Planning Act 2008

2008 CHAPTER 29

PART 7

ORDERS GRANTING DEVELOPMENT CONSENT

CHAPTER 1

CONTENT OF ORDERS

Compulsory acquisition

132 Commons, open spaces etc: compulsory acquisition of rights over land

(1) This section applies to any land forming part of a common, open space or fuel or field garden allotment.

(2) An order granting development consent is subject to special parliamentary procedure, to the extent that the order authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, **[**[F1]unless—

(a) the Secretary of State is satisfied that one of subsections (3) to (5) applies, and

(b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order**]**.

(3) This subsection applies if the order land, when burdened with the order right, will be no less advantageous than it was before to the following persons—

(a) the persons in whom it is vested,

(b) other persons, if any, entitled to rights of common or other rights, and

(c) the public.

(4) This subsection applies if—

(a) replacement land has been or will be given in exchange for the order right, and

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(b) the replacement land has been or will be vested in the persons in whom the order land is vested and subject to the same rights, trusts and incidents as attach to the order land (ignoring the order granting development consent).

[[F2](4A) This subsection applies if—

(a) the order land is, or forms part of, an open space,

(b) none of the order land is of any of the other descriptions in subsection (1),

(c) either—

(i) there is no suitable land available to be given in exchange for the order right, or

(ii) any suitable land available to be given in exchange is available only at prohibitive cost, and

(d) it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to special parliamentary procedure.

(4B) This subsection applies if—

(a) the order land is, or forms part of, an open space,

(b) none of the order land is of any of the other descriptions in subsection (1), and

(c) the order right is being acquired for a temporary (although possibly long-lived) purpose.**]**

(5) This subsection applies if—

(a) the order land does not exceed 200 square metres in extent or the order right is required in connection with the widening or drainage of an existing highway or in connection partly with the widening and partly with the drainage of such a highway, and

(b) the giving of other land in exchange for the order right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

[F3](6) . . . . . .

[F3](7) . . . . . .

[F3](8) . . . . . .

[F3](9) . . . . . .

[F3](10) . . . . . .

(11) If an order granting development consent authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, it may include provision—

(a) for vesting replacement land given in exchange as mentioned in subsection (4)(a) in the persons in whom the order land is vested and subject to the rights, trusts and incidents mentioned in subsection (4)(b), and

(b) for discharging the order land from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of the order right.

(12) In this section —

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"common", "fuel or field garden allotment" and "open space" have the same meanings as in section 19 of the Acquisition of Land Act 1981 (c. 67);

"the order land" means the land to which this section applies over which the order right is to be exercisable;

"the order right" means the right authorised to be compulsorily acquired;

"replacement land" means land which will be adequate to compensate the following persons for the disadvantages which result from the compulsory acquisition of the order right—

(a) the persons in whom the order land is vested,

(b) the persons, if any, entitled to rights of common or other rights over the order land, and

(c) the public.

Textual Amendments

F1 Words in s. 132(2) substituted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(3)(a)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

F2 S. 132(4A)(4B) inserted (25.6.2013) by Growth and Infrastructure Act 2013 (c. 27), **ss. 24(3)(b)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

F3 S. 132(6)-(10) omitted (25.6.2013) by virtue of Growth and Infrastructure Act 2013 (c. 27), **ss. 24(3)(c)**, 35(1) (with s. 24(6)); S.I. 2013/1124, art. 4(c) (with art. 7)

Commencement Information

I1 S. 132 in force at 1.3.2010 by S.I. 2010/101, **art. 3(f)** (with art. 6)

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View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 10A inserted by 2023 c. 55 Sch. 12 para. 1
- s. 37(3A) inserted by 2021 c. 30 Sch. 15 para. 7
- s. 37(3A) inserted by 2021 c. 30 Sch. 15 para. 7
- s. 103(1A) inserted by 2021 c. 30 Sch. 15 para. 2
- s. 103(1A) inserted by 2021 c. 30 Sch. 15 para. 2
- s. 104(3)-(3B) substituted for s. 104(3) by 2021 c. 30 Sch. 15 para. 3(2)
- s. 104(3)-(3B) substituted for s. 104(3) by 2021 c. 30 Sch. 15 para. 3(2)
- s. 105(3)(4) inserted by 2021 c. 30 Sch. 15 para. 4(1)
- s. 105(3)(4) inserted by 2021 c. 30 Sch. 15 para. 4(1)
- s. 120(2)(c) inserted by 2021 c. 30 Sch. 15 para. 8
- s. 120(2)(c) inserted by 2021 c. 30 Sch. 15 para. 8
- s. 223(1)(za) inserted by 2023 c. 55 s. 139(6)
- s. 232(5)(f) inserted by 2021 c. 30 Sch. 15 para. 9(2)
- s. 232(5)(f) inserted by 2021 c. 30 Sch. 15 para. 9(2)
- Sch. 2A inserted by 2021 c. 30 Sch. 15 para. 5
- Sch. 2A inserted by 2021 c. 30 Sch. 15 para. 5