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STATUTORY INSTRUMENTS

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**2010 No. 104**

**INFRASTRUCTURE PLANNING**

**The Infrastructure Planning (Compulsory Acquisition) Regulations 2010**

<i>Made</i>	- - - -	<i>25th January 2010</i>
<i>Laid before Parliament</i>		<i>1st February 2010</i>
<i>Coming into force</i>	- -	<i>1st March 2010</i>

The Secretary of State, in exercise of the powers conferred by sections 114(2), 123(4), 127(7)(a), 131(10)(a), 132(10)(a) and 134(7) of the Planning Act 2008<sup>(1)</sup>, makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 and shall come into force on 1st March 2010.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Planning Act 2008;

“additional affected person” means a person whose name is notified by the applicant in accordance with regulation 9(a) (certifying compliance with regulations 7 and 8 and notice of additional affected persons);

“additional interested party” means a person who has made a representation, in respect of the proposed provision, which meets the requirements in regulation 10 (relevant representation);

“additional land” means land which it is proposed shall be subject to compulsory acquisition and which was not identified in the book of reference submitted with the application as land;

“address” includes any number or address used for the purposes of electronic transmission;

“affected person” means a person whose name has been given to the Commission in a notice under section 59 (notice of persons interested in land to which compulsory acquisition request relates);

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(1) 2008 c.29. See section 235(1) for the meaning of “prescribed”.

“AONB Conservation Board” means a conservation board established by order under section 86 of the Countryside and Rights of Way Act 2000 (establishment of conservation boards)(2);

“applicant” means the person who has made the application;

“application” means the application for an order granting development consent to which the proposed provision relates;

“book of reference” means the book described in regulation 7 (meaning of “book of reference”) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009;

“closed evidence” means any representation which is subject to a direction under paragraph 2(6) of Schedule 3 to the Act;

“compulsory acquisition hearing” means a hearing held under section 92(3) (compulsory acquisition hearings);

“compulsory acquisition request” means a request for an order granting development consent to authorise compulsory acquisition of land or of an interest in or right over land;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but in electronic form;

“Examining authority” means—

- (a) the Panel or single Commissioner appointed to examine the application or specified matters under section 65 (appointment of members, and lead member, of Panel) or section 79 (appointment of single Commissioner) and includes one or more members of the Panel allocated a function of the Panel in accordance with section 76 (allocation within Panel of Panel’s functions); or
- (b) the Secretary of State where the Secretary of State has the function of examining the application following a direction under section 112(1) (power of the Secretary of State to intervene) and includes any person appointed by the Secretary of State to act on the Secretary of State’s behalf;

“fire and rescue authority” has the same meaning as in section 1 of the Fire and Rescue Services Act 2004 (fire and rescue authorities)(3);

“the Homes and Communities Agency” means the body established by section 1 of the Housing and Regeneration Act 2008 (establishment and constitution )(4);

“Integrated Transport Authority” has the same meaning as in section 77 of the Local Transport Act 2008 (change of name of passenger transport authorities and PTAs)(5);

“interested party”, in relation to an application, means a person who is an interested party for the purposes of Chapter 4 of Part 6 of the Act(6);

“internal drainage board” has the same meaning as in section 1 of the Land Drainage Act 1991 (internal drainage districts and boards) (7);

“issue-specific hearing” means a hearing under section 91 (hearings about specific issues);

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- (2) 2000 c.37. Section 86 was amended by the Planning and Compulsory Purchase Act 2004 (c.5), sections 118(2), 120, Schedule 7, paragraph 23(a) and (b), Schedule 9 and by the Natural Environment and Rural Communities Act 2006 (c.16), section 105(1), Schedule 11, Part 1 paragraph 164(c).
  - (3) 2004 c.21. Section 1 was amended by the Civil Contingencies Act 2004 (c.36), section 31(1), Schedule 2, Part 1, paragraph 10(1),(2).
  - (4) 2008 c.17.
  - (5) 2008 c.26.
  - (6) See section 102 of the Act, (interpretation of Chapter 4: “interested party” and other expressions)
  - (7) 1991 c.59.

“land” has the same meaning as in section 159;

“local resilience forum” has the same meaning as in regulation 4 of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005<sup>(8)</sup>;

“marine area” means–

- (a) waters in or adjacent to England up to the seaward limits of the territorial sea;
- (b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;
- (c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;
- (d) an area designated under section 1(7) of the Continental Shelf Act 1964<sup>(9)</sup>, except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish ministers have functions;

“Natural England” means the body established by section 1 of the Natural Environment and Rural Communities Act 2006 (constitution)<sup>(10)</sup>;

“open-floor hearing” means a hearing under section 93 (open-floor hearings);

“Panel” means the Panel appointed under section 65 (appointment of members, and lead member, of Panel) to handle the application;

“police authority” means an authority established under section 3 of the Police Act 1996 (establishment of police authorities)<sup>(11)</sup>;

“proposed provision” means a compulsory acquisition request in respect of additional land;

“Regional Development Agency” means a regional development agency established under section 1 of the Regional Development Agencies Act 1998 (establishment)<sup>(12)</sup>;

