



# Town and Country Planning Act 1962

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## PART VIII

PROVISIONS ENABLING OWNER TO REQUIRE PURCHASE OF HIS INTEREST

*Interests of owner-occupiers affected by planning proposals*

### 138 Scope of these provisions

- (1) The provisions of sections one hundred and thirty-nine to one hundred and fifty-one 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

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- (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.
- (2) 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.
- (3) 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 the next following section 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 Minister, 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.
- (4) 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 the next following section in respect thereof, it is the interest of an owner-occupier of the unit.
- (5) In this section and in the said sections one hundred and thirty-nine to one hundred and fifty-one “these provisions” means the provisions of this section and of those sections, and “the specified descriptions ” means the descriptions contained in paragraphs (a) to (f) of subsection (1) of this section.

### **139 Notice requiring purchase of claimant's interest**

- (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) The 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 this section in respect of his interest in part of the hereditament or unit, or

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- (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 designated, allocated, defined or indicated as mentioned in any of paragraphs (a) to (c) of subsection (1) of the last preceding section, 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.
- (4) In these provisions “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 (1) of this section.

#### **140 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 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) 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 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 (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 these provisions) 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 ;

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- (e) that (for reasons specified in the counter-notice) the interest of the claimant is not an interest qualifying for protection under these provisions ;
  - (f) that the conditions specified in paragraphs (c) and (d) of subsection (1) 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.

#### **141 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 one hundred and 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.

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## **142 Effect of valid notice requiring purchase**

(1) Where a notice has been served under section one hundred and thirty-nine of this Act, 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 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 one hundred and thirty-nine of this Act comes to an end.

(3) Where the notice under section one hundred and 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 one hundred and 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 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 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 subsection (6) of the last preceding section.

## **143 Compensation for acquisition in pursuance of notice requiring purchase**

(1) Subject to the next following subsection, the compensation payable in respect of a compulsory acquisition in pursuance of a notice served under these provisions in respect of a hereditament—

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- (a) shall not include any amount attributable to damage sustained by reason that the hereditament is severed from other land held therewith, and
  - (b) shall not include any amount attributable to disturbance.
- (2) Paragraph (a) of the preceding subsection shall not apply to an amount attributable to damage sustained by reason that the hereditament is severed from agricultural land held therewith.
- (3) The compensation payable in respect of a compulsory acquisition in pursuance of a notice served under these provisions in respect of an agricultural unit shall not include any amount attributable to disturbance.

#### **144 Withdrawal of notice requiring purchase**

- (1) Subject to the next following subsection, the person by whom a notice has been served under section one hundred and thirty-nine of this Act 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 the preceding subsection to withdraw a notice after the appropriate authority have exercised a right of entering upon 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.

#### **145 Effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire**

- (1) The provisions of subsections (2) and (3) of this section shall have effect where the grounds of objection specified in a counter-notice served under section one hundred and forty of this Act consist of or include the grounds mentioned in paragraph (b) 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 paragraph (d) of subsection (1) of section one hundred and thirty-eight 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) If the land in question falls within paragraph (a) of subsection (1) of section one hundred and thirty-eight of this Act, then (without prejudice to the effect of any subsequent designation) the development plan shall have effect as if no part of the

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hereditament, or (in the case of an agricultural unit) no part of the affected area, were designated therein as land subject to compulsory acquisition.

- (4) The provisions of subsections (5) and (6) of this section shall have effect where the grounds of objection specified in a counter-notice under section one hundred and forty 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 those subsections any reference to “the part of the affected area not required” is a reference to the whole of that 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.

- (5) 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 affected area not required, or if the land in question falls within paragraph (d) of subsection (1) of section one hundred and thirty-eight 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 affected area not required shall cease to have effect.
- (6) If the land in question falls within paragraph (a) of subsection (1) of section one hundred and thirty-eight of this Act, then (without prejudice to the effect of any subsequent designation) the development plan shall have effect as if no land comprised in the part of the affected area not required were designated therein as land subject to compulsory acquisition.

