



# Land Compensation (Scotland) Act 1973

## 1973 CHAPTER 56

### PART V

#### PLANNING BLIGHT

##### *Extension of classes of blighted land*

#### **64 Land affected by proposed structure and local plans etc.**

- (1) In paragraph (a) of section 181(1) of the Act of 1972 (land indicated in a structure plan in force as land which may be required for the purposes of functions of public authorities or as land which may be included in an action area) the reference to a structure plan in force shall include a reference to—
  - (a) a structure plan which has been submitted to the Secretary of State under section 5 of that Act;
  - (b) proposals for alterations to a structure plan which have been submitted to the Secretary of State under section 8 of that Act;
  - (c) modifications proposed to be made by the Secretary of State in any such plan or proposals as are mentioned in the preceding paragraphs, being modifications of which he has given notice in accordance with regulations under Part II of that Act.
- (2) In paragraph (b) of the said section 181(1) (land allocated for die purposes of functions of public authorities by a local plan in force and land defined in such a plan as the site of proposed development for the purposes of any such functions) the reference to a local plan in force shall include a reference to—
  - (a) a local plan of which copies have been made available for inspection under section 10(2) of the Act of 1972 ;
  - (b) proposals for alterations to a local plan of which copies have been made available for inspection under section 13(2) of that Act;
  - (c) modifications proposed to be made by the local planning authority or the Secretary of State in any such plan or proposals as are mentioned in the preceding paragraphs, being modifications of which notice has been given by

the authority or the Secretary of State in accordance with regulations under Part II of that Act.

- (3) In section 38(1)(b) of the Town and Country Planning (Scotland) Act 1959 as it has effect by virtue of paragraph 49 of Schedule 22 to the Act of 1972 (provisions corresponding to section 181(1)(6) of the Act of 1972 pending coming into force of local plans) the reference to a development plan shall include a reference to—
- (a) proposals for alterations to a development plan submitted to the Secretary of State under paragraph 3 of Schedule 3 to the Act of 1972;
  - (b) modifications proposed to be made by the Secretary of State in any such proposals, being modifications of which notice has been given by the Secretary of State by advertisement.
- (4) No blight notice shall be served by virtue of subsection (1) or (2) above at any time after the copies of the plan or proposals made available for inspection have been withdrawn under section 6(6) or 10(5) of the Act of 1972 (directions by Secretary of State requiring further publicity).
- (5) No blight notice shall be served by virtue of this section after the relevant plan or alterations have come into force (whether in their original form or with modifications) or the Secretary of State has decided to reject or, in the case of a local plan, the local planning authority have decided to abandon the plan or alterations and notice of the decision has been given by advertisement.
- (6) Where an appropriate authority have served a counter-notice objecting to a blight notice served by virtue of this section, then, if the relevant plan or alterations come into force (whether in their original form or with modifications) the appropriate authority may serve on the claimant, in substitution for the counter-notice already served, a further counter-notice specifying different grounds of objection, and section 184 of the Act of 1972 (reference of objections to Lands Tribunal) shall have effect in relation to the further counter-notice as it has effect in relation to the counter-notice already served:
- Provided that a further counter-notice under this subsection shall not be served—
- (a) at any time after the end of the period of two months beginning with the date on which the relevant plan or alterations come into force; or
  - (b) if the objection in the counter-notice already served has been withdrawn or the Lands Tribunal has already determined whether or not to uphold that objection.
- (7) References in subsections (1) to (3) above to anything done under any of the provisions there mentioned include references to anything done under those provisions as they apply by virtue of section 15 of, or paragraph 4 of Schedule 3 to, the Act of 1972 (default powers of Secretary of State).
- (8) In this section references to alterations to a local plan include references to its replacement, and references to alterations to a development plan include references to additions to it.
- (9) In relation to land falling within section 181(1)(b) of the Act of 1972 or section 38(1)(b) of the Town and Country Planning (Scotland) Act 1959, as extended by this section, "the appropriate enactment" for the purposes of sections 181 to 196 of the Act of 1972 shall be determined in accordance with section 195(2) of the Act of 1972 as if references therein to the development plan were references to any such plan, proposals

or modifications as are mentioned in subsection (2)(a), (b) or (c) and subsection (3) (a) or (b) above.

