



# Town and Country Planning Act 1959

## 1959 CHAPTER 53

### PART IV

#### OBLIGATION TO PURCHASE INTERESTS OF OWNER-OCCUPIERS AFFECTED BY PLANNING PROPOSALS

#### **39 Notice requiring purchase of owner-occupier's interest**

- (1) The provisions of this Part of this Act shall have effect in relation to land which—
- (a) is land designated by a development plan as subject to compulsory acquisition, or
  - (b) is land allocated by a development plan for the purposes of any functions of a government department, local authority or statutory undertakers, or of the National Coal Board, 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 allocated or defined as mentioned in the last preceding paragraph) as land on which a highway is proposed to be constructed or land to be included in a highway 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 highway proposed to be constructed, improved or altered, as indicated in an order or scheme which has come into operation under the provisions of Part II of the Highways Act, 1959, relating to trunk roads or special roads, being land in relation to which a power of compulsory acquisition conferred by any of the provisions of Part X of that Act 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 highway as proposed to be constructed, improved or altered by that authority.

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*Status: This is the original version (as it was originally enacted).*

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- (2) 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 this Part of this Act, 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, the following provisions of this Part of this Act.

- (3) The last preceding subsection 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 the last preceding subsection 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.
- (4) An interest in the whole or part of a hereditament shall be taken to be an interest qualifying for protection under this Part of this Act if, on the date of service of a notice under this section in respect thereof, either—
- (a) the annual value of the hereditament does not exceed the prescribed limit, 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 this Part of this Act if, on the date of service of a notice under this section in respect thereof, it is the interest of an owner-occupier of the unit.
- (6) In the following provisions of this Part of this Act "the claimant", in relation to a notice served under this section, 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 (2) of this section.
- (7) In the application of this section to Scotland—
- (a) for any reference to the provisions of Part II of the Highways Act, 1959, relating to trunk roads or special roads, there shall be substituted a reference to the provisions of the Trunk Roads Act, 1946, or the Special Roads Act, 1949;
  - (b) for any reference to any of the provisions of Part X of the said Act of 1959, there shall be substituted a reference to section thirteen of the Restriction of Ribbon Development Act, 1935, as read with any of the following enactments,

that is to say section four of the Trunk Roads Act, 1936, section five of the Trunk Roads Act, 1946, and sections nine, ten and fourteen of the Special Roads Act, 1949; and

- (c) for any reference to a highway there shall be substituted a reference to a road.

#### **40 Objection to notice requiring purchase of claimant's interest**

- (1) Where a notice has been served under the last preceding section in respect of a hereditament or 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) The grounds on which objection may be made in a counter-notice to a notice served under the last preceding section 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 this Part of this Act) 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 (in the case of an agricultural unit) the appropriate authority propose in the exercise of relevant powers to acquire a part of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of this Part of this Act) do not propose to acquire any other part of that area in the exercise of any such powers;
  - (d) that, on the date of service of the notice under the last preceding section, the claimant was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;
  - (e) that (for reasons specified in the counter-notice) the interest of the claimant is not an interest qualifying for protection under this Part of this Act ;
  - (f) that the conditions specified in paragraphs (c) and (d) of subsection (2) of the last preceding section are not fulfilled.
- (3) Any counter-notice served under this section in respect of a notice under the last preceding section shall specify the grounds (being one or more of the grounds mentioned in the last preceding subsection) on which the appropriate authority object to the notice.
- (4) 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.

#### **41 Reference of objection to Lands Tribunal**

- (1) Where a counter-notice has been served under the last preceding section, objecting to a notice served under section thirty-nine of this Act, 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 the next following subsection, 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 paragraph (b) or paragraph (c) of subsection (2) of the last preceding section 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 paragraph (c) of subsection (2) of the last preceding section, the Tribunal shall declare that the 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.
- (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 the next following section) is to be deemed to have been served.

#### **42 Effect of valid notice requiring purchase of claimant's interest**

- (1) Where a notice has been served under section thirty-nine of this Act and either—
  - (a) no counter-notice objecting to that notice is served in accordance with the preceding provisions of this Part of this Act, 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 the next following subsection.
- (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 subsection (6) of the last preceding section;
  - (b) in any other case, is the date on which the period of two months beginning with the date of service of the notice under section thirty-nine of this Act comes to an end.
- (3) Where (the notice under section thirty-nine of this Act relates to an agricultural unit, and the appropriate authority have served a counter-notice objecting to that notice on

the grounds mentioned in paragraph (c) of subsection (2) of section forty 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 affected area specified in the counter-notice, and withdraws his claim as to the remainder of that area, or
- (b) on a reference to the Lands Tribunal, the Tribunal makes a declaration in accordance with subsection (5) of the last preceding section 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) and to have served a notice to treat in respect thereof on the date mentioned in the next following subsection.

- (4) The said date—
  - (a) in a case falling within paragraph (a) of the last preceding subsection, is title 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 subsection (6) of the last preceding section.

#### **43 Supplementary provisions relating to Part IV**

- (1) The provisions of the Fifth Schedule to this Act shall have effect for the purposes of this Part of this Act.
- (2) Subject to the provisions of that Schedule, in this Part of this Act "owner-occupier", in relation to a hereditament, means a person who—
  - (a) occupies the whole or 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 part of the hereditament during the whole of a period of six months ending not more than six 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.
- (3) Subject to the provisions of the said Schedule, in this Part of this Act "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 six 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.
- (4) In this Part of this Act "resident owner-occupier", in relation to a hereditament, means an individual who—
  - (a) occupies the whole or part of the hereditament as a private dwelling in right of an owner's interest therein, and has so occupied the hereditament or that

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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 part of the hereditament as a private dwelling during the whole of a period of six months ending not more than six 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.

- (5) Subject to the provisions of the said Schedule, in this Part of this Act 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 dwelling-house 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 list 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 list as the net annual value thereof;

" 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;

" 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;

" hereditament " means the aggregate of the land which forms the subject of a single entry in the valuation list for the time being in force for a rating area;

" the prescribed limit " means such amount as may be prescribed for the purposes of paragraph (a) of subsection (4) of section thirty-nine of this Act by an order made by the Minister ;

" the relevant date "—

- (a) in relation to land designated, allocated defined or indicated as mentioned in any of paragraphs (a) to (c) of subsection (1) of section thirty-nine 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 designated, allocated, defined or indicated came into operation;
- (b) in relation to any such land as is mentioned in 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; " the specified descriptions " means the descriptions contained in paragraphs (a) to (f) of subsection (1) of section thirty-nine of this Act.
- (6) Any reference in this Part of this Act to a development plan is a reference to such a plan in the form in which (whether as originally made or approved by the Minister or as subsequently amended) that plan is for the time being in force.
- (7) In this section " date of service ", in relation to a hereditament or agricultural unit, means the date of service of a notice in respect thereof under section thirty-nine of this Act, and " owner's interest", in relation to a hereditament or agricultural unit or part thereof, means a freehold interest therein or a tenancy thereof granted or extended for a term of years certain of which, on the date of service, not less than three years remain unexpired.
- (8) In the application of this section to Scotland, for any reference to a rating area there shall be substituted a reference to a valuation area, and, in relation to a valuation area, for any reference to the valuation list there shall be substituted a reference to the valuation roll; and for the definitions of " hereditament " and " owner's interest" in subsections (5) and (7) respectively there shall be substituted the following definitions, that is to say,—
- “" hereditament " means the aggregate of the lands and heritages (not being agricultural lands and heritages within the meaning of section seven 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 ; and
- " 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.”