



Town and Country Planning (Scotland) Act 1972

1972 CHAPTER 52

PART IX

PROVISIONS ENABLING OWNER OR LESSEE TO REQUIRE PURCHASE OF HIS INTEREST

Interests affected by planning decisions or orders

169 Purchase notice on refusal or conditional grant of planning permission

(1) Where, on an application for planning permission to develop any land, permission is refused or is granted subject to conditions, then if any owner or lessee of the land claims—

- (a) that the land has become incapable of reasonably beneficial use in its existing state; and
- (b) in a case where planning permission was granted subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions; and
- (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the local planning authority or the Secretary of State has undertaken to grant planning permission,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with the following provisions of this Part of this Act.

(2) Where, for the purpose of determining whether the conditions specified in subsection (1)(a) to (c) of this section are fulfilled in relation to any land, any question arises as to what is or would in any particular circumstances be a reasonably beneficial use of that land, then, in determining that question for that purpose, no account shall be taken of any prospective use of that land which would involve the carrying out of

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new development or which would contravene the condition set out in Schedule 16 to this Act.

- (3) In the application of Schedule 6 to this Act for the purposes of any determination under subsection (2) of this section-
 - (a) paragraph 3 of that Schedule shall be construed as not extending to works involving any increase in the cubic content of a building erected after the appointed day (including any building resulting from the carrying out of such works as are described in paragraph 1 of that Schedule); and
 - (b) paragraph 8 of that Schedule shall not apply to any such building.
- (4) For the purposes of this section the conditions referred to in sections 38 and 39 of this Act shall be disregarded, and no account shall be taken of any condition to which section 69 or 80 of this Act applies.
- (5) A person on whom there has been served a repairs notice under section 105 of this Act shall not in any case be entitled to serve a purchase notice under this section in respect of the building in question until the expiration of three months beginning with the date of the service of the repairs notice; and if during that period the local planning authority or the Secretary of State start the compulsory acquisition of the building in the exercise of their powers under section 104 of this Act, that person shall not be so entitled unless and until the compulsory acquisition is discontinued.
- (6) For the purposes of subsection (5) of this section a compulsory acquisition—
 - (a) is started when the local planning authority or the Secretary of State, as the case may be, serve the notice required by paragraph 3(b) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947; and
 - (b) is discontinued, in the case of acquisition by a local planning authority, when they withdraw the compulsory purchase order or the Secretary of State decides not to confirm it and, in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order.
- (7) A notice under this section, or under any other provision of this Part of this Act to which this subsection is applied, is in this Act referred to as a "purchase notice".

170 Action by local planning authority on whom purchase notice is served

- (1) The local planning authority on whom a purchase notice is served under section 169 of this Act shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner or lessee by whom the purchase notice was served a notice stating either—
 - (a) that the local planning authority are willing to comply with the purchase notice; or
 - (b) that another local authority or statutory undertakers specified in the notice under this subsection have agreed to comply with it in their place; or
 - (c) that, for reasons specified in the notice under this subsection, the local planning authority are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place, and that they have transmitted a copy of the purchase notice to the Secretary of State, on a date specified in the notice under this subsection, together with a statement of the reasons so specified.

- (2) Where the local planning authority on whom a purchase notice is served by an owner or lessee have served on him a notice in accordance with subsection (1)(a) or (b) of this section, the local planning authority, or the other local authority or statutory undertakers specified in the notice, as the case may be, 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 thereof on the date of service of the notice under that subsection.
- (3) Where the local planning authority on whom a purchase notice is served by an owner or lessee propose to serve on him a notice in accordance with subsection (1)(c) of this section, they shall transmit a copy of the purchase notice to the Secretary of State, together with a statement of their reasons.
- (4) Where the local planning authority on whom a purchase notice is served by an owner or lessee do not, within the period specified in subsection (1) of this section, serve on him a notice under that subsection, the purchase notice shall be deemed to be confirmed at the expiration of that period, and the authority 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 thereof at the expiration of the said period.
- (5) In this section " the relevant provisions" means the provisions of Part VI of this Act or, in the case of statutory undertakers, any statutory provision (however expressed) under which they have power, or may be authorised, to purchase land compulsorily for the purposes of their undertaking.

