



# Planning and Compulsory Purchase Act 2004

## 2004 CHAPTER 5

### PART 8

#### COMPULSORY PURCHASE

##### *Authorisation of compulsory acquisition*

#### **101 Procedure for authorisation by a Minister**

- (1) Schedule 1 to the Acquisition of Land Act 1981 (c. 67) (the “1981 Act”) is amended as follows.
- (2) In paragraph 2 (notices in newspapers), after sub-paragraph (2) there is added—
  - “(3) In addition, the Minister shall affix a notice in the prescribed form to a conspicuous object or objects on or near the land comprised in the draft order.
- (4) The notice under sub-paragraph (3) must—
  - (a) be addressed to persons occupying or having an interest in the land, and
  - (b) set out each of the matters mentioned in sub-paragraph (2) (but reading the reference there to first publication of the notice as a reference to the day when the notice under sub-paragraph (3) is first affixed).”
- (3) In paragraph 3 (notices to owners, lessees and occupiers)—
  - (a) in sub-paragraph (1), for the words from “owner” to “order” (where it first appears) there is substituted “qualifying person”;
  - (b) for sub-paragraph (2) there is substituted—

---

*Status: This is the original version (as it was originally enacted).*

---

“(2) A person is a qualifying person, in relation to land comprised in a draft order, if—

- (a) he is an owner, lessee, tenant (whatever the tenancy period) or occupier of any such land, or
- (b) he falls within sub-paragraph (2A).

(2A) A person falls within this sub-paragraph if he is—

- (a) a person to whom the Minister would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat, or
- (b) a person the Minister thinks is likely to be entitled to make a relevant claim if the order is made and the compulsory purchase takes place, so far as he is known to the Minister after making diligent inquiry.

(2B) A relevant claim is a claim for compensation under section 10 of the Compulsory Purchase Act 1965 (compensation for injurious affection).”

(4) For paragraph 4 there are substituted the following paragraphs—

- “4
- (1) The Minister may make a compulsory purchase order with or without modifications if he is satisfied—
    - (a) that the notice requirements have been complied with, and
    - (b) that one of the conditions in sub-paragraph (2) is satisfied.
  - (2) The conditions are—
    - (a) no relevant objection is made;
    - (b) every relevant objection made is either withdrawn or disregarded.
  - (3) The appropriate authority may require every person who makes a relevant objection to state the grounds of the objection in writing.
  - (4) If the appropriate authority is satisfied that an objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed it may disregard the objection.
  - (5) The notice requirements are the requirements under paragraphs 2 and 3 to publish, affix and serve notices in connection with the compulsory purchase order.
  - (6) A relevant objection is an objection by a person who is a qualifying person for the purposes of paragraph 3(2), but if such a person qualifies only by virtue of paragraph 3(2A)(b) and the Minister thinks that he is not likely to be entitled to make a relevant claim his objection is not a relevant objection.
  - (7) Disregarded means disregarded under sub-paragraph (4) or under any other power to disregard a relevant objection contained in the enactment providing for the compulsory purchase.
  - (8) The appropriate authority is—

