



Town and Country Planning Act 1962

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PART VIII

PROVISIONS ENABLING OWNER TO REQUIRE PURCHASE OF HIS INTEREST

Interests affected by planning decisions or orders

129 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 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 Minister has undertaken to grant planning permission,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the council of the county borough or county district in which the land is situated a notice requiring that council 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 paragraphs (a) to (c) of the preceding subsection 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.

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- (3) 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”.

130 Action by council on whom purchase notice is served

- (1) The council on whom a purchase notice is served under the last preceding section shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner by whom the purchase notice was served a notice stating either—
- (a) that the council 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 council 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 Minister, on a date specified in the notice under this subsection, together with a statement of the reasons so specified.
- (2) Where the council on whom a purchase notice is served by an owner have served on him a notice in accordance with paragraph (a) or paragraph (b) of the preceding subsection, the council, 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 compulsorily in accordance with the provisions of Part V of this Act, and to have served a notice to treat in respect thereof on the date of service of the notice under the preceding subsection.
- (3) Where the council on whom a purchase notice is served by an owner propose to serve on him a notice in accordance with paragraph (c) of subsection (1) of this section, they shall transmit a copy of the purchase notice to the Minister, together with a statement of their reasons.

131 Procedure on reference of purchase notice to Minister

- (1) Where a copy of a purchase notice is transmitted to the Minister under subsection (3) of the last preceding section, the Minister shall consider whether to confirm the notice or to take other action under the next following section in respect thereof.
- (2) Before confirming a purchase notice or taking any other action under the next following section in respect thereof, the Minister shall give notice of his proposed action—
- (a) to the person by whom the purchase notice was served;
 - (b) to the council on whom the purchase notice was served;
 - (c) to the local planning authority for the area in which the land is situated ; and
 - (d) if the Minister proposes to substitute any other local authority or statutory undertakers for the council 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 the last preceding subsection, 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 Minister, before confirming the purchase notice or taking any

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other action under the next following section 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 Minister for the purpose.

- (4) Where the Minister 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 Minister for the purpose, and it then appears to the Minister to be expedient to take action under the next following section otherwise than in accordance with the notice given by him, the Minister may take that action accordingly.

132 Action by Minister in relation to purchase notice

- (1) Subject to the following provisions of this section, if the Minister is satisfied that the conditions specified in paragraphs (a) to (c) of subsection (1) of section one hundred and twenty-nine of this Act are fulfilled in relation to a purchase notice, he shall confirm the notice.
- (2) If it appears to the Minister 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 Minister 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 Minister, having regard to the probable ultimate use of the land, that it is expedient to do so, 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 another local authority or statutory undertakers for the council on whom the notice was served.
- (5) In the last preceding section, any reference to the taking of action by the Minister 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 on the grounds that any of the conditions referred to in subsection (1) of this section are not fulfilled.

133 Effect of Minister's action in relation to purchase notice

- (1) Where the Minister confirms a purchase notice, the council on whom the purchase notice was served (or, if under subsection (4) of the last preceding section the Minister modified the purchase notice by substituting another local authority or statutory undertakers for that council, that other local authority or those statutory undertakers) shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part V of this Act, and to have served a notice to treat in respect thereof on such date as the Minister may direct.

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- (2) If, before the end of the relevant period, the Minister has neither confirmed the purchase notice nor taken any such action in respect thereof as is mentioned in subsection (2) or subsection (3) of the last preceding section, and has not notified the owner 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 council on whom the notice was served shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part V of this Act, and to have served a notice to treat in respect thereof at the end of that period.
- (3) For the purposes of the last preceding subsection the relevant period is whichever of the following periods first expires, that is to say.—
 - (a) the period of nine months beginning with the date of service of the purchase notice, and
 - (b) the period of six months beginning with the date on which a copy of the purchase notice was transmitted to the Minister.
- (4) Where the Minister has notified the owner 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 Minister is quashed under the provisions of Part XI of this Act, the purchase notice shall be treated as cancelled, but the owner 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 the last preceding subsection 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 Minister was quashed as mentioned in the last preceding subsection.

134 Special provisions as to compensation where purchase notice served

- (1) Where by virtue of section one hundred and eighteen 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 Minister gives a direction under subsection (3) of section one hundred and thirty-two 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 the last preceding subsection, is required to be granted would be granted subject to conditions for

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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 Minister, 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 the last preceding subsection.

- (4) Sections one hundred and twenty-seven and one hundred and twenty-eight 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 subsection (3) of section one hundred and thirty-two 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 fifty-one to fifty-four 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.

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

- (1) Where by an order under section twenty-seven of this Act planning permission in respect of any land is revoked, or is modified by the imposition of conditions, then if any owner 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 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 Minister has undertaken to grant planning permission,he may, within the time and in the manner prescribed by regulations under this Act, serve on the council of the county borough or county district in which the land is situated a notice requiring that council to purchase his interest in the land in accordance with the preceding provisions of this Part of this Act.
- (2) Subsection (3) of section one hundred and twenty-nine of this Act shall apply to this section; and, subject to the next following subsection, subsection (2) of that section and sections one hundred and thirty to one hundred and thirty-four 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 subsection (1) of section one hundred and twenty-nine of this Act.

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- (3) In the application of section one hundred and thirty-two of this Act to a purchase notice served by virtue of subsection (1) of this section, that section shall apply as if the following subsection were substituted for subsection (2) thereof:

“(2) If it appears to the Minister 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”.

136 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 twenty-eight 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 council of the county borough or county district in which the land is situated a notice requiring that council to purchase his interest in the land in accordance with the preceding provisions of this Part of this Act.

- (2) Subsection (3) of section one hundred and twenty-nine of this Act shall apply to this section ; and, subject to the next following subsection, subsection (2) of that section and sections one hundred and thirty to one hundred and thirty-four 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 subsection (1) of section one hundred and twenty-nine of this Act

- (3) In the application of section one hundred and thirty-two of this Act to a purchase notice served by virtue of subsection (1) of this section, 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 paragraphs (a) and (b) of subsection (1) of this section ; and
- (b) the following subsection shall be substituted for subsection (2):—

“(2) If it appears to the Minister to be expedient to do so, he may, in lieu of confirming the purchase notice, revoke the order under section twenty-eight 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

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- (b) compensation is payable in respect of that interest under subsection (2) of section one hundred and thirty-four of this Act,
no compensation shall be payable in respect of that order under section one hundred and twenty-four 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.

137 Purchase notices in other cases

- (1) Sections one hundred and twenty-nine to one hundred and thirty-four of this Act are provisions falling within subsection (2) of section twenty-nine of this Act; and subsection (1) of the said section twenty-nine, and subsection (5) of section thirty and subsection (2) of section thirty-four of this Act, shall have effect accordingly.
- (2) Where, in the case of an application for planning permission, a notice under subsection (1) of section forty of this Act is served in respect of the whole or part of the land to which the application relates, the provisions of sections one hundred and twenty-nine to one hundred and thirty-four 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

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.

Supplementary provisions

152 No withdrawal of constructive notice to treat

Without prejudice to the provisions of subsection (1) of section one hundred and forty-four of this Act, the power conferred by section thirty-one of the Land Compensation Act, 1961, 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.