171 Procedure on reference of purchase notice to Secretary of State

- (1) Where a copy of a purchase notice is transmitted to the Secretary of State under section 170(3) of this Act, the Secretary of State shall consider whether to confirm the notice or to take other action under section 172 of this Act in respect thereof.
- (2) Before confirming a purchase notice or taking any other action under section 172 of this Act in respect thereof, the Secretary of State shall give notice of his proposed action—
 - (a) to the person by whom the purchase notice was served ;
 - (b) to the local planning authority on whom the purchase notice was served ; and
 - (c) if the Secretary of State proposes to substitute any other local authority or statutory undertakers for the local planning authority on whom the purchase notice was served, to that other local authority or those statutory undertakers.
- (3) If, within such period as may be specified in a notice under subsection (2) of this section, being a period of not less than twenty-eight days from the service of that notice, any of the persons, authorities or statutory undertakers on whom that notice is served so requires, the Secretary of State, before confirming the purchase notice or taking any other action under section 172 of this Act in respect thereof, shall afford to those persons, authorities and undertakers an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (4) Where the Secretary of State has given notice under subsection (2) of this section of his proposed action, and any of the persons, authorities and statutory undertakers concerned have appeared before and been heard by a person appointed by the Secretary of State for the purpose, or the persons, authorities and undertakers concerned have

agreed to dispense with such a hearing, and it then appears to the Secretary of State to be expedient to take action under section 172 of this Act otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.

172 Action by Secretary of State in relation to purchase notice

- (1) Subject to the following provisions of this section and to section 173 of this Act, if the Secretary of State is satisfied that the conditions specified in section 169(1)(a) to (c) of this Act are fulfilled in relation to a purchase notice, he shall confirm the notice.
- (2) If it appears to the Secretary of State to be expedient to do so, he may, in lieu of confirming the purchase notice, grant planning permission for the development in respect of which the application was made, or, where planning permission for that development was granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of that development.
- (3) If it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other development for which planning permission ought to be granted, he may, in lieu of confirming the purchase notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that planning permission for that development shall be granted in the event of an application being made in that behalf.
- (4) If it appears to the Secretary of State to be expedient that another local authority or statutory undertakers should acquire the interest of the owner or lessee for the purpose of any of their functions, he may, if he confirms the notice, modify it, either in relation to the whole or in relation to any part of the land to which it relates, by substituting that other authority or, as the case may be, those statutory undertakers for the local planning authority on whom the notice was served.
- (5) In section 171 of this Act, any reference to the taking of action by the Secretary of State under this section is a reference to the taking by him of any such action as is mentioned in subsections (1) to (4) of this section, or to the taking by him of a decision not to confirm the purchase notice either on the grounds that any of the conditions referred to in subsection (1) of this section are not fulfilled or by virtue of section 173 of this Act.

173 Power to refuse to confirm purchase notice where land has restricted use by virtue of previous planning permission

- (1) This section shall have effect where, on an application for planning permission to develop any land which has a restricted use by virtue of a previous planning permission, permission is refused or granted subject to conditions and an owner of the land serves a purchase notice under section 169 of this Act.
- (2) For the purposes of this section, land is to be treated as having a restricted use by virtue of a previous planning permission if it is part of a larger area in respect of which planning permission was previously granted (and has not been revoked) and either—
 - (a) it remains a condition of the planning permission (however expressed) that that part shall remain undeveloped or be preserved or laid out in a particular way as amenity land in relation to the remainder; or
 - (b) the planning permission was granted on an application which contemplated (expressly or by necessary implication) that the part should not be comprised

in the development for which planning permission was sought, or should be preserved or laid out as aforesaid.

- (3) If a copy of the purchase notice is transmitted to the Secretary of State under section 170(3) of this Act the Secretary of State, although satisfied that the land has become incapable of reasonably beneficial use in its existing state, shall nevertheless not be required under section 172(1) of this Act to confirm the notice if it appears to him that the land ought, in accordance with the previous planning permission, to remain undeveloped or, as the case may be, remain or be preserved or laid out as amenity land in relation to the remainder of the large area for which that planning permission was granted.

