



Town and Country Planning (Scotland) Act 1972

1972 CHAPTER 52

PART IX

PROVISIONS ENABLING OWNER OR LESSEE TO REQUIRE PURCHASE OF HIS INTEREST

Interests of owner-occupiers affected by planning proposals

181 Scope of these provisions

- (1) The provisions of sections 182 to 196 of this Act shall have effect in relation to land which—
- (a) is land indicated in a structure plan in force either as land which may be required for the purposes of any functions of a government department, local authority or statutory undertakers, or of the National Coal Board, or as land which may be included in an action area ; or
 - (b) is land allocated for the purposes of any such functions by a local plan in force, or is land defined in such a plan as the site of proposed development for the purposes of any such functions; or
 - (c) is land indicated in a development plan (otherwise than by being dealt with in a manner mentioned in the preceding paragraphs) as land on which a road is proposed to be constructed or land to be included in a road as proposed to be improved or altered; or
 - (d) is land authorised by a special enactment to be compulsorily acquired, or land falling within the limits of deviation within which powers of compulsory acquisition conferred by a special enactment are exercisable; or
 - (e) is land on or adjacent to the line of a road proposed to be constructed, improved or altered, as indicated in an order or scheme which has come into operation under the provisions of the Trunk Roads Act 1946 or the Special Roads Act 1949, being land in relation to which a power of compulsory acquisition conferred by section 13 of the Restriction of Ribbon Development

Status: This is the original version (as it was originally enacted).

Act 1935, as read with any of the following enactments, that is to say, section 4 of the Trunk Roads Act 1936, section 5 of the Trunk Roads Act 1946, and sections 9, 10 and 14 of the Special Roads Act 1949, may become exercisable, as being land required for purposes of construction, improvement or alteration as indicated in the order or scheme; or

- (f) is land shown on plans approved by a resolution of a local highway authority as land comprised in the site of a road as proposed to be constructed, improved or altered by that authority; or
 - (g) is land in respect of which a compulsory purchase order is in force, where the appropriate authority have power to serve, but have not served, notice to treat in respect of the land ; or
 - (h) is land on which the Secretary of State proposes to provide a trunk road or a special road and has given to the local planning authority written notice of his intention to provide the road, together with maps or plans sufficient to identify the proposed route of the road.
- (2) Paragraph (a) of subsection (1) of this section shall not apply to land situated in an area for which a local plan is in force, where that plan—
- (a) allocates any land in the area for the purposes of such functions as are mentioned in that paragraph; or
 - (b) defines any land in the area as the site of proposed development for the purposes of any such functions.
- (3) Interests qualifying for protection under these provisions are either—
- (a) interests in hereditaments or parts of hereditaments; or
 - (b) interests in agricultural units or parts of agricultural units.
- (4) An interest in the whole or part of a hereditament shall be taken to be an interest qualifying for protection under these provisions if, on the date of service of a notice under section 182 of this Act in respect thereof, either—
- (a) the annual value of the hereditament does not exceed such amount as may be prescribed for the purposes of this paragraph by an order made by the Secretary of State, and the interest in question is the interest of an owner-occupier of the hereditament; or
 - (b) in a case not falling within the preceding paragraph, the interest in question is the interest of a resident owner-occupier of the hereditament.
- (5) An interest in the whole or part of an agricultural unit shall be taken to be an interest qualifying for protection under these provisions if, on the date of service of a notice under section 182 of this Act in respect thereof, it is the interest of an owner-occupier of the unit.
- (6) In this section and in the said sections 182 to 196 " these provisions " means the provisions of this section and of those sections, " the specified descriptions " means the descriptions contained in subsection (1) (a) to (h) of this section and " blight notice " means a notice served under section 182 or 190 of this Act.

182 Power to serve blight notice

- (1) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the specified descriptions, and a person claims that—
- (a) he is entitled to an interest in that hereditament or unit; and

- (b) the interest is one which qualifies for protection under these provisions; and
- (c) since the relevant date he has made reasonable endeavours to sell that interest; and
- (d) he has been unable to sell it 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 comprised in land of any of the specified descriptions,

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, these provisions.