“Regional Planning Body” means a body recognised by the Secretary of State under section 2 of the Planning and Compulsory Purchase Act 2004 (regional planning bodies)<sup>(13)</sup>;

“registration form” means the form prescribed in the Infrastructure Planning (Interested Party) Regulations 2010<sup>(14)</sup>;

“relevant Northern Ireland Department” means the Northern Ireland Department responsible for the matter to which an application or proposed application relates (if more than one department is responsible, the reference is to all of them);

“relevant representation” has the same meaning as in section 102(4) (interpretation of Chapter 4 of Part 6);

“Renewable Energy Zone” means zones designated under section 84 of the Energy Act 2004 (exploitation of areas outside the territorial sea for energy production)<sup>(15)</sup>;

“representation” includes evidence and references to the making of a representation include the giving of evidence;

“single Commissioner” means the Commissioner appointed under section 79 (appointment of single Commissioner) to handle the application;

“specified matters”, in relation to an application, means the matters specified in relation to that application in the Secretary of State’s direction under section 113(3)(a) (effect of intervention);

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<sup>(8)</sup> S.I. 2005/2042.

<sup>(9)</sup> 1964 c.29. Sub-section 1(7) was amended by the Oil and Gas (Enterprise) Act 1982 (c.23), section 37, Schedule 3, paragraph 1.

<sup>(10)</sup> 2006 c.16.

<sup>(11)</sup> 1996 c.16.

<sup>(12)</sup> 1998 c.45.

<sup>(13)</sup> 2004 c.5.

<sup>(14)</sup> S.I. 2010/ 102

<sup>(15)</sup> 2004 c.20.

“Strategic Health Authority” means an authority established under section 13 of the National Health Services Act 2006 (strategic health authorities)(16);

“statutory undertaker” has the same meaning as in section 127;

“Trinity House” means the Corporation of Trinity House of Deptford Strond; and

“written representation” means the full particulars of the case which a person puts forward in respect of an application or the proposed provision and includes any supporting evidence or documents.

(2) Any reference in these Regulations to a section by number is a reference to a section so numbered of the Act.

### **Prescribed forms in connection with authorisation of compulsory acquisition**

3. The prescribed form in relation to a notice of a description mentioned below is—
- (a) for a notice under section 127(7) (statutory undertakers’ land), Form A in Schedule 1 to these Regulations;
  - (b) for a notice under section 131(10)(a) or 132(10)(a) (commons open spaces etc, compulsory acquisition of land and rights over land) Form B in Schedule 1 to these Regulations; and
  - (c) for a notice under section 134(7) (notice of authorisation of compulsory acquisition), Form C in Schedule 1 to these Regulations.

### **Prescribed procedure for compulsory acquisition of additional land**

4. Regulations 5 to 19 prescribe the procedure for the purposes of the condition in subsection (4) of section 123 (land to which authorisation of compulsory acquisition can relate) and apply where—

- (a) it is proposed to include in an order granting development consent a provision authorising the compulsory acquisition of additional land; and
- (b) a person with an interest in the additional land does not consent to the inclusion of the provision.

### **Proposed provision**

5. The applicant must send to the Commission details of the proposed provision which must—
- (a) be in the form of a book of reference or, where a book of reference has been submitted to the Commission, a supplement to that book;
  - (b) be accompanied by—
    - (i) a land plan identifying the land required as additional land, or affected by the proposed provision; and
    - (ii) a statement of reasons as to why the additional land is required and a statement to indicate how an order that contains the authorisation of the compulsory acquisition of the additional land is proposed to be funded.

### **Acceptance of proposed provision**

6.—(1) The Commission must, by the end of the period of 28 days beginning with the day after the day on which it receives details of the proposed provision, decide whether or not to accept the proposed provision as part of the application.

(2) The Commission may only accept a proposed provision if the Commission is satisfied that it complies with the requirements of regulation 5.

### **Notice of proposed provision**

- 7.—(1) The applicant must give notice of the proposed provision to—
- (a) each authority which, in relation to the proposed provision, is a relevant local authority within the meaning given by section 102(5);
  - (b) the Greater London Authority if the land to which the proposed provision relates, or any part of it, is in Greater London;
  - (c) each person who is within one or more of the categories set out in section 57; and
  - (d) each person listed in Column 1 of Schedule 2 in the circumstances described in Column 2 of that Schedule.
- (2) The notice referred to in paragraph (1) must contain the following—
- (a) the name and address of the applicant;
  - (b) a statement to the effect that an application for an order granting development consent has been made to the Commission, that the Commission has accepted the application, and the reference number applied to that application by the Commission;
  - (c) details of the application, or specified matters, to which the proposed provision relates;
  - (d) a description of the additional land;
  - (e) a map showing the location of the additional land;
  - (f) a statement of reasons as to why the additional land is required;
  - (g) a statement indicating how the order that contains the authorisation of the compulsory acquisition of the additional land is proposed to be funded;
  - (h) a statement that a copy of the proposed provision, the map, the revised draft order and any information submitted with the proposed provision are available for inspection free of charge at the places (including at least one address in the vicinity of the additional land) and the times set out in the notice;
  - (i) the latest date on which those documents will be available for inspection (being a date not earlier than the deadline under paragraph (1));
  - (j) a statement as to whether a charge will be made for copies of any of the documents and, if so, the amount of any charge;
  - (k) details of how representations (giving notice of the person's interest in, or objection to, the proposed provision) can be made, a statement that such representations must be made on a registration form, and the address to which such representations may be sent; and
  - (l) the deadline for receipt of those representations by the Commission, which must not be earlier than the end of a period of at least 28 days beginning with the day after the day on which the person receives the notice.

