



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART V

#### RIGHTS OF OWNERS ETC. TO REQUIRE PURCHASE OF INTERESTS

#### CHAPTER I

#### INTERESTS AFFECTED BY PLANNING DECISIONS OR ORDERS

#### *Duties of authorities on service of purchase notice*

#### **94 Effect of Secretary of State's action in relation to purchase notice.**

- (1) Where the Secretary of State confirms a purchase notice—
- (a) the planning authority on whom the purchase notice was served, or
  - (b) if under section 92(4) the Secretary of State modified the purchase notice by substituting another local authority or statutory undertakers for that planning authority, that other authority or those undertakers,
- shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the relevant provisions, and to have served a notice to treat in respect of it on such date as the Secretary of State may direct.
- (2) If, before the end of the relevant period, the Secretary of State has neither—
- (a) confirmed the purchase notice, nor
  - (b) taken any such action in respect of it as is mentioned in section 92(2) or (3), nor
  - (c) notified the owner or lessee by whom the notice was served that he does not propose to confirm the notice,

*Status: Point in time view as at 21/04/2006.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1997, Section 94 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

the notice shall be deemed to be confirmed at the end of that period, and the authority on whom the notice was served shall be deemed to be authorised as mentioned in subsection (1) and to have served a notice to treat in respect of the owner's interest at the end of that period.

- (3) Subject to subsection (4), for the purposes of subsection (2) the relevant period is the period of 6 months beginning with the date on which a copy of the purchase notice was sent to the Secretary of State.
- (4) The relevant period does not run if the Secretary of State has before him at the same time both—
- (a) a copy of the purchase notice sent to him under section 90(4), and
  - (b) a notice of appeal under section 47, 130 or 154 of this Act or under section 18 or 35 of the <sup>M1</sup>Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (appeals against refusal of listed building consent, etc. and appeals against listed building enforcement notices) or under section 19 of the <sup>M2</sup>Planning (Hazardous Substances) (Scotland) Act 1997 (appeals against decisions and failure to take decisions relating to hazardous substances) relating to any of the land to which the purchase notice relates.
- (5) Where—
- (a) the Secretary of State has notified the owner or lessee by whom a purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice, and
  - (b) that decision is quashed under Part XI,
- the purchase notice shall be treated as cancelled, but the owner or lessee may serve a further purchase notice in its place.
- (6) The reference in subsection (5) to a decision to confirm, or not to confirm, the purchase notice includes—
- (a) any decision not to confirm the notice in respect of any part of the land to which it relates, and
  - (b) any decision to grant any permission, or give any direction, instead of confirming the notice, in respect of any part (or the whole) of the land to which it relates.
- (7) For the purposes of determining whether a further purchase notice under subsection (5) was served within the period prescribed for the service of purchase notices, the planning decision in consequence of which the notice was served shall be treated as having been made on the date on which the decision of the Secretary of State was quashed.
- (8) A notice to treat which is deemed to have been served by virtue of subsection (1) or (2) may not be withdrawn under section 39 of the <sup>M3</sup>Land Compensation (Scotland) Act 1963.

**Modifications etc. (not altering text)**

**C1** S. 94(1)(b): power to modify conferred (27.5.1997) by 1980 c. 65, **Sch. 30 Pt. II para. 4** (as replaced (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 31(12)**)

**Marginal Citations**

**M1** 1997 c. 9.

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**M2** 1997 c. 10.

**M3** 1963 c. 51.

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