

Changes to legislation: Electricity Act 1989, Part II is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

F¹ SCHEDULES

SCHEDULE 3

COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

PART II

PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES)

Modifications etc. (not altering text)

- C1 Sch. 3 Pt. 2 applied (11.8.2022) by [The Sizewell C \(Nuclear Generating Station\) Order 2022 \(S.I. 2022/853\)](#), art. 1, [Sch. 18 para. 2\(3\)](#) (with arts. 62, 76, 87)

Application of Acquisition of Land Act 1981 generally

- 5 (1) Subject to sub-paragraph (2) below, the ^{M1}Acquisition of Land Act 1981 shall apply to a compulsory purchase by a licence holder of land or rights in England and Wales; and Schedule 3 to that Act shall apply in the case of a compulsory acquisition by a licence holder of a right by the creation of a new right.
- (2) Section 16 of, and paragraph 3 of Schedule 3 to, the said Act of 1981 (statutory undertakers' land excluded from compulsory purchase) shall not apply where the land or rights in question belong to another licence holder.

Marginal Citations

- M1 [1981 c. 67.](#)

New rights: general adaptation of Compulsory Purchase Act 1965

- 6 The ^{M2}Compulsory Purchase Act 1965 shall have effect with the modifications necessary to make it apply to a licence holder's compulsory acquisition of a right in England and Wales by the creation of a new right as it applies to the compulsory acquisition of land, so that, in appropriate contexts, references in that Act to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is or is to be exercisable, according to the requirements of the particular context.

Marginal Citations

- M2 [1965 c. 56.](#)

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New rights: specific adaptations of Act of 1965

7 Without prejudice to the generality of paragraph 6 above, Part I of the Compulsory Purchase Act 1965 shall apply in relation to a licence holder’s compulsory acquisition of a right in England and Wales by the creation of a new right with the modifications specified in paragraphs 8 to 13 below.

8 For section 7 of that Act (measure of compensation) there shall be substituted the following section—

“7 In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

[F19 Section 8(1) of the Compulsory Purchase Act 1965 has effect as if references to acquiring land were to acquiring a right in the land, and Schedule 2A to that Act is to be read as if, for that Schedule, there were substituted—

“SCHEDULE
2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

- 1 (1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 2 In this Schedule “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

- 3 A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.
- 4 A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

- 5 On receiving a counter-notice the acquiring authority must decide whether to—
- (a) withdraw the notice to treat,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.

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- 6 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 7 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 8 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.
- 9 If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

- 10 On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—
 - (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
 - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- 11 In making its determination, the Upper Tribunal must take into account—
 - (a) the effect of the acquisition of the right,
 - (b) the proposed use of the right, and
 - (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 12 If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the house, building or factory the authority ought to be required to take.
- 13 If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.
- 14 (1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.
 - (2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
 - (3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”]

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Textual Amendments

F1 Sch. 3 para. 9 substituted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), Sch. 17 paras. 6, 7; [S.I. 2017/75](#), reg. 3(g) (with reg. 5)

- 10 The following provisions of that Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—
- section 9(4) (refusal by owners to convey);
 - Schedule 1, paragraph 10(3) (owners under incapacity);
 - Schedule 2, paragraph 2(3) (absent and untraced owners); and
 - Schedule 4, paragraphs 2(3) and 7(2) (common land),
- shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.
- 11 Section 11 of that Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on [^{F2}enforcement officer's or sheriff's warrant] in the event of obstruction) shall be modified correspondingly.

Textual Amendments

F2 Words in Sch. 3 para. 11 substituted (1.4.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 22 para. 7](#); [S.I. 2007/2709](#), art. 5(b)

- 12 Section 20 of that Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.
- 13 Section 22 of that Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

New rights: compensation

- 14 The enactments in force in England and Wales with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a licence holder's compulsory acquisition of a right by the creation of a new right as they apply to compensation on the compulsory purchase of land and interests in land.

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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):

- s. 4(1)(f) and word inserted by [2023 c. 52 s. 186\(3\)\(b\)](#)
- s. 4(1)(ca) inserted by [2023 c. 52 s. 166\(2\)](#)
- s. 4(1)(da) inserted by [2023 c. 52 s. 205\(2\)\(b\)](#)
- s. 4(3H)(3I) inserted by [2023 c. 52 s. 186\(4\)](#)
- s. 4(3CA) inserted by [2023 c. 52 s. 205\(3\)](#)
- s. 4(3EA) inserted by [2023 c. 52 s. 205\(5\)](#)
- s. 6(1)(g) and word inserted by [2023 c. 52 s. 186\(7\)\(b\)](#)
- s. 6(1)(ea) inserted by [2023 c. 52 s. 205\(8\)\(b\)](#)
- s. 6(2C) inserted by [2023 c. 52 s. 186\(8\)](#)
- s. 6(2AA) inserted by [2023 c. 52 s. 205\(9\)](#)
- s. 6(6E) inserted by [2023 c. 52 s. 205\(10\)](#)
- s. 7(3GA) inserted by [2023 c. 52 s. 186\(17\)](#)
- s. 7A(11B) inserted by [2023 c. 52 s. 186\(18\)](#)
- s. 8A(1C) inserted by [2023 c. 52 s. 206\(6\)](#)
- s. 10NA inserted by [2023 c. 52 s. 207\(2\)](#)
- s. 11E(2)(d) and word inserted by [2013 c. 32 s. 138\(5\)\(b\)\(iii\)](#)
- s. 11AA inserted by [2018 c. 14 s. 13\(3\)](#)
- s. 15(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 3(2)(b) (as substituted) by [S.I. 2019/1245 reg. 19](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 25(8A) inserted by [2023 c. 52 Sch. 14 para. 7\(3\)](#)
- s. 44A inserted by [1992 c. 43 s. 23](#)
- s. 44A(6)(b)(i) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 44B(1)(a)(iia) inserted by [2023 c. 52 Sch. 17 para. 8](#)
- s. 56C(6)(d) and word inserted by [2013 c. 32 s. 138\(5\)\(d\)\(ii\)](#)
- Sch. 5A para. 2(1A) inserted by [2018 c. 14 s. 13\(4\)](#)
- Sch. 6A para. 9ZA and cross-heading inserted by [2023 c. 52 Sch. 14 para. 8](#)