174 Power to refuse to confirm purchase notice in respect of office premises

- (1) This section applies to any purchase notice served on or after 5th August 1965 (whether before or after the passing of this Act) in respect of land which, at the date of service of the notice, is within a controlled area as defined in section 79(2) of this Act where the purpose for which that land, or part of it, or was used at the date of service of the notice, or was last used before that date, is or was that of a building containing office premises.

- (2) In relation to a purchase notice to which this section applies, the provisions of this Act shall have effect as if, after subsection (4) of section 172 of this Act, there were inserted the following subsection—

“(4A) Where the purchase notice is one to which section 174 of this Act applies, the Secretary of State may, if he thinks fit, determine not to confirm the notice without taking any such action as is mentioned in subsections (2) to (4) of this section”.

and as if, in subsection (5) of that section, after the words " by virtue of" there were inserted the words " subsection (4A) of this section or ".

- (3) Where in pursuance of subsection (4A) of the said section 172 (as modified by subsection (2) of this section) the Secretary of State has determined not to confirm a purchase notice to which this section applies, and on a subsequent date the land to which that notice related ceases to be within an area to which section 72 of this Act applies—

- (a) a further purchase notice may be served on or after that date in respect of the planning decision to which the previous notice related; and
- (b) for the purposes of any regulations made under this Act as to the time within which a purchase notice may be served, the service of such a further purchase notice shall not be treated as out of time if it is served within the period which would be applicable in accordance with those regulations if the planning decision referred to in the preceding paragraph had been made on that subsequent date.

- (4) In determining, for the purposes of subsection (1)(b) of this section, for what purpose any land is used, or was last used, as the case may be, no account shall be taken—

- (a) of any use in accordance with planning permission granted for a limited period; or
- (b) of any use in respect of which, before the date of service of the purchase notice, an enforcement notice had been served and had become effective; or
- (c) of any use of land at a time when it is or was not covered by a building.

- (5) For the purposes of this section " office premises " has the meaning assigned by section 71(4) of this Act and this section shall have effect as if it were included in sections 71 to 83 of this Act.
- (6) Notwithstanding subsection (5) of this section, subsection (3) of this section shall not cease to have effect at the end of the period mentioned in section 83 of this Act; and in relation to any land which, immediately before the end of that period, is land within an area to which section 72 of this Act applies, any reference in that subsection to the date on which the land ceases to be within such an area shall be construed as a reference to the end of that period.

175 Effect of Secretary of State's action in relation to purchase notice

- (1) Where the Secretary of State confirms a purchase notice, the local planning authority on whom the purchase notice was served (or, if under section 172(4) of this Act the Secretary of State modified the purchase notice by substituting another local authority or statutory undertakers for that local planning authority, that other local authority or those statutory 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 thereof 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 confirmed the purchase notice nor taken any such action in respect thereof as is mentioned in section 172(2) or (3) of this Act, and has not notified the owner or lessee, as the case may be by whom the notice was served that he does not propose to confirm the notice, 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 to acquire the interest of the owner or lessee compulsorily in accordance with the relevant provisions and to have served notice to treat in respect thereof at the end of that period.
- (3) For the purposes of subsection (2) of this section the relevant period is the period of six months beginning with the date on which a copy of the purchase notice was transmitted to the Secretary of State.
- (4) Where 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 (including any decision not to confirm the notice in respect of part of the land to which it relates, and including any decision to grant any permission, or give any direction, in lieu of confirming the notice, either wholly or in part) and that decision of the Secretary of State is quashed under the provisions of Part XII of this Act, the purchase notice shall be treated as cancelled, but the owner or lessee may serve a further purchase notice in its place.
- (5) For the purposes of any regulations made under this Act as to the time within which a purchase notice may be served, the service of a purchase notice under subsection (4) of this section shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with those regulations if the planning decision, in consequence of which the notice is served, had been made on the date on which the decision of the Secretary of State was quashed as mentioned in subsection (4) of this section.
- (6) In this section "the relevant provisions" has the same meaning as in section 170 of this Act.

