



Housing and Planning Act 2016

2016 CHAPTER 22

PART 7

COMPULSORY PURCHASE ETC

Possession following notice to treat etc

189 Corresponding amendments to the New Towns Act 1981

(1) Schedule 6 to the New Towns Act 1981 (modification of compulsory purchase legislation as applied for the purposes of the Act) is amended as follows.

(2) In paragraph 4—

(a) in sub-paragraph (1)—

(i) in the words before paragraph (a), after “every owner of that land” insert “ so far as known to the acquiring authority after making diligent inquiry in accordance with section 5(1) of the Compulsory Purchase Act 1965 ”;

(ii) in the words after paragraph (b), omit “(not being less than 14 days)”;

(b) after sub-paragraph (2) insert—

“(2A) The period specified in a notice under sub-paragraph (1) must not end earlier than the end of the period of 3 months beginning with the day on which the notice is served unless—

(a) it is a notice to which paragraph 4A(4) applies, or

(b) it is a notice to which paragraph 13 of Schedule 2A to the Compulsory Purchase Act 1965 (as modified by paragraph 1(2)(g) above) applies.

(2B) A notice under sub-paragraph (1) must explain the effect of paragraph 4B (counter-notice requiring possession to be taken on specified date) and give an address at which the acquiring authority may be served with a counter-notice.

Changes to legislation: Housing and Planning Act 2016, Section 189 is up to date with all changes known to be in force on or before 11 August 2023. 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

(2C) An acquiring authority may extend the period specified in a notice under sub-paragraph (1) by agreement with each person on whom it was served.

(2D) A reference in this Schedule to the period specified in a notice under sub-paragraph (1) is to the period as extended by any agreement under sub-paragraph (2C).”

(3) After paragraph 4 insert—

“4A

(1) This paragraph applies where—

- (a) an acquiring authority have given a notice under paragraph 4(1) but have not yet entered on and taken possession of the land, and
- (b) the authority become aware of an owner (“the newly identified owner”) to whom they ought to have given a notice to treat under section 5(1) of the Compulsory Purchase Act 1965 but have not.

(2) Any notice already served under paragraph 4(1) remains valid, but the authority may not enter on and take possession of the land unless they serve on the newly identified owner—

- (a) a notice to treat under section 5(1) of the Compulsory Purchase Act 1965, and
- (b) a notice under paragraph 4(1).

(3) Sub-paragraph (4) applies for the purpose of determining the period to be specified in the notice under paragraph 4(1) served on the newly identified owner if—

- (a) the owner is an occupier of the land and the authority were not aware of the owner because they were given misleading information when carrying out inquiries under section 5(1) of the Compulsory Purchase Act 1965, or
- (b) the owner is not an occupier of the land.

(4) The period must be a period that ends—

- (a) no earlier than the end of the period of 14 days beginning with the day on which the notice of entry is served, and
- (b) no earlier than the end of the period specified in any previous notice under paragraph 4(1) given by the acquiring authority in respect of the land.

(5) This paragraph applies instead of section 11A of the Compulsory Purchase Act 1965.

4B

(1) Where the acquiring authority serves a notice under paragraph 4(1) on an occupier with an interest in land, the occupier may serve a counter-notice requiring the acquiring authority to take possession of the land by no later than a date specified in the counter-notice.

(2) If the occupier gives up possession of the land on or before the specified date, the acquiring authority is to be treated as having taken possession on that date (unless the acquiring authority has in fact taken possession before that date).

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- (3) The date specified in the counter-notice—
 - (a) must not be before the end of the period specified in the notice under paragraph 4(1), and
 - (b) must be at least 28 days after the day on which the counter-notice is served.
- (4) A counter-notice under sub-paragraph (1) has no effect if the notice to treat relating to the land is withdrawn or ceases to have effect before the date specified in the counter-notice.
- (5) A counter-notice under sub-paragraph (1) has no effect if it would require an acquiring authority to take possession of land at a time when either paragraph 4A of this Schedule or paragraph 6 of Schedule 2A to the Compulsory Purchase Act 1965 prohibit the authority from entering on and taking possession of the land.
- (6) If sub-paragraph (5) applies, the authority must notify the occupier who served the counter-notice—
 - (a) that the counter-notice has no effect, and
 - (b) if the authority serve a notice under paragraph 4(1) of this Schedule as mentioned in paragraph 4A(2)(b) of this Schedule, of the date after which the authority could enter on and take possession of the land.
- (7) If a counter-notice served under sub-paragraph (1) has no effect because of sub-paragraph (5), the occupier who served it may serve a further counter-notice.
- (8) Where a notice under paragraph 4(1) is served on more than one occupier with the same interest in the land, a reference in this section to the occupier with an interest in land is to all of them acting together.
- (9) This paragraph applies instead of section 11B of the Compulsory Purchase Act 1965.”

Commencement Information

II [S. 189](#) in force at 3.2.2017 by [S.I. 2017/75](#), [reg. 3\(e\)](#) (with [reg. 5](#))

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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. 172(1)(a) words renumbered as s. 172(1)(a) by [2017 c. 20 s. 26\(8\)\(a\)\(i\)](#)
- s. 172(1)(b) inserted by [2017 c. 20 s. 26\(8\)\(a\)\(ii\)](#)