### **Duty to publicise proposed provision**

- 8.—(1) The applicant must publish a notice of the proposed provision—
- (a) for at least two successive weeks in one or more local newspapers circulating in the vicinity of the additional land;
  - (b) once in a national newspaper;
  - (c) once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and

- (d) where the proposed provision relates to offshore development—
  - (i) once in Lloyd’s List; and
  - (ii) once in an appropriate fishing trade journal.
- (2) The notice referred to in paragraph (1) must contain the following—
  - (a) the name and address of the applicant;
  - (b) a statement to the effect that an application for an order granting development consent has been made to the Commission, that the Commission has accepted the application and giving details of its the case reference number;
  - (c) a summary of the application, or specified matters, to which the proposed provision relates;
  - (d) a description of the additional land;
  - (e) a summary of the statement of reasons as to why the additional land is required;
  - (f) a statement that a copy of the proposed provision, the map, the revised draft order and any information submitted with the proposed provision are available for inspection free of charge at the places (including at least one address in the vicinity of the additional land) and the times set out in the notice;
  - (g) the latest date on which those documents will be available for inspection (being a date not earlier than the deadline under paragraph (j));
  - (h) a statement as to whether a charge will be made for copies of any of the documents and if so the amount of any charge;
  - (i) details of how representations (giving notice of the person’s interest in, or objection to, the proposed provision) can be made, a statement that such representations must be made on a registration form, and the address to which such representations may be sent; and
  - (j) a deadline for receipt of those representations by the Commission, which must not be earlier than the end of a period of at least 28 days beginning with the day after the day on which the notice is last published.

### **Certifying compliance with regulations 7 and 8 and notice of additional affected persons**

**9.** Within the period of 10 working days immediately following the deadline set under regulation 7(2), the applicant must send to the Commission—

- (a) a notice in the form set out in Schedule 3 of the persons who the applicant, after making diligent inquiry, knows are interested in the additional land or any part of that land; and
- (b) the certificate of compliance in the form set out in Schedule 4.

### **Relevant representations**

**10.** Any representation made in response to a notice under regulation 7(1) must be treated as a relevant representation if—

- (a) it relates to the proposed provision;
- (b) it complies with the regulation 4 of the Infrastructure Planning (Interested Parties) Regulations 2010(17) as to the form and content of relevant representations;
- (c) it is received by the Commission no later than the deadline specified in the notice under regulation 7(1); and
- (d) it does not contain—
  - (i) material about compensation for compulsory acquisition of land;

- (ii) material about the merits of policy set out in a national policy statement; or
- (iii) material that is vexatious or frivolous.

### **Initial assessment of issues and meeting**

**11.**—(1) The Examining authority must make an initial assessment of the issues arising in connection with the proposed provision within 21 days of the deadline specified in the notice under regulation 7(2).

(2) After making that assessment the Examining authority may hold a meeting to discuss how the proposed provision should be examined.

(3) The Examining authority must invite to any meeting—

- (a) the applicant;
- (b) each additional affected person;
- (c) each additional interested party; and
- (d) each interested party.

(4) The Examining authority shall preside at the meeting and shall determine—

- (a) the procedure at that meeting;
- (b) the matters to be discussed; and
- (c) the amount of time to be allocated to each matter and allowed for making any oral representations.

(5) As soon as practicable after the end of any meeting the Examining authority must prepare a note of the proceedings at that meeting; and make the note available to all additional affected persons, additional interested parties and interested parties and anyone who attended the meeting.

(6) The Examining authority may hold more than one meeting.

### **Timetable**

**12.**—(1) At the meeting referred to regulation 11 if one is held, or as soon as practicable after the end of that meeting, the Examining authority must set the timetable for its examination of the proposed provision, specifying in the timetable—

- (a) the date by which written representations about the proposed provision must be received by the Examining authority;
- (b) the period within which the Examining authority will ask questions in writing and seek further information about—
  - (i) any matter contained in the proposed provision;
  - (ii) any written representation relating to the proposed provision; and
  - (iii) any other matter it considers relevant to its examination of the proposed provision;
- (c) the period within which the applicant will have the opportunity to comment in writing on—
  - (i) any relevant or written representation relating to the proposed provision; and
  - (ii) any responses to written questions received from an additional interested party, interested party or others;
- (d) the period within which any additional affected person, additional interested party or interested party will have the opportunity to comment on—
  - (i) any relevant or written representation relating to the proposed provision; and

- (ii) any responses to written questions received from an additional interested party, interested party or others;
  - (e) the date by which any additional affected person must notify the Examining authority of their wish to be heard at a compulsory acquisition hearing; and
  - (f) such other deadlines as the Examining authority considers necessary.
- (2) The Examining authority must send the timetable to all additional affected persons, additional interested parties, interested parties and any other person it has invited to any meeting.
- (3) The Examining authority may subsequently vary the timetable; and as soon as practicable after doing so must notify of the variation all additional affected persons, additional interested parties, interested parties and any other person it has invited to any meeting.