- (2) Subsection (1) of this section 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 entirety of a hereditament or agricultural unit:

Provided that this subsection shall not enable any person—

- (a) if he is entitled to an interest in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of his interest in part of the hereditament or unit; or
- (b) . if he is entitled to an interest only in part of a hereditament or agricultural unit, to make or serve any such claim or notice in respect of his interest in less than the entirety of that part.

- (3) In this section " the relevant date "—

- (a) in relation to land indicated, allocated or defined as mentioned in paragraph (a), (b) or (c) of subsection (1) of section 181 of this Act, means the date (whether before or after the commencement of this Act) on which the development plan, or the amendment of the development plan, by virtue of which the land was first so indicated, allocated or defined came into operation;
- (b) in relation to land falling within paragraph (d) of that subsection, means the date (whether before or after the commencement of this Act) on which the special enactment in question came into operation ;
- (c) in relation to land falling within paragraph (e) of that subsection, means the date (whether before or after the commencement of this Act) of the coming into operation of the order or scheme by virtue of which it falls within that paragraph;
- (d) in relation to land falling within paragraph (f) of that subsection, means the date (whether before or after the commencement of this Act) of the passing of the resolution by virtue of which it falls within that paragraph;
- (e) in relation to land falling within paragraph (g) of that subsection, means the date (whether before or after the commencement of this Act) on which the order for its compulsory purchase was confirmed or made by the Secretary of State ;
- (f) in relation to land falling within paragraph (h) of that subsection, means the date (whether before or after the commencement of this Act) on which the Secretary of State gave to the local planning authority the written notice specified in that paragraph.

- (4) In these provisions " the claimant", in relation to a blight notice, means the person who served that notice, and any reference to the interest of the claimant, in relation to such a notice, is a reference to the interest which the notice requires the appropriate authority to purchase as mentioned in subsection (1) of this section.

183 Objection to blight notice

- (1) Where a blight notice has been served in respect of a hereditament or an agricultural unit, the appropriate authority, at any time before the end of the period of two months beginning with the date of service of that notice, may serve on the claimant a counter-notice in the prescribed form objecting to the notice.
- (2) Subject to the following provisions of this section, the grounds on which objection may be made in a counter-notice to a notice served under section 182 of this Act are—
 - (a) that no part of the hereditament or agricultural unit to which the notice relates is comprised in land of any of the specified descriptions;
 - (b) that the appropriate authority (unless compelled to do so by virtue of these provisions) do not propose to acquire any part of the hereditament, or (in the case of an agricultural unit) any part of the affected area, in the exercise of any relevant powers;
 - (c) that the appropriate authority propose in the exercise of relevant powers to acquire a part of the hereditament or (in the case of an agricultural unit) a part of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of these provisions) do not propose to acquire any other part of that hereditament or area in the exercise of any such powers;
 - (d) that (in the case of land falling within paragraph (a) or (c) but not (e), (f) or (h) of section 181(1) of this Act) the appropriate authority (unless compelled to do so by virtue of these provisions) do not propose to acquire in the exercise of any relevant powers any part of the hereditament or (in the case of an agricultural unit) any part of the affected area during the period of fifteen years from the date of the counter-notice or such longer period from that date as may be specified in the counter-notice;
 - (e) that, on the date of service of the notice under section 182 of this Act, the claimant was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;
 - (f) that (for reasons specified in the counter-notice) the interest of the claimant is not an interest qualifying for protection under these provisions;
 - (g) that the conditions specified in paragraphs (c) and (d) of section 182(1) of this Act are not fulfilled.
- (3) An objection may not be made on the grounds mentioned in paragraph (d) of subsection (2) of this section if it may be made on the grounds mentioned in paragraph (b) of that subsection.
- (4) Any counter-notice served under this section in respect of a blight notice shall specify the grounds (being one or more of the grounds mentioned in the preceding provisions of this section or, as relevant, in section 190(6) of this Act) on which the appropriate authority object to the notice.
- (5) In this section " relevant powers ", in relation to any land falling within any of the specified descriptions, means any powers under which the appropriate authority are or could be authorised—
 - (a) to acquire that land compulsorily as being land falling within that description ;
or
 - (b) to acquire that land compulsorily for any of the relevant purposes;
 and " the relevant purposes ", in relation to any such land, means the purposes for which, in accordance with the circumstances by virtue of which that land falls within

the description in question, it is liable to be acquired or is indicated as being proposed to be acquired.

