
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 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>).