176 Special provisions as to compensation where purchase notice served

- (1) Where by virtue of section 153 of this Act compensation is payable in respect of expenditure incurred in carrying out any work on land, then, if a purchase notice is served in respect of an interest in that land, any compensation payable in respect of the acquisition of that interest in pursuance of the purchase notice shall be reduced by an amount equal to the value of the works in respect of which compensation is payable by virtue of that section.
- (2) Where a purchase notice served in respect of an interest in land does not take effect, or does not take effect in relation to a part of the land, by reason that the Secretary of State gives a direction under section 172(3) of this Act, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act it is shown that the permitted development value of that interest (or, as the case may be, of that interest so far as it relates to that part of the land) is less than its existing use value, the local planning authority shall pay to the person entitled to that interest compensation of an amount which (subject to the following provisions of this section) shall be equal to the difference.
- (3) If the planning permission which, by the direction referred to in subsection (2) of this section, is required to be granted would be granted subject to conditions for regulating the design or external appearance of buildings, or the size or height of buildings, or for regulating the number of buildings to be erected on the land, the Secretary of State, if it appears to him to be reasonable to do so having regard to the local circumstances, may direct that those conditions shall be disregarded, either altogether or to such extent as may be specified in the direction, in assessing any compensation payable under subsection (2) of this section.
- (4) Sections 167 and 168 of this Act shall have effect in relation to compensation under subsection (2) of this section as they have effect in relation to compensation to which those sections apply.
- (5) In this section permitted development value ", in relation to an interest in land in respect of which a direction is given under section 172(3) of this Act, means the value of that interest calculated with regard to that direction, but on the assumption that no planning permission would be granted otherwise than in accordance with that direction, and "existing use value", in relation to such an interest, means the value of that interest as (for the purpose of ascertaining the compensation payable on an acquisition thereof in pursuance of the purchase notice) that value would have been assessed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919, as modified by the provisions of sections 48 to 51 of the Act of 1947, if no enactment repealing, modifying or superseding any of those provisions had been passed after the passing of the Act of 1947.

177 Purchase notice in respect of order revoking or modifying planning permission

- (1) Where by an order under section 42 of this Act planning permission in respect of any land is revoked, or is modified by the imposition of conditions, then if any owner or lessee of the land claims—
 - (a) that the land has become incapable of reasonably beneficial use in its existing state; and
 - (b) in a case where the planning permission was modified by the imposition of conditions, that the land cannot be rendered capable of reasonably beneficial

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use by the carrying out of the permitted development in accordance with those conditions; and

- (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the local planning authority or the Secretary of State has undertaken to grant planning permission,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with the preceding provisions of this Part of this Act.

- (2) Section 169(7) of this Act shall apply to this section; and, subject to subsection (3) of this section, sections 169(2), 170 to 173, 175 and 176 of this Act shall apply to a notice served by virtue of subsection (1) of this section as they apply to a notice served by virtue of section 169(1) of this Act.

- (3) In the application of subsection (2) of section 169 of this Act to a purchase notice served by virtue of subsection (1) of this section, that subsection shall apply as if the words “ or which would contravene the condition set out in Schedule 16 to this Act ” were omitted; and in the application of section 172 of this Act, to a purchase notice served as aforesaid, that section shall apply as if the following subsection were substituted for subsection (2) thereof—

“(2) If it appears to the Secretary of State to be expedient to do so, he may, in lieu of confirming the purchase notice, cancel the order revoking the planning permission, or, where the order modified the permission by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the development in respect of which the permission was granted”.

178 Purchase notice in respect of order requiring discontinuance of use or alteration or removal of buildings or works.

- (1) If any person entitled to an interest in land in respect of which an order is made under section 49 of this Act claims—

- (a) that by reason of the order the land is incapable of reasonably beneficial use in its existing state, and
- (b) that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for which planning permission has been granted, whether by that order or otherwise,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with the preceding provisions of this Part of this Act.

- (2) Section 169(7) of this Act shall apply to this section; and, subject to subsection (3) of this section, sections 169(2), 170 to 173, 175 and 176 of this Act shall apply to a notice served by virtue of subsection (1) of this section as they apply to a notice served by virtue of section 169(1) of this Act.

