

Draft Order laid before Parliament under section 122(6) of the Planning and Compulsory Purchase Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No. XXXX

**ACQUISITION OF LAND,
ENGLAND AND WALES**

**The Planning and Compulsory Purchase Act
2004 (Corresponding Amendments) Order 2007**

Made - - - - XXXX

Coming into force in accordance with article 1(1)

A draft of this Order has been laid before Parliament in accordance with section 122(6) of the Planning and Compulsory Purchase Act 2004(1), and has been approved by a resolution of each House of Parliament.

The Secretary of State makes the following Order in exercise of the powers conferred by sections 110(2) and 122(3) of that Act:

Citation, commencement, extent and application

1.—(1) This Order may be cited as the Planning and Compulsory Purchase Act 2004 (Corresponding Amendments) Order 2007 and shall come into force on the day after that on which it is made.

(2) This Order extends to England and Wales only.

(3) The amendments made by this Order do not apply to, or in relation to, orders under any of the enactments specified in the Schedule to this Order (orders relating to the compulsory acquisition of, or of rights relating to, land) of which notice has been served before the coming into force of this Order.

Amendment of enactments

2. The Schedule to this Order shall have effect for the amendment of the enactments specified.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:
The Planning and Compulsory Purchase Act 2004 (Corresponding Amendments) Order 2007 No. 1519

Signed by authority of the Secretary of State for Communities and Local Government

Date

Parliamentary Under Secretary of State
Department for Communities and Local
Government

SCHEDULE

AMENDMENT OF ENACTMENTS

Military Lands Acts 1892 (c.43)

1. In section 2 of the Military Lands Act 1892 (machinery for purchase of land)—
 - (a) in subsection (5), for “every owner or reputed owner, lessee or reputed lessee, and occupier of any land intended to be so purchased”, substitute “every person who falls within subsection (5A)”;
 - (b) after subsection (5), insert—
 - “(5A) A person falls within this subsection if he is—
 - (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of any land intended to be so purchased;
 - (b) a person to whom the purchaser would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat; or
 - (c) a person who the purchaser thinks is likely to be entitled to make a claim for compensation under section 10 of that Act if the Provisional Order is confirmed and the purchase takes place, so far as he is known to the purchaser after making diligent inquiry”; and
 - (c) in subsection (7)(a), for “the owners, lessees and occupiers of land”, substitute “the persons falling within subsection (5A)”.

Requisitioned Land and War Works Act 1945 (c.43)

2. In section 17 of the Requisitioned Land and War Works Act 1945 (publication of proposed orders and reference to Commission)—
 - (a) in subsection (1), for paragraph (d), substitute—
 - “(d) in the case of an order authorising the compulsory acquisition of land, to be served on every person—
 - (i) who is an owner, lessee, tenant (whatever the tenancy period) or occupier of any of the land proposed to be compulsorily acquired;
 - (ii) 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
 - (iii) who the Minister thinks is likely to be entitled to make a claim for compensation under section 10 of that Act if the order is confirmed and the compulsory acquisition takes place, so far as he is known to the Minister after making diligent inquiry.”; and
 - (b) in subsection (3)(e)—
 - (i) after “or “lessee””, insert “or “tenant””; and
 - (ii) after “or “occupier” of”, insert “, or “person interested” in,”.

Land Powers (Defence) Act 1958 (c.30)

3. In Schedule 2 to the Land Powers (Defence) Act 1958 (provisions with respect to certain orders), in Part 1 (procedure for making certain orders)—
 - (a) in paragraph 2(1), for the words from the beginning to “make the order; and” substitute—
 - “(1) Before making the order the Minister shall—
 - (a) prepare a draft order describing, by reference to a map, the land to which the draft order applies; and

- (b) serve on every person—
 - (i) who is an owner, lessee, tenant (whatever the tenancy period) or occupier of any of that land;
 - (ii) 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
 - (iii) who the Minister thinks is likely to be entitled to make a claim for compensation under section 10 of that Act if the order is confirmed and the compulsory purchase takes place, so far as he is known to the Minister after making diligent inquiry,
notice that he proposes to make the order.”;
- (b) the words in paragraph 2(1) from “any such notice” to the end shall constitute subparagraph (1A) of paragraph 2; and
- (c) in paragraph 3, for “any such owner, lessee or occupier as aforesaid” substitute “any such person as is mentioned in paragraph 2(1)(b)”.

Pipe-lines Act 1962 (c.58)

4.—(1) In section 1 of the Pipe-lines Act 1962 (cross-country pipe-lines not to be constructed without the Minister’s authority)—

- (a) in subsection (5), for “every owner, lessee and occupier (other than tenants for a month or any period less than a month) of the land”, substitute “every person who falls within subsection (6)”;
- (b) after subsection (5), insert—
 - “(6) A person falls within this subsection if he is—
 - (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of the land;
 - (b) a person to whom the applicant would, if it were proceeding to purchase that land under section 5(1) of the Compulsory Purchase Act 1965, be required to give notice to treat, or
 - (c) a person who the applicant thinks would be likely to be entitled to make a claim for compensation under section 10 of that Act if that land were purchased under a compulsory purchase order, so far as he is known to the applicant after making diligent inquiry.”.