## **65 Land affected by proposed highway orders**

- (1) In section 181(1)(e) of the Act of 1972 (land on or adjacent to line of road proposed to be constructed etc. as indicated in an order or scheme which has come into operation under the provisions of the Trunk Roads Act 1946 or Special Roads Act 1949)—
  - (a) the reference to such an order or scheme which has come into force as aforesaid shall include a reference to an order or scheme proposed to be made or confirmed under section 1(2) of the Trunk Roads Act 1946, section 1, 3 or 14 of the Special Roads Act 1949 or section 15 of the Roads (Scotland) Act 1970 in respect of which a notice has been published under Schedule 2 to the said Act of 1946 or Schedule 1 to the said Act of 1949; and
  - (b) for the reference to section 13 of the Restriction of Ribbon Development Act 1935 there shall be substituted a reference to sections 29 to 33 of the Roads (Scotland) Act 1970 as read with, in addition to the enactments specified in the said section 181(1)(e), section 15 of the said Act of 1970.
- (2) No blight notice shall be served by virtue of this section at any time after the relevant order or scheme has come into operation (whether in its original form or with modifications) or the Secretary of State has decided not to confirm or make the order or scheme.
- (3) Subsection (6) of section 64 above shall have effect in relation to a blight notice served by virtue of this section as it has effect in relation to a blight notice served by virtue of that section taking references to the relevant plan or alterations as references to the relevant order or scheme.

## **66 Land affected by proposed compulsory purchase orders**

- (1) Section 181(1)(g) and (i) of the Act of 1972 (land in respect of which a compulsory purchase order is in force where a notice to treat has not been served) shall apply also to land in respect of which a compulsory purchase order has been submitted for confirmation to, or been prepared in draft by, a Minister and in respect of which a notice has been published under paragraph 3(1) (a) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 or under any corresponding enactment applicable thereto.
- (2) No blight notice shall be served by virtue of this section at any time after the relevant compulsory purchase order has come into force (whether in its original form or with modifications) or the Minister concerned has decided not to confirm or make the order.
- (3) In relation to land falling within the said section 181(1)(g) or (i) by virtue of this section " the appropriate enactment " for the purposes of sections 181 to 196 of the Act of 1972 shall be the enactment which would provide for the compulsory acquisition of the land or of the rights in or over the land if the relevant compulsory purchase order were confirmed or made.

**67 Land affected by resolution of planning authority or directions of Secretary of State**

- (1) Section 181(1) of the Act of 1972 shall have effect as if the land specified therein included land which—
  - (a) is land indicated in a plan (not being a development plan) approved by a resolution passed by a local planning authority for the purpose of the exercise of their powers under Part III of that Act as land which may be required for the purposes of any functions of a government department, local authority or statutory undertakers; or
  - (b) is land in respect of which a local planning authority have resolved to take action to safeguard it for development for the purposes of any such functions or been directed by the Secretary of State to restrict the grant of planning permission in order to safeguard it for such development.
- (2) Paragraph (a) of the said section 181(1) shall not apply to land within subsection (1) above.
- (3) In relation to land falling within subsection (1) above "the appropriate enactment" for the purposes of sections 181 to 196 of the Act of 1972 shall be determined in accordance with section 195(2) of that Act as if references therein to the development plan were references to the resolution or direction in question.

**68 Land affected by orders relating to new towns**

- (1) Section 181(1) of the Act of 1972 shall have effect as if the land specified therein included land which—
  - (a) is land within an area described as the site of a proposed new town in the draft of an order in respect of which a notice has been published under paragraph 2 of Schedule 1 to the New Towns (Scotland) Act 1968 ; or
  - (b) is land within an area designated as the site of a proposed new town by an order which has come into operation under section 1 of the said Act of 1968.
- (2) No blight notice shall be served by virtue of subsection (1)(a) above at any time after the order there mentioned has come into operation (whether in the form of the draft or with modifications) or the Secretary of State has decided not to make the order.
- (3) Until such time as a development corporation is established for the new town, sections 181 to 196 of the Act of 1972 shall have effect in relation to land within subsection (1) above as if " the appropriate authority " and the " appropriate enactment " were the Secretary of State and subsection (4) below respectively.
- (4) Until such time as aforesaid the Secretary of State shall have power to acquire compulsorily any interest in land in pursuance of a blight notice served by virtue of subsection (1) above; and where he acquires an interest as aforesaid, then—
  - (a) if the land is or becomes land within subsection (1)(b) above, the interest shall be transferred by him to the development corporation established for the new town ; and
  - (b) in any other case, the interest may be disposed of by him in such manner as he thinks fit.
- (5) The Land Compensation (Scotland) Act 1963 shall have effect in relation to the compensation payable in respect of the acquisition of an interest by the Secretary of State under subsection (4) above as if the acquisition were by a development

