



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

Successors, heritable creditors and partnerships

112 Powers of successors in respect of blight notice.

- (1) In relation to any time after the death of a person who has served a blight notice, sections 102(1), 103(1), 104(1), 105(4) and (5), 107(1) and 111(2) and (4) shall apply as if any reference in them to the claimant were a reference to the person who, on the claimant's death, has succeeded to his interest in the hereditament or agricultural unit in question.
- (2) Where the whole or part of a hereditament or agricultural unit is comprised in blighted land and a person claims that—
 - (a) he is the personal representative of a person ("the deceased") who at the date of his death was entitled to an interest in that hereditament or unit,
 - (b) the interest was one which would have been a qualifying interest if a notice under section 101 had been served in respect of it on that date,
 - (c) he has made reasonable endeavours to sell that interest,
 - (d) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in blighted land, he has been unable to sell that interest except at a price substantially lower than that for which it might

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reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land, and

- (e) one or more individuals are (to the exclusion of any body corporate) beneficially entitled to that interest,

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, this Chapter.

- (3) Subject to subsection (4), subsection (2) 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 whole of a hereditament or agricultural unit.

- (4) Subsection (3) shall not enable any person—

- (a) if the deceased was entitled to an interest in the whole of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of the deceased's interest in part of the hereditament or unit, or
- (b) if the deceased was entitled to an interest only in part of the hereditament or agricultural unit, to make or serve any such claim or notice in respect of the deceased's interest in less than the whole of that part.

- (5) Subject to sections 102(6) and (7) and 110(2) and (3), the grounds on which objection may be made in a counter-notice under section 102 to a notice under this section are those specified in paragraphs (a) to (c) of subsection (4) of that section and, in a case to which it applies, the grounds specified in paragraph (d) of that subsection and also the following grounds—

- (a) that the claimant is not the personal representative of the deceased or that, on the date of the deceased's death, the deceased was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;
- (b) that (for reasons specified in the counter-notice) the interest of the deceased is not such as is specified in subsection (2)(b);
- (c) that the conditions specified in subsection (2)(c), (d) or (e) are not satisfied.

113 Power of heritable creditor to serve blight notice.

- (1) Where the whole or part of a hereditament or agricultural unit is comprised in blighted land and a person claims that—

- (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,
- (b) he has made reasonable endeavours to sell that interest or the land falls within paragraph 14 or 15 of Schedule 14 and the powers of compulsory acquisition remain exercisable, and
- (c) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in blighted land, he has been unable to sell that interest 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, or were likely to be, comprised in such land,

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, this Chapter.

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- (2) Subject to subsection (3), subsection (1) 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 whole of a hereditament or agricultural unit.
- (3) Subsection (2) shall not enable a person—
 - (a) if his interest as heritable creditor is in the whole 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 agricultural 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 whole of that part.
- (4) Notice under this section shall not be served unless the interest which the heritable creditor claims he has the power to sell—
 - (a) could be the subject of a notice under section 101 served by the person entitled to it on the date of service of the notice under this section, or
 - (b) could have been the subject of such a notice served by that person on a date not more than 6 months before the date of service of the notice under this section.
- (5) Subject to sections 102(6) and (7) and 110(2) and (3), the grounds on which objection may be made in a counter-notice under section 102 to a notice under this section are those specified in paragraphs (a) to (c) of subsection (4) of that section and, in a case to which it applies, the grounds specified in paragraph (d) of 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 (1)(a);
 - (c) that the conditions specified in subsection (1)(b) and (c) are not fulfilled;
 - (d) that (for reasons specified in the counter-notice) neither of the conditions specified in subsection (4) was, on the date of service of the notice under this section, satisfied with regard to the interest referred to in that subsection.

114 Prohibition on service of simultaneous notices under sections 101, 112 and 113.

- (1) No notice shall be served under section 101 or 112 in respect of a hereditament or agricultural unit, or any part of it, at a time when a notice already served under section 113 is outstanding with respect to it, and no notice shall be served under section 113 at a time when a notice already served under section 101 or 112 is outstanding with respect to the relevant hereditament, agricultural unit or part.
- (2) For the purposes of subsection (1), a notice shall be treated as outstanding with respect to a hereditament, agricultural unit or part—
 - (a) until it is withdrawn in relation to the hereditament, agricultural unit or part, or
 - (b) in a case where an objection to the notice has been made by a counter-notice under section 102, until either—
 - (i) the period of 2 months specified in section 104 elapses without the claimant having required the objection to be referred to the Lands Tribunal under that section, or

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- (ii) the objection, having been so referred, is upheld by the Tribunal with respect to the hereditament, agricultural unit or part.

115 Special provisions as to partnerships.

- (1) This section shall have effect for the purposes of the application of this Chapter to a hereditament or agricultural unit occupied for the purposes of a partnership firm.
- (2) Occupation for the purposes of the firm shall be treated as occupation by the firm, and not as occupation by any one or more of the partners individually, and the definitions of “owner-occupier” in section 119(1) and (2) shall apply in relation to the firm accordingly.
- (3) If, after the service by the firm of a blight notice, any change occurs (whether by death or otherwise) in the constitution of the firm, any proceedings, rights or obligations consequential upon that notice may be carried on or exercised by or against, or, as the case may be, shall be incumbent upon, the partners for the time being constituting the firm.
- (4) Nothing in this Chapter shall be construed as indicating an intention to exclude the operation of the definition of “person” in Schedule 1 to the ^{M1}Interpretation Act 1978 (by which, unless the contrary intention appears, “person” includes any body of persons corporate or unincorporate) in relation to any provision of this Chapter.
- (5) Subsection (2) shall not affect the definition of “resident owner-occupier” in section 119(3).

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