### **Written representations about the proposed provision**

**13.**—(1) An additional affected person, additional interested party, or interested party must ensure that any written representation that party may wish to make about the proposed provision is received by the Examining authority by the date specified in the timetable set under regulation 12, or otherwise under this rule, by the Examining authority.

(2) The Examining authority may at any time specify the date (being a date not earlier than the end of a period of 21 days) by which a written representation to be submitted from the applicant or an additional affected person must be received by the Examining authority.

(3) Any additional affected person, additional interested party, or interested party, who submits a written representation, must identify in their written representation those parts of the proposed provision with which they agree and those parts with which they do not agree and must state the reasons for such disagreement.

(4) The Examining authority must provide all additional affected persons and interested parties with the opportunity to comment on any written representations, responses and further information received by it.

(5) The Examining authority may in writing request—

- (a) a specified number of additional copies of any representation;
- (b) responses to questions posed by the Examining authority about the matters contained in any representation; and
- (c) such further information about the matters contained in any representation as the Examining authority may specify;

and shall specify the date by which these must be received by it

(6) A person who receives a request in accordance with paragraph (5) must ensure that the additional copies, responses to written questions or further information are received by the Examining authority by the date specified.

(7) The Examining authority may disregard any written representations, responses or information received after the date specified for their receipt.

(8) The Examining authority must make all written representations, responses to written questions and further information received by it available in accordance with rule 15 as soon as is practicable.

### **Hearings about specific issues**

**14.**—(1) As soon as practicable after receipt of the notice referred to in regulation 9(a), the Examining authority must notify each additional affected person and each additional interested party, of the date, time and place fixed for any issue specific-hearing.



(2) Where the issue-specific hearing has already taken place, the Examining authority must arrange another and notify each additional affected person, each additional interested party, and each interested party of the date, time and place fixed for the further issue-specific hearing.

(3) If an issue-specific hearing has already been arranged but there is insufficient time for the Examining authority to give each additional affected person and each additional interested party 21 days' notice of the date, time and place fixed for the issue-specific hearing, the Examining authority must rearrange it unless each additional affected person, each additional interested party and each interested party agree in writing that it should take place on the original date.

(4) Except as mentioned in paragraph (3), the Examining authority must ensure that at least 21 days' notice is given of any issue-specific hearing to each additional affected person, each additional interested party, and each interested party.

### **Compulsory acquisition hearing**

**15.—**(1) As soon as practicable after receipt of the notice referred to in regulation 9(a), the Examining authority must notify each additional affected person of—

- (a) the deadline by which that person must notify the Commission of the person's wish to be heard at a compulsory acquisition hearing; and the deadline must be not less than 21 days after the date of the notification; and
- (b) the date, time and place fixed for a compulsory acquisition hearing.

(2) If an additional affected person notifies the Commission of a wish to be heard at a compulsory acquisition hearing and such a hearing has already taken place, the Examining authority must arrange another and notify the applicant, each affected person and each additional affected person of the date, time and place fixed for the further compulsory acquisition hearing.

(3) If a compulsory acquisition hearing has already been arranged but there is insufficient time for the Examining authority to give each additional affected person 21 days' notice of the date, time and place fixed for the compulsory acquisition hearing, the Examining authority must rearrange it unless each additional affected person and each affected person agrees in writing that it should take place on the original date.

(4) Except as mentioned in paragraph (3), the Examining authority must ensure that at least 21 days' notice is given by it of any hearing to each additional affected person and each affected person.

### **Open-floor**

**16.—**(1) As soon as practicable after receipt of the notice referred to in regulation 9(a), the Examining authority must notify each additional affected person and each additional interested party of—

- (a) the deadline by which that person must notify the Commission of the person's wish to be heard at an open-floor hearing; and the deadline must be not less than 21 days after the date of the notification; and
- (b) the date, time and place fixed for any open-floor hearing..

(2) If the open-floor has already taken place the Examining authority must arrange another and notify each additional affected person, each additional interested party and each interested party of the date, time and place fixed for the further open-floor.

(3) If an open-floor has already been arranged but there is insufficient time for the Examining authority to give each additional affected person, each additional interested party and each interested party 21 days' notice of the date, time and place fixed for the open-floor, the Examining authority must rearrange it unless each additional affected person, each additional interested party and each interested party agrees in writing that it should take place on the original date.

(4) Except as mentioned in paragraph (3), the Examining authority must ensure that at least 21 days' notice is given of any hearing to each additional affected person, each additional interested party, and each interested party.

### **Availability and inspection of documents**

**17.**—(1) Representations or documents must be made available by the Commission to additional affected persons, additional interested parties and interested parties and to anyone who requests an opportunity to inspect and take copies of them.

