
STATUTORY INSTRUMENTS

2010 No. 104

The Infrastructure Planning (Compulsory Acquisition) Regulations 2010

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);

“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)(1);

“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);

(1) 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).

“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)(2);

“the Homes and Communities Agency” means the body established by section 1 of the Housing and Regeneration Act 2008 (establishment and constitution)(3);

“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)(4);

“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(5);

“internal drainage board” has the same meaning as in section 1 of the Land Drainage Act 1991 (internal drainage districts and boards) (6);

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

“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(7);

“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(8), 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;

(2) 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).

(3) 2008 c.17.

(4) 2008 c.26.

(5) See section 102 of the Act, (interpretation of Chapter 4: “interested party” and other expressions)

(6) 1991 c.59.

(7) S.I. 2005/2042.

(8) 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.

“Natural England” means the body established by section 1 of the Natural Environment and Rural Communities Act 2006 (constitution)(9);

“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)(10);

“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)(11);

“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)(12);

“registration form” means the form prescribed in the Infrastructure Planning (Interested Party) Regulations 2010(13);

“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)(14);

“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);

“Strategic Health Authority” means an authority established under section 13 of the National Health Services Act 2006 (strategic health authorities)(15);

“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—

(9) 2006 c.16.

(10) 1996 c.16.

(11) 1998 c.45.

(12) 2004 c.5.

(13) S.I. 2010/ 102

(14) 2004 c.20.

(15) 2006 c.41.

- (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 (l));
- (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(16) 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 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.

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