---

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

---

- (a) in the case of an order proposed to be made in the exercise of highway land acquisition powers, the Minister and the planning Minister acting jointly,
    - (b) in any other case, the Minister.
  - (9) Highway land acquisition powers must be construed in accordance with the Highways Act 1980.
  - (10) The planning Minister is the Secretary of State for the time being having general responsibility in planning matters.
- 4A (1) This paragraph applies to the making of a compulsory purchase order if a relevant objection is made which is neither—
  - (a) withdrawn, nor
  - (b) disregarded,(a remaining objection).
- (2) The appropriate authority may proceed under the written representations procedure—
  - (a) if the order is not subject to special parliamentary procedure;
  - (b) in the case of an order to which section 16 applies, if a certificate has been given under subsection (2) of that section, and
  - (c) if every person who has made a remaining objection consents in the prescribed manner.
- (3) If sub-paragraph (2) does not apply or if the appropriate authority decides not to proceed under that sub-paragraph, it must either—
  - (a) cause a public local inquiry to be held, or
  - (b) give every person who has made a remaining objection an opportunity of appearing before and being heard by a person appointed by the appropriate authority for the purpose.
- (4) If a person who has made a remaining objection takes the opportunity to appear before a person appointed under sub-paragraph (3)(b) the appropriate authority must give any other person it thinks appropriate the opportunity to be heard at the same time.
- (5) The Minister may make the order with or without modifications if—
  - (a) the appropriate authority has considered the objection, and
  - (b) one of the conditions in sub-paragraph (6) is satisfied.
- (6) The conditions are—
  - (a) the appropriate authority has followed the written representations procedure;
  - (b) in a case which falls within sub-paragraph (3), if an inquiry was held or a person was appointed under sub-paragraph (3)(b), the appropriate authority has considered the report of the person who held the inquiry or who was so appointed.
- (7) The written representations procedure is such procedure as is prescribed for the purposes of this paragraph including provision affording an opportunity to—
  - (a) every person who has made a remaining objection, and

- (b) any other person the appropriate authority thinks appropriate, to make written representations as to whether the order should be made.
- (8) Regulations under sub-paragraph (7) may make provision as to the giving of reasons for decisions taken in cases where the written representations procedure is followed.
- (9) Expressions used in this paragraph and in paragraph 4 must be construed in accordance with paragraph 4.
- 4B (1) The Minister may make an order (with or without modifications) so far as it relates to part of the land comprised in the draft order (the “relevant part”) if each of the conditions in sub-paragraph (2) is met.
- (2) The conditions are—
- (a) the Minister or, if there is a remaining objection in respect of the order, the appropriate authority is satisfied that the order ought to be made so far as it relates to the relevant part but has not for the time being determined whether the order ought to be made so far as it relates to the remaining part;
- (b) the Minister is satisfied that the notice requirements have been complied with.
- (3) If there is a remaining objection in respect of the order, the Minister may only act under sub-paragraph (1) after the appropriate authority has complied with paragraph 4A(2) or (3) (as the case may be).
- (4) But he may act under sub-paragraph (1) without the appropriate authority having complied with those provisions if he is satisfied that all remaining objections relate solely to the remaining part of the land.
- (5) If the Minister acts under sub-paragraph (1)—
- (a) he must give a direction postponing consideration of the order, so far as it relates to the remaining part, until such time as may be specified by or under the direction;
- (b) the order so far as it relates to each part of the land must be treated as a separate order.
- (6) The notices to be published, affixed and served under paragraph 6 must include a statement as to the effect of the direction given under sub-paragraph (5)(a).
- (7) Expressions used in this paragraph and in paragraph 4 or 4A must be construed in accordance with paragraph 4 or 4A (as the case may be).”
- (5) For paragraph 6 there is substituted—
- “6 (1) After the order has been made, the Minister must—
- (a) serve a making notice, and a copy of the order as made, on each person on whom a notice was required to be served under paragraph 3, and
- (b) affix a making notice to a conspicuous object or objects on or near the land comprised in the order.
- (2) The notice under sub-paragraph (1)(b) must—

---

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

---

- (a) be addressed to persons occupying or having an interest in the land;
  - (b) so far as practicable, be kept in place by the acquiring authority until the expiry of a period of six weeks beginning with the date when the order becomes operative.
- (3) The Minister must also publish a making notice in one or more local newspapers circulating in the locality in which the land comprised in the order is situated.
- (4) A making notice is a notice—
  - (a) describing the land;
  - (b) stating that the order has been made;
  - (c) (except in the case of a notice under sub-paragraph (1)(a)) naming a place where a copy of the order as made and of the map referred to there may be inspected at all reasonable hours;
  - (d) that a person aggrieved by the order may apply to the High Court as mentioned in section 23.
- (5) A making notice must be in the prescribed form.”
- (6) The amendments made by this section do not apply to orders of which notice under paragraph 2 of Schedule 1 to the 1981 Act has been published before commencement of this section.