(2) A representation or document shall be taken to be available where additional affected persons, additional interested parties and interested parties are notified of—

- (a) publication of the representation or document on a website;
- (b) the address of the website;
- (c) the place on the website where the representation or document may be accessed, and how it may be accessed;
- (d) details of where and when copies of representations or documents may be inspected;
- (e) details of where and when representations or documents may be copied; and
- (f) whether a charge will be made for copying any of the documents available for inspection and, if so, the amount of any charge.

(3) Where the applicant, additional affected person, additional interested party, or interested party is under an obligation to afford to any person who so requests an opportunity to inspect and take copies of any representation or document, the opportunity shall be taken to have been afforded where the person is notified of—

- (a) publication of the representation or document on a website;
- (b) the address of the website;
- (c) the place on the website where the representation or document may be accessed, and how it may be accessed;
- (d) details of where and when copies of the representation or document may be inspected;
- (e) details of where and when any representation or document may be copied; and
- (f) whether a charge will be made for copying any of the documents available for inspection and, if so, the amount of any charge.

(4) In this regulation—

- (a) “document” means any notice, report or other document required or authorised to be sent or prepared under these Regulations or under the Act;
- (b) “representation” means a relevant representation or a written representation.

### **Service of notices etc.**

**18.**—(1) Where under any provision of these Regulations, a person is required to notify another person or body of something, that notification must be in writing.

(2) Any representation, notice or other document required or authorised to be sent under any provision of these Regulations may be sent—

- (a) by sending it by post; addressed to that person at that person's usual or last known place of abode, or in a case where an address for service has been give by that person, at that address;

- (b) by sending it in a prepaid registered letter, or by recorded delivery service address to that person at that person's usual or last known place of abode, or in a case where an address for service has been give by that person, at that address; or
- (c) subject to paragraphs (3) to (6), by electronic transmission to such address as may for the time being be specified by the person for that purpose.

(3) Where a representation, notice or other document required to be sent for any purpose of these Regulations is sent by electronic transmission, the requirement shall be taken to be fulfilled where the recipient of the representation, notice or other document has consented, either in writing or by electronic transmission, to the use of electronic transmission for that purpose.

(4) Where the recipient of a representation, notice or other document sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or any part of that representation, notice or other document, the sender must provide such a copy as soon as reasonably practicable.

(5) A person may revoke their consent to the use of electronic transmission for any purpose of these Regulations by giving notice to that effect, in writing or by electronic transmission, specifying the purpose for which electronic transmission may not be used and the date on which the revocation is to take effect, being not less than 7 days after the date on which the notice is given.

(6) A revocation under paragraph (5) shall take effect on the date specified in the notice.

#### **Allowing further time**

**19.** The Commission or the Examining authority may at any time and in any particular case allow further time for the taking of any step which must or may be taken by virtue of these Regulations.

#### **Closed evidence not to be disclosed**

**20.—**(1) Nothing in these Regulations shall be taken to require or permit closed evidence to be disclosed to a person other than—

- (a) the Secretary of State;
- (b) any party; or
- (c) a person of any description specified in a direction under paragraph 2(6) of Schedule 3 to the Act.

(2) In this Regulation—

- (a) “party” means—
- (b) the person making a request for a direction under paragraph 2(6) of Schedule 3 to the Act; or
- (c) any appointed representative appointed under paragraph 4(2) of Schedule 3 to the Act;
- (d) “appointed representative” means a person appointed under paragraph 4(2) of Schedule 3 to the Act.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

25th January 2010

*Ian Austin*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

## SCHEDULE 1

Regulation 3

### Form A

#### NOTICE UNDER SECTION 127(7) OF THE PLANNING ACT 2008

[THE (a) DEVELOPMENT CONSENT ORDER ]

The above order, which was made on the [(b) ] by the [Infrastructure Planning Commission] [Secretary of State for (c)] (d), includes provision authorising the compulsory acquisition of [land] [and] [the new rights] (d) described in the Schedule.

[This land] [The land over which the new rights are to be acquired] (d) was acquired by (e) for the purposes of their undertaking and the Secretary of State is satisfied that [it is used] [an interest in it is held] (d) for the purposes of carrying out their undertaking.

The Secretary of State for [(e) ], in exercise of powers under section [127(2)] [127(5)] (d) of the Planning Act 2008, has certified that the Secretary of State is satisfied that the nature and situation of the land in question are such that

[it can be purchased and not replaced without serious detriment to the carrying on of the undertaking.]

[it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.] (d)

The certificate becomes operative on (b).