184 Reference of objection to Lands Tribunal

- (1) Where a counter-notice has been served under section 183 of this Act objecting to a blight notice, the claimant, at any time before the end of the period of two months beginning with the date of service of the counter-notice, may require the objection to be referred to the Lands Tribunal.
- (2) On any such reference, if the objection is not withdrawn, the Lands Tribunal shall consider the matters set out in the notice served by the claimant and the grounds of the objection specified in the counter-notice; and, subject to subsection (3) of this section, unless it is shown to the satisfaction of the Tribunal that the objection is not well-founded, the Tribunal shall uphold the objection.
- (3) An objection on the grounds mentioned in section 183(2) (b), (c) or (d) of this Act shall not be upheld by the Tribunal unless it is shown to the satisfaction of the Tribunal that the objection is well-founded.
- (4) If the Tribunal determines not to uphold the objection, the Tribunal shall declare that the notice to which the counter-notice relates is a valid notice.
- (5) If the Tribunal upholds the objection, but only on the grounds mentioned in section 183(2)(c) of this Act, the Tribunal shall declare that the notice is a valid notice in relation to the part of the hereditament or (in the case of an agricultural unit) of the affected area specified in the counter-notice as being the part which the appropriate authority propose to acquire as therein mentioned, but not in relation to any other part of the hereditament or affected area.
- (6) In any case falling within subsection (4) or subsection (5) of this section, the Tribunal shall give directions specifying the date on which notice to treat (as mentioned in section 185 of this Act) is to be deemed to have been served.

185 Effect of valid blight notice

- (1) Where a blight notice has been served, and either—
 - (a) no counter-notice objecting to that notice is served in accordance with these provisions; or
 - (b) where such a counter-notice has been served, the objection is withdrawn, or, on a reference to the Lands Tribunal, is not upheld by the Tribunal,the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in the hereditament, or (in the case of an agricultural unit) the interest of the claimant in so far as it subsists in the affected area, and to have served a notice to treat in respect thereof on the date mentioned in subsection (2) of this section.
- (2) The said date—
 - (a) in a case where, on a reference to the Lands Tribunal, the Tribunal determines not to uphold the objection, is the date specified in directions given by the Tribunal in accordance with section 184(6) of this Act;
 - (b) in any other case, is the date on which the period of two months beginning with the date of service of the blight notice comes to an end.

(3) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 183(2)(c) of this Act, 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 accepts the proposal of the authority to acquire the part of the hereditament or affected area specified in the counter-notice, and withdraws his claim as to the remainder of that hereditament or area; or
- (b) on a reference to the Lands Tribunal, the Tribunal makes a declaration in accordance with section 184(5) of this Act in respect of that part of the hereditament or 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 hereditament or affected area specified in the counter-notice (but not in so far as it subsists in any other part of that hereditament or area) and to have served a notice to treat in respect thereof on the date mentioned in subsection (4) of this section.

(4) The said date-

- (a) in a case falling within paragraph (a) of subsection (3) of this section, 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 Lands Tribunal in accordance with section 184(6) of this Act.

186 Compensation for compulsory purchase of historic buildings and of land in clearance areas

Where an interest in land is acquired in pursuance of a blight notice and the interest is one—

- (a) in respect of which a compulsory purchase order is in force under section 1 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (as applied by section 104 of this Act) containing a direction for minimum compensation under section 107 of this Act; or
- (b) in respect of which a compulsory purchase order is in force under the said section 1 as applied by section 7 of the Housing (Scotland) Act 1969 ;

the compensation payable for the acquisition shall, in a case falling within paragraph (a) of this section, be assessed in accordance with the direction mentioned in that paragraph and, in a case falling within paragraph (b) of this section, be assessed in accordance with section 10(2) and (3) of the said Act of 1969, in either case as if the notice to treat deemed to have been served in respect of the interest under section 185 of this Act had been served in pursuance of the compulsory purchase order.

