

EXPLANATORY MEMORANDUM TO
THE DRAFT PLANNING AND COMPULSORY PURCHASE ACT 2004
(CORRESPONDING AMENDMENTS) ORDER 2007

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The draft Order amends the various Acts specified in the Schedule to the Order. The Acts all deal with the compulsory acquisition of land or rights over land. The amendments correspond to those made to the Acquisition of Land Act 1981 by sections 100(5) and 101(3) of the Planning and Compulsory Purchase Act 2004. Their effect is to require the acquiring authority to give notice to all tenants, whatever the period of their tenancy.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 This is the first occasion on which the power conferred by section 110 of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) has been exercised.

4.2 The draft Order amends the various enactments specified in the Schedule to the Order so as to bring them into line with the amendments to section 12 of, and Schedule 1 to, the Acquisition of Land Act 1981 (c.67) made by sections 100(5) and 101(3) of the 2004 Act. The effect of the amendments is to extend to all tenants of land proposed for compulsory acquisition the right to be notified by the acquiring authority. Before the 2004 Act amendments, 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.

4.3 Article 1(3) provides that the amendments do not affect any order of which notice was served before the coming into force of the Order.

5. Extent

5.1 This instrument extends to England and Wales.

6. European Convention on Human Rights

6.1 The Baroness Andrews has made the following statement—

In my view the provisions of the draft Planning and Compulsory Purchase Act 2004 (Corresponding Amendments) Order 2007 are compatible with the Convention rights.

7. Policy background

7.1 Part 8 of the Planning and Compulsory Purchase Act 2004 made a number of changes to the compulsory purchase procedures set out in the Acquisition of Land Act 1981 (“the 1981 Act”). These included changes to the requirements for notifying people who have interests in the land to which a compulsory acquisition relates about certain key events in the acquisition process. Some Acts containing compulsory purchase powers do not depend on the 1981 Act for the procedure to make an Order. This draft Order amends these Acts to reflect the revisions made to the 1981 Act. This means that the notification provisions of all public general Acts conferring compulsory purchase powers are the same.

7.2 Prior to the commencement of the 2004 Act the right to be notified of the making of a compulsory purchase order under section 12 of, or Schedule 1 to, the 1981 Act, with associated rights to object and appear at an inquiry, was limited to persons whose interest in the order land was that of an “owner, lessee or occupier (except tenants for a month or any period less than a month)”. This meant that the right to notification did not include, for example, monthly or weekly tenants, even though they may have had statutory security of tenure and have lived in the property on that basis for a number of years.

7.3 The 2004 Act amended section 12 of, and Schedule 1 to, the 1981 Act to extend the category of persons entitled to be served with notice that a compulsory purchase order has been made to all tenants. This in turn increased the category of potential objectors with the right to be heard at an inquiry. The various Acts specified in the Schedule to the draft Order contain provisions broadly comparable to those in the 1981 Act. If an Order is made in the terms of the draft Order, any person who is a tenant, whatever the tenancy period, will be entitled to notice of a compulsory purchase order (and certain other orders, such as compulsory rights orders) relating to the land they occupy.

7.4 The draft Order has been considered and approved by the various government departments concerned.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact of the instrument on the public sector will be minimal as the provisions amended are used only occasionally.

9. Contact

Cyril Kearney at the Department for Communities and Local Government Tel: 020 7944 3915 or e-mail: cyril.kearney@communities.gsi.gov.uk can answer any queries regarding the instrument.

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