#### SCHEDULE

(f)

[date and signature]

#### Notes

(a) Insert the title of the order and the year it is made

(b) Insert the relevant date

(c) Insert title of Secretary of State

(d) Delete material which is inapplicable

(e) Insert the name of the authority

(f) Insert a description of all the land (and/or new rights, if any) comprised in the order. This need not repeat anything said in the order itself, but must be in terms which enable interested persons to readily understand how their land is affected. If the details of the new rights are lengthy a suitable summary can be included.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## Form B

### NOTICE OF SECRETARY OF STATE'S CERTIFICATE UNDER SECTION 131(10) OR 132(10) OF THE PLANNING ACT 2008

[(a)]

The above application, which has been submitted to the Infrastructure Planning Commission by [(b)], seeks an order granting development consent which authorises the compulsory acquisition of [land] [a right over land] [(c)] forming part of [a common] [an open space] [a fuel or field garden allotment] [by the creation of a new right over that land] [(c)]. [The land] [and] [the rights] [is] [are] [(c)] described in the Schedule [1] [(c)] to this notice.

Such an order must be subject to special parliamentary procedure unless the Secretary of State issues a certificate in accordance with section [131(3)(b)] [132(2)(b)] [(c)] of the Planning Act 2008 ('the Act'). The Secretary of State for [(d)] in exercise of powers under section [131(3)(b)] [132(2)(b)] [(c)] of the Act, has certified that the Secretary of State is satisfied that

[replacement land has been or will be given in exchange for the order land, and, the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land.]

[replacement land has been or will be given in exchange for the order right, and, 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). The land which has or will be given in exchange is described in Schedule 2 to this notice.]

[the order land does not exceed 200 square metres in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway, and, the giving in exchange of other land 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.]

[the order land, when burdened with the order right, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public.]

[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, 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.] [(c)]

The certificate becomes operative on the date on [(g)].

SCHEDULE [1]

[(e)]

[SCHEDULE 2] [(c)]

[(f)]

[Date and signature]

Notes

(a) *Insert IPC application reference*

(b) *Insert the name of the applicant*

(c) *Delete material which is inapplicable*

(d) *Insert the title of the relevant Secretary of State*

(e) *Insert a description of the land and new rights to which the certificate relates. If the details of new rights are lengthy a suitable summary may be included*

(f) *If land is to be (or has been) given in exchange, this should be described here*

(g) *Insert the relevant date*

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Form C

**NOTICE OF COMPULSORY ACQUISITION UNDER SECTION 134(7) OF THE PLANNING ACT 2008**

[THE (a) DEVELOPMENT CONSENT ORDER ]

[(b) ]

NOTICE OF AUTHORISATION OF COMPULSORY ACQUISITION

The above order, made under the Planning Act 2008 by the [Infrastructure Planning Commission] [Secretary of State for (c)] (d) and published on [(e) ], includes provision authorising the compulsory acquisition [of land] [existing rights over land] [of a right over land by creating a new right over it] (d) as described in the Schedule.

The order includes provision authorising the acquisition for the purpose of [(f) ].

A copy of the order has been deposited at [ (g)] and may be inspected at all reasonable hours.

A person aggrieved by the order may challenge the order only in accordance with section 118 of the Planning Act 2008, which stipulates that any proceeding must be brought by filing a claim form for judicial review during the period of 6 weeks beginning with the day on which the order was published (or, if later, the day on which the statement of reasons for making the order is published).

SCHEDULE

DESCRIPTION OF THE [LAND][EXISTING RIGHTS] [AND][THE NEW RIGHTS] (d)

(h)

[Date and signature]

Notes

(a) *Insert the title of the order*

(b) *Where the notice is to be affixed, the notice should be addressed at this point to persons occupying or having an interest in the land in question*

(c) *Insert the title of the relevant Secretary of State*

(d) *Delete material which is inapplicable*

(e) *Insert the date on which the order was published*

(f) *Insert the purpose of the acquisition*

(g) *Insert the address at which a copy of the order may be inspected*

(h) *Insert a description of all the land and/or existing or new rights described in the order. This need not repeat any relevant Schedule to the order itself, but must be in terms which enable the reader to appreciate what is included. If the details of the existing or new rights are lengthy, a summary may be included*

SCHEDULE 2

Regulation 7

Table

Table of persons to be notified of the proposed provision

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Column 1; Persons</i>	<i>Column 2; Circumstances when that person must be consulted about a proposed provision.</i>
The Welsh Ministers	All proposed provisions likely to affect land in Wales
The Scottish Executive	All proposed provisions likely to affect land in Scotland
The relevant Northern Ireland Department	All proposed provisions likely to affect land in Northern Ireland
The relevant Regional Planning Body	All proposed provisions likely to affect land in England and Wales
The Health and Safety Executive	All cases
The relevant Strategic Health Authority	All proposed provisions likely to affect land in England and Wales
The relevant Health Board(18)	All proposed provisions likely to affect land in Scotland
Natural England	All proposed provisions likely to affect land in England
The Historic Buildings and Monuments Commission for England	All proposed provisions likely to affect land in England
The relevant fire and rescue authority	All cases
The relevant police authority	All cases
The relevant parish council, or, where the application relates to land in Wales or Scotland the relevant community council	All cases
The Environment Agency	All proposed provisions likely to affect land in England and/or Wales
The Scottish Environment Protection Agency	All proposal provisions likely to affect land in Scotland
The Commission for Architecture and the Built Environment	All proposed provisions likely to affect land in England
The relevant Regional Development Agency	All cases
The Equality and Human Rights Commission	All proposed provisions likely to affect land in England and Wales
The Scottish Human Rights Commission	All proposed provisions likely to affect land in Scotland
The Commission for Sustainable Development	All cases

**Note to Table**

“relevant” in relation to a body, shall mean the body which has responsibility for the area where the additional land is located.