corporation under the New Towns (Scotland) Act 1968 and as if, in the case of land within subsection (1)(o) above, the land formed part of an area designated as the site of a new town by an order which has come into operation under section 1 of the said Act of 1968.

#### **69 Land affected by housing treatment resolution**

- (1) Section 181(1) of the Act of 1972 shall have effect as if the land specified therein included land which
  - (a) is land within an area declared to be a housing treatment area by a resolution under section 4 of the Housing (Scotland) Act 1969 where the resolution provides that any of the buildings in that area are to be demolished ; or
  - (b) is land surrounded by or adjoining an area declared as aforesaid to be a housing treatment area, whether or not the resolution provides that any of the buildings in that area are to be demolished.
- (2) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of subsection (1) above shall not include those specified in section 183(2)(b) or (c) of the Act of 1972 (no intention to acquire the land).
- (3) In relation to land within subsection (1) above " the appropriate enactment" for the purposes of sections 181 to 196 of the Act of 1972 shall be section 5 of the Housing (Scotland) Act 1969.

#### **70 Land affected by proposed exercise of powers under section 20**

- (1) In section 181(1)(e) of the Act of 1972—
  - (a) the reference to a power of compulsory acquisition conferred by any of the provisions there mentioned shall include a reference to the power of compulsory acquisition conferred by section 20(1) above ;
  - (b) the reference to land required for purposes of construction, improvement or alteration as indicated in an order or scheme there mentioned shall include a reference to land required for the purposes of the said section 20(1).
- (2) Section 181(1) of the Act of 1972 shall have effect as if the land specified therein included land which—
  - (a) is land shown on plans approved by a resolution of a local highway authority as land proposed to be acquired by them for the purposes of the said section 20(1); or
  - (b) is land shown in a written notice given by the Secretary of State to the local planning authority as land proposed to be acquired by him for those purposes in connection with a trunk road or special road which he proposes to provide.

#### **71 Land affected by compulsory purchase orders providing for acquisition of rights in or over land**

- (1) Section 181(1) of the Act of 1972 (which sets out the classes of blighted land) shall apply to land in the case of which there is in force a compulsory purchase order providing for the acquisition of a right in or over that land, and the appropriate authority have power to serve, but have not served, notice to treat in respect of the right; and the provisions of that Act mentioned in subsections (2) to (4) below shall accordingly be amended in accordance with those subsections.

## (2) In section 181—

(a) at the end of subsection (1) there shall be added the following paragraph—

“(f) is land in the case of which there is in force a compulsory purchase order providing for the acquisition of a right in or over that land, and the appropriate authority have power to serve, but have not served, notice to treat in respect of the right.”;

(b) in subsection (6), for the word " (h) " there shall be substituted the word " (i) ".

## (3) In section 183—

(a) after subsection (3) there shall be inserted the following subsection—

“(3A) Where the appropriate enactment confers power to acquire a right in or over land, subsection (2) of this section shall have effect as if—

(a) in paragraph (b), after the word ' acquire' there were inserted the words ' or to acquire any right in or over ';

(b) in paragraph (c), for the words ' do not propose to acquire' there were substituted the words 'propose neither to acquire nor to acquire any right in or over';

(c) in paragraph (d), after the words ' affected area' there were inserted the words ' or to acquire any right in or over any part thereof’”.