#### **146 Death of claimant after service of notice requiring purchase**

- (1) In relation to any time after the death of a person who has served a notice under section one hundred and thirty-nine of this Act, the provisions mentioned in the next following subsection shall apply as if any reference therein to the claimant were a reference to the claimant's personal representatives.
- (2) The said provisions are subsection (1) of section one hundred and forty, subsection (1) of section one hundred and forty-one and subsection (3) of section one hundred and forty-two of this Act.

#### **147 “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 purposes of these provisions is the Minister of Transport or a local highway authority, or

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(b) which of two or more local highway authorities is the appropriate authority in relation to any land for those purposes,  
 that question shall be referred to the Minister of Transport, whose decision shall be final.

(3) Subject to the last preceding subsection, if any question arises as to which of two or more local authorities is the appropriate authority in relation to any land for the purposes of these provisions, that question shall be referred to the Minister, whose decision shall be final.

#### **148 “Appropriate enactment” for purposes of these provisions**

(1) Subject to the following provisions of this section, in these provisions “the appropriate enactment”, 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 paragraph (b) of subsection (1) of section one hundred and thirty-eight of this Act an enactment shall, for the purposes of the preceding subsection, 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 the last preceding subsection 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 provisions of Part II of the Highways Act, 1959, relating to trunk roads ;

(b) the coming into operation of any requisite scheme or order under the provisions of the said Part II relating to special roads;

(c) the making or approval of any requisite plans.

(5) If, apart from this subsection, two or more enactments would be the appropriate enactment in relation to any land for the purposes of these provisions, the appropriate enactment for those purposes shall be taken to be that one of those enactments



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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 a local highway authority, to the Minister of Transport;
  - (c) where the appropriate authority are statutory undertakers, to the appropriate Minister ; and
  - (d) in any other case, to the Minister,
- and the decision of the Minister or Board to whom a question is referred under this subsection shall be final.

#### **149 Meaning of “owner-occupier” and “resident owner-occupier”**

- (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 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.
- (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 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.
- (3) In these provisions “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 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.
- (4) In this section " owner's interest", in relation to a hereditament or agricultural unit, 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

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unexpired; and in this and the next following 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 one hundred and thirty-nine of this Act.

## **150 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 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 claimant” has the meaning assigned to it by subsection (4) of section one hundred and thirty-nine of this Act;

“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;

“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;

“the specified descriptions” and “these provisions” have the meanings assigned to them respectively by subsection (5) of section one hundred and thirty-eight of this Act.

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

- (a) different parts of that land form the subject of single entries in the valuation lists 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 list for that area,

the whole of that land shall be treated, for the purposes of the definition of “hereditament” in the preceding subsection, as if it formed the subject of a single entry in the valuation list for a rating area.

- (3) Land which forms the subject of an entry in the valuation list 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 lists for the time being in force for two or more rating areas is treated as if it formed the subject of a single entry in the valuation list for a rating area, the definition of “annual value” in subsection (1) of

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this section shall apply as if any reference therein to a value shown in the valuation list 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 lists in relation to the different parts of that land.

- (5) Any reference in these provisions 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.

## **151 Special provisions as to partnerships**

- (1) The provisions of this section shall have effect for the purposes of the application of these provisions to a hereditament or agricultural unit occupied for the purposes of a partnership firm.
- (2) Occupation for the purposes of the firm shall be treated as occupation by the firm, and not as occupation by any one or more of the partners individually, and the definitions of “owner-occupier” in subsections (1) and (2) of section one hundred and forty-nine of this Act shall apply in relation to the firm accordingly.
- (3) If, after the service by the firm of a notice under section one hundred and thirty-nine of this Act, any change occurs (whether by death or otherwise) in the constitution of the firm, any 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 nineteen 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 subsection (3) of section one hundred and forty-nine of this Act.