(18) For the meaning of Health Board see section 2 of the National Health Service (Scotland) Act 1978 (c.29)



<i>Column 1; Persons</i>	<i>Column 2; Circumstances when that person must be consulted about a proposed provision.</i>
AONB Conservation Boards	All proposed provisions likely to affect an AONB that is managed by a Conservation Board
Royal Commission on Ancient and Historical Monuments of Wales	All proposed provisions likely to affect the historic environment in Wales
The Countryside Council for Wales	All proposed provisions likely to affect land in Wales
The Homes and Communities Agency	All proposed provisions likely to have an effect on its areas of responsibility
The Joint Nature Conservation Committee	All proposed provisions likely to affect the marine environment
The Commission for Rural Communities	All proposed provisions likely to affect rural communities in England
Scottish Natural Heritage	All proposed provisions likely to affect land in Scotland
The Maritime and Coastguard Agency	All proposed provisions likely to affect the maritime or coastal environment, or the shipping industry
The Marine and Fisheries Agency	All proposed provisions likely to affect the marine area in England and Wales
The Scottish Fisheries Protection Agency	All proposed provisions likely to affect the fisheries industry in Scotland
The Civil Aviation Authority	All proposed provisions relating to airports or which are likely to affect an airport or its current or future operation
The Highways Agency	All proposed provisions likely to affect road or transport operation and/or planning on roads for which the Secretary of State for Transport is the highway authority.
Integrated Transport Authorities (ITAs) and Passenger Transport Executives (PTEs)	All proposed provisions likely to affect transport within, to or from the relevant integrated transport area of the ITA or PTE
The relevant Highway Authority	All proposed provisions likely to have an impact on the road network or the volume of traffic in the vicinity of the proposal
Transport for London	All proposed provisions likely to affect transport within, to or from Greater London
The Rail Passengers Council	All proposed provisions likely to affect rail passenger transport

**Note to Table**

“relevant” in relation to a body, shall mean the body which has responsibility for the area where the additional land is located.

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<i>Column 1; Persons</i>	<i>Column 2; Circumstances when that person must be consulted about a proposed provision.</i>
The Disabled Persons Transport Advisory Committee	All proposed provisions likely to affect access to transport for disabled people
The Coal Authority	All proposed provisions that lie within areas of past, present or future coal mining.
The Office of Rail Regulation and approved operators <sup>(19)</sup>	All proposed provisions likely to affect the rail transport industry
The Gas and Electricity Markets Authority	All proposed provisions likely to affect gas and electricity markets
The Water Services Regulation Authority	All proposed provisions likely to affect the water industry in England and Wales
The Water Industry Commission of Scotland	All proposed provisions likely to affect the water industry in Scotland
The relevant waste regulation authority	All proposed provisions likely to affect waste infrastructure
The relevant internal drainage board	All proposed provisions likely to increase the risk of flooding in that area or where the proposals relate to an area known to be an area of flood risk
The British Waterways Board	All proposed provisions likely to have an impact on inland waterways or land adjacent to inland waterways
Trinity House	All proposed provisions likely to affect navigation in tidal waters
The Health Protection Agency	All proposed provisions likely to involve chemicals, poisons or radiation which could potentially cause harm to people
The relevant local resilience forum	All cases
Relevant statutory undertakers	All proposed provisions likely to affect their functions as statutory undertakers
The Crown Estate Commissioners	All proposed provisions likely to impact on the Crown Estate
The Forestry Commission	All proposed provisions likely to affect the protection or expansion of forests and woodlands

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**Note to Table**

“relevant” in relation to a body, shall mean the body which has responsibility for the area where the additional land is located.

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(19) For the definition of “approved operators” see section 25 of the Planning Act 2008 (c.29).

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### SCHEDULE 3

Regulation 9(a)

Notice in accordance with regulation 9(a)

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Planning Act 2008

The Infrastructure Planning (Compulsory Acquisition) Regulations 2010

Notice under regulation 9(a)

The names, addresses for service and contact details of the additional affected persons are –

**EITHER**

(a) as described in the supplement to Part 1 of the book of reference (persons within Category 1 set out in section 57(1) of the Planning Act 2008 and persons within Category 2 set out in section 57(2) of that Act): **YES/NO (i)**.

**OR**

(b) as described in the supplement to Part 1 of the book of reference (persons within Category 1 set out in section 57(1) of the Planning Act 2008 and persons within Category 2 set out in section 57(2) of that Act), subject to the changes described in documentation attached to this notice: **YES/NO (i)**.

**OR**

(c) as described in the documentation attached to this Notice: **YES/NO (i)**

- in relation to the proposed provision to authorise the compulsory acquisition of additional and for .....  
..... at the location of /or along the route of (i).....