(2) In section 4 of that Act (power of Minister to secure the removal of works executed in contravention of section 1 or 2)—

- (a) in subsection (3), for “every owner, lessee and occupier of the land (except tenants for a month or any period less than a month)”, substitute “every person who falls within subsection (3A)”;
- (b) after subsection (3), insert—
 - “(3A) A person falls within this subsection if he is—
 - (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of the land;
 - (b) a person to whom the applicant would, if it were proceeding to purchase that land under section 5(1) of the Compulsory Purchase Act 1965, be required to give notice to treat, or
 - (c) a person who the applicant thinks would be likely to be entitled to make a claim for compensation under section 10 of that Act if the land were purchased under a compulsory purchase order, so far as he is known to the applicant after making diligent inquiry.”.

- (3) In section 13 of that Act (power of Minister to attach conditions to compulsory rights orders)
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- (a) in subsection (2)—
- (i) for “the next following subsection”, substitute “subsection (3)”; and
 - (ii) for the words from “an owner” to “such an order”, substitute—
““a person who falls within subsection (2A), or of the person for whose benefit a compulsory rights order””;
- (b) after subsection (2), insert—
- “(2A) A person falls within this subsection if he is an owner, lessee, tenant (whatever the tenancy period) or occupier of land comprised in a compulsory rights order.”; and
- (c) in subsection (6), in the definition of “persons concerned”, for “every owner, lessee and occupier (other than a tenant for a month or a period less than a month)”, substitute “every owner, lessee, tenant (whatever the tenancy period) or occupier”.
- (4) In Schedule 2 to that Act (applications for grant of compulsory purchase orders and compulsory rights orders), in Part 1 (application for grant of compulsory purchase orders)—
- (a) in paragraph 3(b), for “every owner, lessee and occupier (except tenants for a month or any period less than a month) of any land proposed to be comprised in the order”, substitute—
- “every person—
- (i) who is an owner, lessee, tenant (whatever the tenancy period) or occupier of any land proposed to be comprised in the order;
 - (ii) to whom the applicant would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat; or
 - (iii) who the applicant thinks is likely to be entitled to make a claim for compensation under section 10 of that Act if the order is confirmed and the compulsory purchase takes place, so far as he is known to the applicant after making diligent inquiry,”; and
- (b) in paragraph 4—
- (i) in sub-paragraphs (1) and (2), for “any such owner, lessee or occupier as aforesaid”, substitute “any such person as is mentioned in paragraph 3(b)”;
 - (ii) in sub-paragraph (3), for “any such owner, lessee or occupier as aforesaid” (in both places), substitute “any such person”.

Harbours Act 1964 (c.40)

5. In Schedule 3 to the Harbours Act 1964 (procedure for making harbour revision and empowerment orders)(2), in Part 1 (orders made on application to the Secretary of State), in paragraph 11, for “every owner, lessee and occupier other than a tenant for a month or any period less than a month”, substitute “every owner, lessee, tenant (whatever the tenancy period) and occupier”.

Gas Act 1965 (c.36)

6.—(1) Schedule 2 to the Gas Act 1965 (storage authorisation orders) is amended as follows.

(2) In paragraph 7—

(a) for sub-paragraph (3)(d)(3), substitute—

“(d) on every person who falls within sub-paragraph (3A), and”; and

(2) Schedule 3 was substituted by [S.I. 1999/3445](#).

(3) A relevant amendment was made by the [Gas Act 1986 \(c.44\)](#), Schedule 7, paragraph 6.

- (b) after sub-paragraph (3), insert—
 - “(3A) A person falls within this sub-paragraph if he is—
 - (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of any land within the storage area or within the protective area;
 - (b) a person to whom the applicant would, if it were proceeding to purchase that land under section 5(1) of the Compulsory Purchase Act 1965, be required to give notice to treat, or
 - (c) a person who the applicant thinks would be likely to be entitled to make a claim for compensation under section 10 of that Act if that land were purchased under a compulsory purchase order, so far as he is known to the applicant after making diligent inquiry.”.
- (3) In paragraph 12—
 - (a) for sub-paragraph (1)(d), substitute—
 - “(d) every person who falls within sub-paragraph (1A),”; and
 - (b) after sub-paragraph (1), insert—
 - “(1A) A person falls within this sub-paragraph if he is—
 - (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of any part of the additional land;
 - (b) a person to whom the applicant would, if it were proceeding to purchase that land under section 5(1) of the Compulsory Purchase Act 1965, be required to give notice to treat, or
 - (c) a person who the applicant thinks would be likely to be entitled to make a claim for compensation under section 10 of that Act if any such part were purchased under a compulsory purchase order, so far as he is known to the applicant after making diligent inquiry.”.
- (4) In paragraph 14—
 - (a) for sub-paragraph (2)(d), substitute—
 - “(d) on every person who falls within sub-paragraph (3),”; and
 - (b) after sub-paragraph (2), insert—
 - “(3) A person falls within this sub-paragraph if he is—
 - (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of any land within the storage area or within the protective area;
 - (b) a person to whom the applicant would, if it were proceeding to purchase that land under section 5(1) of the Compulsory Purchase Act 1965, be required to give notice to treat, or
 - (c) a person who the applicant thinks would be likely to be entitled to make a claim for compensation under section 10 of that Act if that land were purchased under a compulsory purchase order, so far as he is known to the applicant after making diligent inquiry.”.
- (5) In paragraph 16—
 - (a) for sub-paragraph (2)(c), substitute—
 - “(c) on every person who falls within sub-paragraph (2A),”; and
 - (b) after sub-paragraph (2), insert—
 - “(2A) A person falls within this sub-paragraph if he is—

