



# 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

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".