(b) in subsection (5), in paragraphs (a) and (b) after the word 'acquire' there shall be inserted the words 'or to acquire any right in or over'

(4) At the end of section 195(1) there shall be added the following words " or, as respects the description contained in paragraph (f) of section 181(1) of this Act, the enactment under which the compulsory purchase order referred to in that paragraph was made. ".

*Attempts to sell blighted property***72 Amended requirements about attempts to sell blighted property**

(1) In sections 182(1)(d) and 190(1)(c) of the Act of 1972 (which require a person serving a blight notice to have been unable to sell his interest except at a price lower than if the land had not been blighted) for the words from " he has been unable to sell" onwards there shall be substituted the words " in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in land of any of the specified descriptions, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land ".

(2) This section does not affect any blight notice served before 23rd May 1973.

*Blight notices by personal representatives***73 Power of personal representative 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—

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

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- (a) he is the personal representative of a person ("the deceased ") who at the date of his death was entitled to an interest in that hereditament or unit; and
- (b) the interest was one which would have qualified for protection under sections 181 to 196 of the Act of 1972 if a notice under section 182 of that Act had been served in respect thereof on that date ; and
- (c) he has made reasonable endeavours to sell that interest; and
- (d) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in land of any of the specified descriptions, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land ; and
- (e) one or more individuals are (to the exclusion of any body corporate) beneficially entitled to that interest,

he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, the said sections 181 to 196.

- (2) Subsection (1) above 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 the deceased was 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 the deceased's interest in part of the hereditament or unit; or
- (b) if the deceased was entitled to an interest only in part of the hereditament or agricultural unit, to make or serve any such claim or notice in respect of the deceased's interest in less than the entirety of that part

- (3) Subject to sections 69(2) above and 75(2) below, the grounds on which objection may be made in a counter-notice under section 183 of the Act of 1972 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 the claimant is not the personal representative of the deceased or that, on the date of the deceased's death, the deceased was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;
- (b) that (for reasons specified in the counter-notice) the interest of the deceased is not such as is specified in subsection (1)(b) above;
- (c) that the conditions specified in subsection (1)(c), (d) or
- (e) above are not fulfilled.

- (4) For the purpose of section 190(4) and (5) of the Act of 1972 (which prevent the service of concurrent blight notices under sections 182 and 190 of that Act) a notice served under this section shall be treated as a notice served under the said section 182.

- (5) In section 139(1)(c) of the Transport Act 1968 (compensation where land acquired for special road service area) the reference to a notice under section 182 of the Act of 1972 shall include a reference to a notice under this section.

*Blight notices in respect of agricultural units*

**74 Blight notice requiring purchase of whole agricultural unit**

- (1) Where a blight notice is served in respect of an interest in the whole or part of an agricultural unit and on the date of service that unit or part contains land (hereafter referred to as " the unaffected area ") which does not fall within any of the specified descriptions as well as land (hereafter referred to as " the affected area ") which does so, the claimant may include in the notice—
  - (a) a claim that the unaffected area is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
  - (b) a requirement that the appropriate authority shall purchase his interest in the whole of the unit or, as the case may be, in the whole of the part of it to which the notice relates.
- (2) Subject to section 75(3) below, " other relevant land " in subsection (1) above means—
  - (a) land comprised in the remainder of the agricultural unit if the blight notice is served only in respect of part of it;
  - (b) land comprised in any other agricultural unit occupied by the claimant on the date of service, being land in respect of which he is then entitled to an owner's interest as defined in section 192(4) of the Act of 1972.

**75 Objection to blight notice requiring purchase of whole agricultural unit**

- (1) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of section 74 above shall include the grounds that the claim made in the notice is not justified.
- (2) Objection shall not be made to a blight notice served by virtue of section 74 above on the grounds mentioned in section 183(2)(c) of the Act of 1972 (part only of affected area proposed to be acquired) unless it is also made on the grounds mentioned in subsection (1) above ; and the Lands Tribunal shall not uphold an objection to any such notice on the grounds mentioned in the said section 183(2)(c) unless it also upholds the objection on the grounds mentioned in subsection (1) above.
- (3) Where objection is made to a blight notice served by virtue of section 74 above on the grounds mentioned in subsection (1) above and also on those mentioned in the said section 183(2)(c), the Lands Tribunal, in determining whether or not to uphold the objection, shall treat that part of the affected area which is not specified in the counter-notice as included in " other relevant land " as defined in section 74(2) above.
- (4) If the Lands Tribunal upholds an objection but only on the grounds mentioned in subsection (1) above, the Tribunal shall declare that the blight notice is a valid notice in relation to the affected area but not in relation to the unaffected area.
- (5) If the Tribunal upholds an objection both on the grounds mentioned in subsection (1) above and on the grounds mentioned in the said section 183(2)(c) (but not on any other grounds) the Tribunal shall declare that the blight notice is a valid notice in relation to the part 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 affected area or in relation to the unaffected area.