187 Withdrawal of blight notice

(1) Subject to subsection (2) of this section, the person by whom a blight notice has been served may withdraw the notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the notice has been determined by the Lands Tribunal, or at any time before the end of the period of six weeks beginning with the date on which the compensation is so determined; and, where such a notice is withdrawn by virtue of this subsection, any notice to treat deemed to have been served in consequence thereof shall be deemed to have been withdrawn.

- (2) A person shall not be entitled by virtue of subsection (1) of this section to withdraw a notice after the appropriate authority have exercised a right of entering and taking possession of land in pursuance of a notice to treat deemed to have been served in consequence of that notice.
- (3) No compensation shall be payable in respect of the withdrawal of a notice to treat which is deemed to have been withdrawn by virtue of subsection (1) of this section.

188 Effect on powers of compulsory acquisition of counternotice disclaiming intention to acquire

- (1) The provisions of subsection (2) of this section shall have effect where the grounds of objection specified in a counter-notice served under section 183 of this Act consist of or include the grounds mentioned in paragraph (b) or (d) of subsection (2) of that section, and either—
 - (a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal, or
 - (b) the time for referring that objection to the Lands Tribunal expires without its having been so referred.
- (2) If a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes the whole or part of the hereditament or agricultural unit to which the counter-notice relates, or if the land in question falls within section 181(1)(d) of this Act, any power conferred by that order, or by the special enactment, as the case may be, for the compulsory acquisition of the interest of the claimant in the hereditament or agricultural unit or any part thereof shall cease to have effect.
- (3) The provisions of subsection (4) of this section shall have effect where the grounds of objection specified in a counter-notice under section 183 of this Act consist of or include the grounds mentioned in paragraph (c) of subsection (2) of that section, and either—
 - (a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal; or
 - (b) the time for referring that objection to the Lands Tribunal expires without its having been so referred;

and in subsection (4) of this section any reference to " the part of the hereditament or affected area not required " is a reference to the whole of that hereditament or area except the part specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in the counter-notice.

- (4) If a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes any of the part of the hereditament or affected area not required, or if the land in question falls within section 181(1)(to) of this Act, any power conferred by that order, or by the special enactment, as the case may be, for the compulsory acquisition of the interest of the claimant in any land comprised in the part of the hereditament or affected area not required shall cease to have effect.

189 Death of claimant after service of blight notice

- (1) In relation to any time after the death of a person who has served a blight notice, the provisions mentioned in subsection (2) of this section shall apply as if any reference therein 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) The said provisions are sections 183(1), 184(1) and 185(3) of this Act.

190 Power of heritable creditor to serve blight notice

- (1) Where the whole or part of a hereditament or agricultural unit is comprised in land falling within any of the specified descriptions 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; and
 - (b) since the relevant date (within the meaning of section 182 of this Act) he has made reasonable endeavours to sell that interest; and
 - (c) he has been unable to sell it 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 comprised in land of any of the said descriptions,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, these provisions.
- (2) Subsection (1) of this section 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 entirety of a hereditament or agricultural unit:

Provided that this subsection shall not enable a person—

 - (a) if his interest as heritable creditor is in the entirety 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 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 entirety of that part
- (3) Notice under this section shall not be served unless one or other of the following conditions is satisfied with regard to the interest which the heritable creditor claims he has the power to sell—
 - (a) the interest could be the subject of a notice under section 182 of this Act served by the person entitled thereto on the date of service of the notice under this section ; or
 - (b) the interest could have been the subject of such a notice served by that person on a date not more than six months before the date of service of the notice under this section.
- (4) No notice under this section shall be served in respect of a hereditament or agricultural unit, or any part of a hereditament or agricultural unit, at a time when a notice already served under section 182 of this Act is outstanding with respect to the hereditament, unit or part; and no notice shall be so served under that section at a time when a notice already served under this section is so outstanding.

