effect as if for the words “or in the case of an agricultural unit the interest of the claimant in so far as it subsists in the affected area” there were substituted the words “or agricultural unit”, and
 - (b) subsections (4) and (5) of that section shall not apply.
- (2) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 110(1), then if either—
 - (a) the claimant, without referring that objection to the Lands Tribunal and before the time for so referring it has expired, gives notice to the appropriate authority that he withdraws his claim as to the unaffected area, or
 - (b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 110(5),

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the affected area (but not in so far as it subsists in the unaffected area), and 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 falling within paragraph (a) of that subsection, is the date on which notice is given in accordance with that paragraph, and
 - (b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Tribunal in accordance with section 110(7).
- (4) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 110(1) and also on the grounds mentioned in section 102(4)(c), then if 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 affected area specified in the counter-notice, and
 - (ii) withdraws his claim as to the remainder of that area and as to the unaffected area, or
 - (b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 110(6) in respect of that part of the affected area,

the appropriate authority shall be deemed 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 affected area specified in the counter-notice (but not in so far as it subsists in any other part of that area or in the unaffected area) and to have served a notice to treat in respect of it on the date mentioned in subsection (5).
- (5) The date referred to in subsection (4)—
 - (a) in a case falling within paragraph (a) of that subsection, is the date on which notice is given in accordance with that paragraph, and
 - (b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Tribunal in accordance with section 110(7).
- (6) In relation to a blight notice served by virtue of section 109 references to “the appropriate authority” and “the appropriate enactment” shall be construed as if the unaffected area of an agricultural unit were part of the affected area.
- (7) Where the claimant is a crofter or cottar this section shall have effect as if—

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- (a) in subsections (2) and (4), for the words from “acquire compulsorily” to “interest” and for the words “to treat in respect of it” there were substituted respectively the words “take possession compulsorily of the land” and the words “of entry in respect of that land under paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947”, and
- (b) in subsection (4)(a)(i), for the word “acquire” there were substituted the words “take possession of”.