- (6) In a case falling within subsection (4) or (5) above, the Tribunal shall give directions specifying a date on which notice to treat (as mentioned in section 76 below and section 185 of the Act of 1972) is to be deemed to have been served.
- (7) Section 184(5) of the Act of 1972 shall not apply to any blight notice served by virtue of section 74 above.

## **76 Effect of blight notice requiring purchase of whole agricultural unit**

- (1) In relation to a blight notice served by virtue of section 74 above, subsection (1) of section 185 of the Act of 1972 shall have effect as if for the words "or (in the case of an agricultural unit) the interest of the claimant in so far as it subsists in the affected area " there were substituted the words " or agricultural unit " and subsection (3) of that section shall not apply to any such blight notice.
- (2) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 75(1) above, 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 withdraws his claim as to the unaffected area ; or
  - (b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 75(4) above,

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 affected area (but not in so far as it subsists in the unaffected area) and to have served a notice to treat in respect thereof on the date mentioned in subsection (3) below.

- (3) The said date—
  - (a) in a case falling within paragraph (a) of subsection (2) above, 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 Tribunal in accordance with section 75(6) above.
- (4) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 75(1) above and also on the grounds mentioned in section 183(2)(c) of the Act of 1972, 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 affected area specified in the counter-notice, and withdraws his claim as to the remainder of that area and as to the unaffected area; or
  - (b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 75(5) above in respect of that part of the 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 affected area specified in the counter-notice (but not in so far as it subsists in any other part of that area or in the unaffected area) and to have served a notice to treat in respect thereof on the date mentioned in subsection (5) below.

- (5) The said date—
  - (a) in a case falling within paragraph (a) of subsection (4) above, 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 Tribunal in accordance with section 75(6) above.
- (6) The compensation payable in respect of the acquisition by virtue of this section of an interest in land comprised in—
  - (a) the unaffected area of an agricultural unit; or
  - (b) if the appropriate authority have served a counter-notice objecting to the blight notice on the grounds mentioned in the said section 183(2)(c), so much of the affected area of the unit as is not specified in the counter-notice,
 shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) above.
- (7) In relation to a blight notice served by virtue of section 74 above references to " the appropriate authority" and " the appropriate enactment" shall be construed as if the unaffected area of an agricultural unit were part of the affected area.
- (8) The provisions mentioned in section 189(2) of the Act of 1972 (operation of blight provisions where claimant dies after serving blight notice) shall include subsections (2) and (4) above.

### *Supplementary*

#### **77 Supplementary provisions for Part V**

- (1) In this Part of this Act " the Act of 1972 " means the Town and Country Planning (Scotland) Act 1972.
- (2) In section 181(6) of the Act of 1972 (definition of " blight notice ") there shall be added at the end the words " or section 73 of the Land Compensation (Scotland) Act 1973 ".
- (3) In section 183(4) of the Act of 1972 (which requires a counter-notice to state the grounds of objection) after the words " section 190(6) of this Act", there shall be inserted the words " or section 73(3) or 75(1) of the Land Compensation (Scotland) Act 1973 ".
- (4) In sections 181 to 196 of the Act of 1972 references to " these provisions " shall include references to this Part of this Act, and references to " the specified descriptions " shall include references to the descriptions contained in section 181(1)(d), (b), (e), (g) and (f) of that Act as extended by this Part of this Act and to the descriptions contained in sections 67, 68, 69 and 70(2) above.
- (5) The Act of 1972 shall have effect as if this Part of this Act were included in the said sections 181 to 196.