- (5) For the purposes of subsection (4) of this section, a notice served under this section or section 182 of this Act shall be treated as outstanding with respect to a hereditament or agricultural unit, or to part of a hereditament or agricultural unit, until—
- (a) it is withdrawn in relation to the hereditament, unit or part; or
 - (b) an objection to the notice having been made by a counter-notice under section 183 of this Act, either—
 - (i) the period of two months specified in section 184 of this Act elapses without the claimant having required the objection to be referred to the Lands Tribunal under that section ; or
 - (ii) the objection, having been so referred to the Lands Tribunal, is upheld by the Tribunal with respect to the hereditament, unit or part.
- (6) The grounds on which objection may be made in a counter-notice under section 183 of this Act to a notice under this section are those specified in paragraphs (a) to (c) of subsection (2) 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)(d) of this section ;
 - (c) that the conditions specified in subsection (1)(b) and (c) of this section are not fulfilled ;
 - (d) that (for reasons specified in the counter-notice) neither of the conditions specified in subsection (3) of this section was, on the date of service of the notice under this section, satisfied with regard to the interest referred to in that subsection.

191 Saving for claimant's right to sell whole hereditament, etc.

- (1) The provisions of sections 183(2)(c), 184(5), 185(3) and 188(3) and (4) of this Act relating to hereditaments shall not affect the right of a claimant under section 90 of the Lands Clauses Consolidation (Scotland) 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.
- (2) The said provisions shall not affect the right of a claimant under paragraph 4 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to sell (unless the Lands Tribunal otherwise determines) 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; and accordingly in determining whether or not to uphold an objection relating to a hereditament on the grounds mentioned in section 183(2)(c) of this Act the Tribunal shall consider (in addition to the other matters which they are required to consider) whether—
- (a) in the case of a house, building or manufactory, the part proposed to be acquired can be taken without material detriment to the house, building or manufactory ; or
 - (b) in the case of a park or garden belonging to a house, the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house.

192 Meaning of " owner-occupier" and " resident owneroccupier "

- (1) Subject to the following provisions of this section, in these provisions " owner-occupier ", in relation to a hereditament, means a person who—
 - (a) occupies the whole or a substantial part of the hereditament in right of an owner's interest therein, and has so occupied the hereditament or that part thereof during the whole of the period of six months ending with the date of service ; or
 - (b) occupied, in right of an owner's interest, the whole or a substantial part of the hereditament during the whole of a period of six months ending not more than twelve months before the date of service, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.
- (2) Subject to the following provisions of this section, in these provisions " 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 twelve months before the date of service,
 and, at all times material for the purposes of paragraph (a) or paragraph (b) of this subsection, as the case may be, has been entitled to an owner's interest in the whole or part of that unit.
- (3) In these provisions " resident owner-occupier ", in relation to a hereditament, means an individual who—
 - (a) occupies the whole or a substantial part of the hereditament as a private dwelling in right of an owner's interest therein, and has so occupied the hereditament or that part thereof, as the case may be, during the whole of the period of six months ending with the date of service ; or
 - (b) occupied, in right of an owner's interest, the whole or a substantial part of the hereditament as a private dwelling during the whole of a period of six months ending not more than twelve months before the date of service, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.
- (4) In this section " owner's interest", in relation to a hereditament or agricultural unit, or part thereof, includes the interest of the lessee under a lease thereof, being a lease the unexpired period of which on the date of service is not less than three years; and " date of service ", in relation to a hereditament or agricultural unit, means the date of service of a notice in respect thereof under section 182 of this Act.

193 Special provisions as to partnerships

- (1) The provisions of this section shall have effect for the purposes of the application of these provisions 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 192(1) and (2) of this Act 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, upon 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 section or elsewhere in these provisions shall be construed as indicating an intention to exclude the operation of section 19 of the Interpretation Act 1889 (whereby, unless the contrary intention appears, " person" includes any body of persons corporate or unincorporate) in relation to any of these provisions.
- (5) Subsection (2) of this section shall not affect the definition of " resident owner-occupier " in section 192(3) of this Act.

194 " Appropriate authority " for purposes of these provisions

- (1) Subject to the following provisions of this section, in these provisions " the appropriate authority ", in relation to any land, means the government department, local authority or other body by whom, in accordance with the circumstances by virtue of which the land falls within any of the specified descriptions, the land is liable to be acquired or is indicated as being proposed to be acquired.
- (2) If any question arises—
 - (a) whether the appropriate authority in relation to any land for the purpose of these provisions 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 these provisions—
 - (a) section 183(1) of this Act shall have effect as if the reference to the date of service of the blight notice were a reference to that date or the date on which that question is determined, whichever is the later;
 - (b) section 190(3)(b) of this Act 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 192(1)(b), (2)(b) and (3)(b) of this Act shall apply with the substitution for the reference to twelve 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.