- (3) In the application of subsection (2) of section 169 of this Act to a purchase notice served by virtue of subsection (1) of this section, that subsection shall apply as if

the words “ or which would contravene the condition set out in Schedule 16 to this Act ” were omitted; and in the application of section 172 of this Act to a purchase notice served as aforesaid, that section shall have effect subject to the following modifications, that is to say—

- (a) in subsection (1), for the reference to the conditions therein mentioned, there shall be substituted a reference to the conditions specified in subsection (1) (a) and (b) of this section; and
- (b) the following subsection shall be substituted for subsection (2)—

“(2) If it appears to the Secretary of State to be expedient to do so, he may, in lieu of confirming the purchase notice, revoke the order under section 49 of this Act, or, as the case may be, amend that order so far as appears to him to be required in order to prevent the land from being rendered incapable of reasonably beneficial use by the order”.

- (4) Where a purchase notice in respect of an interest in land is served in consequence of such an order as is mentioned in subsection (1) of this section, then if—
 - (a) that interest is acquired in accordance with the preceding provisions of this Part of this Act; or
 - (b) compensation is payable in respect of that interest under section 176(2) of this Act,

no compensation shall be payable in respect of that order under section 159 of this Act.

- (5) Except as provided by this section, no purchase notice shall be served in respect of an interest in land while the land is incapable of reasonably beneficial use by reason only of such an order as is mentioned in subsection (1) of this section.

179 Purchase notice on refusal or conditional grant of listed building consent

- (1) Where, on an application for listed building consent in respect of a building, consent is refused or is granted subject to conditions or, by an order under Part II of Schedule 10 to this Act, listed building consent is revoked or modified, then if any owner or lessee of the land claims—
 - (a) that the land has become incapable of reasonably beneficial use in its existing state; and
 - (b) in a case where consent was granted subject to conditions with respect to the execution of the works or, as the case may be, was modified by the imposition of such conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the works in accordance with those conditions; and
 - (c) in any case that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other works for which listed building consent has been granted or for which the local planning authority or the Secretary of State has undertaken to grant such consent,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with Schedule 17 to this Act.

- (2) Where, for the purpose of determining whether the conditions specified in subsection (1)(a) to (c) of this section are satisfied in relation to the land, any question arises as to what is or would in any particular circumstances be a reasonably beneficial

use of that land, then in determining that question for that purpose, no account shall be taken of any prospective use of that land which would involve the carrying out of new development or of any works requiring listed building consent which might be executed to the building, other than works for which the local planning authority or the Secretary of State have undertaken to grant such consent.

- (3) In this section and in Schedule 17 to this Act, " the land " means the building in respect of which listed building consent has been refused, or granted subject to conditions, or modified by the imposition of conditions, and in respect of which its owner or lessee serves a notice under this section, together with any land comprising the building, or contiguous or adjacent to it, and owned or occupied with it, being land as to which the owner or lessee claims that its use is substantially inseparable from that of the building and that it ought to be treated, together with the building, as a single holding.
- (4) Subsections (5) and (6) of section 169 of this Act shall apply to a listed building purchase notice as they apply to a purchase notice under that section.
- (5) A notice under this section is in this Act referred to as a " listed building purchase notice ".

180 Purchase notices in other cases

- (1) Sections 169 to 172, 175 and 176 of this Act are provisions falling within subsection (2) of section 58 of this Act; and subsection (1) of the said section 58 and subsection (2) of section 61 of this Act, shall have effect accordingly.
- (2) Where, in the case of an application for planning permission, a notice under section 70(1) of this Act is served in respect of the whole or part of the land to which the application relates, the provisions of sections 169 to 172, 175 and 176 of this Act shall have effect as if the application had been an effective application for planning permission, and as if that permission had been refused in respect of that land or that part thereof, as the case may be.

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 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,

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

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.

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

- (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.
- (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 tile 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.

Supplementary provisions

197 No withdrawal of constructive notice to treat

Without prejudice to the provisions of section 187(1) of this Act, the power conferred by section 39 of the Land Compensation (Scotland) Act 1963 to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of any of the provisions of this Part of this Act.