(Completed certificate to be received by the Infrastructure Planning Commission no later than 10 working days after the deadline date stating the applicant has fulfilled requirement at either (a), (b) and (c) above)

**IPC Case Reference No.:** .....

**Applicant:** .....

**Signed:** .....

**On behalf of:** .....

**Date:** .....

*Notes:*

*(i) Delete material which is inapplicable*

*(ii) Regulation 7 and 8 require the applicant to have: (a) given notice of an accepted proposed provision to the required persons; (b) made available to the required persons a copy of the proposed provision and accompanying documents and information; and (c) publicised the proposed provision in the prescribed manner.*

*(iii) Section 57 of the Planning Act 2008 defines a person as being within Categories 1 and 2 as follows:*

*(1) A person is within Category 1 if the applicant, after making diligent inquiry, knows that the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.*

*(2) A person is within Category 2 of the applicant, after making diligent inquiry, knows that the person; (a) is interested in the land, or (b) has power to either sell or convey the land or to release the land.*

*(iv) Regulation 9 requires the applicant to certify to the Commission that the applicant has complied with the requirements of regulations 7 and 8.*

*(v) The book of reference is defined in regulation 7 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.*

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SCHEDULE 4

Regulation 9(b)

Certifying compliance with regulations 7 and 8

Planning Act 2008

The Infrastructure Planning (Compulsory Acquisition) Regulations 2010

Certificate under regulation 9(b) certifying compliance with regulations 7 and 8

I certify that, in compliance with the requirements of regulations 7 and 8 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010—

- (a) notice of the proposed provision was given to the required persons identified in accordance with regulation 7;
- (b) a copy of the proposed provision and accompanying documents and information was made available to the required persons; and
- (c) the proposed provision was published in the required manner

- in relation to the proposed provision to authorise the compulsory acquisition of additional and for.....

.....at the location of /or along the route of (i).....

The deadline date for all representations to be received by the Commission under regulations 7 and 8 was.....

(Completed certificate to be received by the Infrastructure Planning Commission no later than 10 working days after the deadline date stating the applicant has fulfilled all the requirements at (a), (b) and (c) above)

IPC Case Reference No.: .....

Applicant: .....

Signed: .....

Name in capitals: .....

Date: .....

Notes

(i) Delete material which is inapplicable

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**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The Planning Act 2008 (“the Act”) establishes the Infrastructure Planning Commission and provides for the granting of development consent for certain types of nationally significant infrastructure

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projects. Part 6 of the Act sets out the procedure for examining applications for development consent. Part 7 contains provisions in respect of what can be included in an order granting development consent. Among other things, an order granting development consent can authorise the compulsory acquisition of land.

Regulation 3 of these Regulations, and Schedule 1, prescribe the forms that must be used when an order granting development consent authorises the compulsory acquisition of land.

Regulation 4 states that the procedure set out in regulations 5 to 19 is the prescribed procedure for the purposes of subsection (4) of section 123 (land to which authorisation of compulsory purchase can relate). This section specifies that an order granting development consent can only include a provision authorising the compulsory acquisition of land if the decision-maker is satisfied that one of the conditions contained in subsections (2) to (4) is met. The first condition, set out in subsection (2), is that the application for the order included a request for compulsory acquisition of that land to be authorised. The second condition, set out at subsection (3), is that all persons with an interest in that land consent to the inclusion of the provision. The third condition, set out in subsection (4) is that the prescribed procedure has been followed in relation to the land.

Regulation 5 requires the applicant to send to the Commission details of the proposed provision authorising the compulsory acquisition of land. Regulation 6 provides for the Commission to notify the applicant, within 28 days, of whether or not it accepts the proposed provision. Regulation 7 sets out the notice requirements. These include the requirement to serve notice on the persons listed in Column 1 of Schedule 2 in the circumstances described in Column 2. The publicity requirements that apply once a proposed provision has been accepted are set out in regulation 8. Regulation 9 requires the applicant to give to the Commission a notice of additional persons interested in the land in the form set out in Schedule 3 and to send to the Commission a certificate of compliance in the form set out in Schedule 4.

Regulation 10 provides that a response to a notice under regulation 7 is to be treated as a relevant representation.

Regulation 11 requires the Examining Authority to make an initial assessment of the issues raised and provides that it may hold a hearing to consider how the proposed provision should be considered. Regulation 12 states that the Examining Authority must prepare a timetable for its examination of the proposed provision and what this should include. Regulation 13 relates to the making of written representations. Regulations 14, 15 and 16 contain provisions in respect of issue-specific hearings, compulsory acquisition and open-floor hearings (to which sections 92, 93 and 91 of the Act refer). Regulations 17, 18 and 19 contain provisions about the availability and inspection of representations and documents, the service of notices, representations and documents and allowing further time. Regulation 20 limits the disclosure of any representation which is subject to a direction under paragraph 2(6) of Schedule 3 to the 2008 Act (“closed evidence”).

An Impact Assessment has not been prepared for these Regulations since the policy options do not have an additional impact on business, charities or the public sector beyond what was examined in the Impact Assessment that accompanied the Planning Bill when it was introduced in Parliament on 27th November 2007. That Impact Assessment can be found on the Communities and Local Government website (<http://www.communities.gov.uk>).