195 " Appropriate enactment " for purposes of these provisions

- (1) Subject to the following provisions of this section, in these provisions " the appropriate enactment", in relation to land falling within any of the specified descriptions, means the enactment which provides for the compulsory acquisition of land as being land falling within that description.

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

- (2) In relation to land falling within the description contained in section 181(1)(6) of this Act an enactment shall, for the purposes of subsection (1) of this section be taken to be an enactment which provides for the compulsory acquisition of land as being land falling within that description 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 or other body for the purposes of whose functions the land is allocated or is defined as the site of proposed development.
- (3) Where, in accordance with the circumstances by virtue of which any land falls within any of the specified descriptions, 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) of this section, be taken to be an enactment providing for the compulsory acquisition of that land as being land falling within the description in question.
- (4) In subsection (3) of this section 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, that is to say—
- (a) the coming into operation of any requisite order under the Trunk Roads Act 1946 ;
 - (b) the coming into operation of any requisite scheme or order under the Special Roads Act 1949;
 - (c) the making or approval of any requisite plans.
- (5) If, apart from this subsection, two or more enactments would be the appropriate enactment in relation to any land for the purposes of these provisions, 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 these provisions) the land would have been acquired by the appropriate authority.
- (6) If any question arises as to which enactment is the appropriate enactment in relation to any land for the purposes of these provisions, that question shall be referred—
- (a) where the appropriate authority are a government department, to the Minister or Board in charge of that department;
 - (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, Secretary of State or Board to whom a question is referred under this subsection shall be final.

196 General interpretation of these provisions

- (1) Subject to the following provisions of this section, in these provisions the following expressions have the meanings hereby assigned to them respectively, that is to say:—

" 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 of the specified descriptions;

" 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 ", in relation to a hereditament, means the value which, on the date of service, is shown in the valuation roll as the rateable value of that hereditament, except that, where the rateable value differs from the net annual value, it means the value which on that date is shown in the valuation roll as the net annual value thereof;

" the claimant " has the meaning assigned to it by section 182(4) of this Act;

" hereditament " means the aggregate of the lands and heritages (not being agricultural lands and heritages within the meaning of section 7 of the Valuation and Rating (Scotland) Act 1956) which form the subject of a single entry in the valuation roll for the time being in force for a valuation area ;

" special enactment " means a local enactment, or a provision contained in an Act other than a local or private Act, being a local enactment or provision authorising the compulsory acquisition of land specifically identified therein ; 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;

" these provisions ", " the specified descriptions " and " blight notice " have the meanings assigned to them respectively by section 181(6) of this Act.

(2) Where any land is on the boundary between two or more valuation areas, and accordingly—

- (a) different parts of that land form the subject of single entries in the valuation rolls for the time being in force for those areas respectively; but
- (b) if the whole of that land had been in one of those areas, it would have formed the subject of a single entry in the valuation roll for that area,

the whole of that land shall be treated, for the purposes of the definition of " hereditament " in subsection (1) of this section, as if it formed the subject of a single entry in the valuation roll for a valuation area.

(3) Land which forms the subject of an entry in the valuation roll by reason only that it is land over which any shooting, fishing or other sporting rights are exercisable, or that it is land over which a right of exhibiting advertisements is let out or reserved, shall not be taken to be a hereditament within the said definition.

(4) Where, in accordance with subsection (2) of this section, land whereof different parts form the subject of single entries in the valuation rolls for the time being in force for two or more valuation areas is treated as if it formed the subject of a single entry in the valuation roll for a valuation area, the definition of " annual value " in subsection (1) of this section shall apply as if any reference therein to a value shown in the valuation roll were a reference to the aggregate of the values shown (as rateable values or as net annual values, as the case may be) in those valuation rolls in relation to the different parts of that land.

(5) In this section " date of service " has the same meaning as in section 192 of this Act.