- (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of any land within the storage area or within the protective area;
- (b) a person to whom the applicant would, if it were proceeding to purchase that land under section 5(1) of the Compulsory Purchase Act 1965, be required to give notice to treat; or
- (c) a person who the applicant thinks would be likely to be entitled to make a claim for compensation under section 10 of that Act if that land were purchased under a compulsory purchase order, so far as he is known to the applicant after making diligent inquiry.”.

Forestry Act 1967 (c.10)

7. In Schedule 5 to the Forestry Act 1967 (compulsory purchase), in Part 1 (procedure for making compulsory purchase orders), in paragraph 2(1)(b), for “every owner, lessee and occupier (except tenants for a month or less period than a month)”, substitute “every person who is an owner, lessee, tenant (whatever the tenancy period) or occupier”.

Water Industry Act 1991 (c.56)

8. In Schedule 11 to the Water Industry Act 1991 (orders conferring compulsory works powers)—

- (a) in paragraph 1(3), for paragraph (e), substitute—
 - “(e) every person—
 - (i) who is an owner, lessee, tenant (whatever the tenancy period) or occupier of any land in relation to which compulsory powers would become exercisable if the order were made in the terms of the draft order; or
 - (ii) who the water undertaker thinks is likely to be entitled to make a claim for compensation under section 10 of the Compulsory Purchase Act 1965 if the order is confirmed and the compulsory powers become exercisable, so far as he is known to the water undertaker after making diligent inquiry;”(4); and
- (b) in paragraph 10, omit the words from “and references” to the end.

Water Resources Act 1991 (c.57)

9. In Schedule 19 to the Water Resources Act 1991 (orders conferring compulsory works powers)

- (a) in paragraph 1(3), for paragraph (d), substitute—
 - “(d) every person who—
 - (i) is an owner, lessee, tenant (whatever the tenancy period) or occupier of any land in relation to which compulsory powers would become exercisable if the order were made in the terms of the draft order; or
 - (ii) who the water undertaker thinks is likely to be entitled to make a claim for compensation under section 10 of the Compulsory Purchase Act 1965 if the order is confirmed and the compulsory powers become exercisable, so far as he is known to the water undertaker after making diligent inquiry;”(5);and
- (b) in paragraph 10, omit the words from “and references” to the end.

(4) See also paragraph 6 of Schedule 11 to the Water Industry Act 1991, which applies, subject to modifications set out in Schedule 9 to that Act, Part 1 of the Compulsory Purchase Act 1965 (and other enactments relating to compensation). Paragraphs 7 and 8 of Schedule 11 to the 1991 Act contain special compensation provisions.

(5) See also paragraph 6 of Schedule 19 to the Water Resources Act 1991, which applies, subject to modifications set out in Schedule 18 to that Act, Part 1 of the Compulsory Purchase Act 1965 (and other enactments relating to compensation). Paragraphs 7 and 8 of Schedule 19 to the 1991 Act contain special compensation provisions.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 100(5) of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) amends section 12 of the Acquisition of Land Act 1981 (c.67) (“the 1981 Act”). The effect of the amendment is to entitle a person who is a tenant (whatever the period of the tenancy) of land proposed for compulsory purchase by an authority other than a Minister, to receive notice of the making of a compulsory purchase order. Before that amendment, the entitlement under the 1981 Act had been restricted, so far as tenants were concerned, to those whose tenancy was for a period of more than one month.

Section 101(3) of the 2004 Act makes similar provision in relation to Schedule 1 to the 1981 Act, which applies where land is proposed to be compulsorily purchased by a Minister.

The Acts specified in the Schedule to this Order contain provisions broadly comparable to those in section 12 of, and Schedule 1 to, the 1981 Act before their amendment. The provisions of those Acts are amended by this Order, as specified in the Schedule, to reflect the amendments that have been made to section 12 of, and Schedule 1 to, the 1981 Act.

This Order extends to England and Wales only. The amendments do not affect any order of which notice was served before the coming into force of this Order.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.