

**EXPLANATORY MEMORANDUM TO**  
**THE HOUSING AND PLANNING ACT 2016 (COMPULSORY PURCHASE)**  
**(CORRESPONDING AMENDMENTS) REGULATIONS 2017**

**2017 No. 16**

**1. Introduction**

- 1.1 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. Purpose of the instrument**

- 2.1 This instrument makes amendments to Acts of Parliament which correspond to those made by Schedule 15 to the Housing and Planning Act 2016 (“the 2016 Act”). Schedule 15 amends the Compulsory Purchase (Vesting Declarations) Act 1981 (“the CP(VD)A 1981”) and the Acquisition of Land Act 1981 (“the 1981 Act”) so as to change the notice requirements for the general vesting declaration procedure. These Regulations make corresponding amendments to other legislation containing compulsory purchase powers which are not subject to the 1981 Act.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 This entire instrument applies only to England and Wales.
- 3.3 This is because it makes amendments corresponding to those made by Schedule 15 to the 2016 Act. Schedule 15 only applies in England and Wales. The instrument does not have minor or consequential effects outside England or Wales.
- 3.4 In the view of the Department, for the purposes of House of Commons Standing Order 83P the subject-matter of this entire instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter.
- 3.5 The Department has reached this view because it considers that the primary purpose of the instrument relates to compulsory purchase, which is within the devolved legislative competence of the Northern Ireland Assembly: the primary purpose of the subject matter of the instrument is not within Schedules 2 or 3 to the Northern Ireland Act 1998 and is not otherwise outside the legislative competence of the Northern Ireland Assembly (see section 6 of that Act).

**4. Legislative Context**

- 4.1 Once an acquiring authority has been authorised to acquire land by way of a compulsory purchase order, it may follow the procedure for executing a general

vesting declaration under the CP(VD)A 1981 with the effect that title vests in the authority on the vesting date.

- 4.2 Part 7 of the 2016 Act makes a number of technical reforms to the compulsory purchase system, including changes to the general vesting declaration procedure. Schedule 15 to the 2016 Act changes the notice requirements under the general vesting declaration procedure. Paragraph 5 omits section 3 of the CP(VD)A 1981 so that there is no longer a requirement to serve a preliminary notice before making a general vesting declaration.
- 4.3 Paragraphs 2 and 3 of Schedule 15 amend section 15 of, and paragraph 6 of Schedule 1 to, the 1981 Act so that the information previously included in a preliminary notice must now be provided in the confirmation notice of a compulsory purchase order (CPO) or (as the case may be) the making notice.
- 4.4 These Regulations are required to make corresponding amendments to Acts of Parliament which contain compulsory purchase powers which are not subject to the authorisation procedure in the 1981 Act. For instance, the power of compulsory purchase under the Forestry Act 1967 is authorised by a CPO made in accordance with Part 1 of Schedule 5 to that Act (rather than the 1981 Act). The CP(VD)A 1981 is applicable whether the CPO is subject to the 1981 Act or not (see section 1 of the CP(VD)A 1981).
- 4.5 The CP(VD)A 1981 is also applied by certain other orders which authorise compulsory acquisition. For instance, where development consent orders under the Planning Act 2008 authorise compulsory acquisition, they generally provide that the CP(VD)A 1981 applies as if the order were a CPO under the 1981 Act.
- 4.6 These Regulations are, therefore, needed to amend Acts of Parliament which contain compulsory purchase powers which are not subject to the 1981 Act (but are still implementable under the CP(VD)A 1981). These Regulations make provision corresponding to the amendments made by Schedule 15 to the 2016 Act, so that the acquiring authority is required to provide the information previously included in a preliminary notice under the CP(VD)A 1981 in any equivalent notice to a confirmation notice or making notice under the 1981 Act.

## **5. Extent and Territorial Application**

- 5.1 This instrument extends to England and Wales.
- 5.2 The territorial application of this instrument is set out in Section 3 under “Other matters of interest to the House of Commons”.

## **6. European Convention on Human Rights**

- 6.1 The Secretary of State for Communities and Local Government has made the following statement regarding Human Rights:
- 6.2 In my view the provisions of the Housing and Planning Act 2016 (Compulsory Purchase) (Corresponding Amendments) Regulations 2017 are compatible with the Convention rights.

## **7. Policy background**

### *What is being done and why*

- 7.1 Part 7 of the 2016 Act makes a number of changes to compulsory purchase procedures, including the notice period that an acquiring authority must give a claimant before entering and taking possession of land which it is authorised to acquire by compulsion. Authorisation is mainly obtained through CPOs, but may also be obtained through Acts of Parliament, development consent orders, Transport and Works Act Orders and harbour orders.
- 7.2 There are two methods of entry and taking possession: the first is by a notice to treat followed by a notice of entry under the Compulsory Purchase Act 1965; and the second is by a general vesting declaration under the CP(VD)A 1981. Prior to the 2016 Act, the minimum notice period under a notice of entry was 14 days; and 28 days after the execution of a general vesting declaration, which was preceded by a preliminary notice issued at least two months before the execution of the declaration.
- 7.3 The 2016 Act standardises the minimum notice period for entry to three months for both general vesting declarations (section 184) and notices to treat (section 186). The requirement to issue a preliminary notice prior to executing a general vesting declaration was repealed by paragraph 5 of Schedule 15 (introduced by section 183). This separate notice is no longer considered necessary, as it does not commit the acquiring authority to executing a declaration. There is no equivalent under the notice to treat procedure.
- 7.4 As set out in section 4 above, the 2016 Act provides that the information that used to be in the preliminary notice must now be included in the confirmation notice for a CPO, which must be issued under section 15 of the 1981 Act. The information comprises of a prescribed statement about the effect of Parts 2 and 3 of the CP(VD)A 1981 and an invitation to any person who would be entitled to claim compensation if a general vesting declaration were executed to give the acquiring authority information about the person's name, address and interest in land, using a prescribed form.
- 7.5 This instrument is required to make corresponding provisions in those Acts which enable compulsory purchase, but which have their own authorisation procedures (i.e. which do not apply the 1981 Act). Without this instrument, claimants whose land was acquired under Acts which did not apply the 1981 Act would be denied important information about the effect of Parts 2 and 3 of the CP(VD)A 1981.

### *Consolidation*

- 7.6 This instrument amends primary legislation rather than another statutory instrument, so consolidation is not an issue.

## **8. Consultation outcome**

- 8.1 A "Technical consultation on improvements to compulsory purchase processes" took place between March and June 2015. The consultation document and Government response are available here: <https://www.gov.uk/government/consultations/improving-the-compulsory-purchase-process>. There was strong support from among the 75 respondents to harmonise the notice periods at the proposed three months. The Government also agreed with the suggestion from a number of respondents that the preliminary notice for general vesting declarations served no useful purpose, as it did not commit the acquiring authority to execute a general vesting declaration. (This is

discussed in further detail at paragraphs 46 to 48 and 58 of the consultation response.) The Government therefore decided to take these proposals forward in the Housing and Planning Bill (which received Royal Assent on 12 May 2016).

## **9. Guidance**

- 9.1 The Department for Communities and Local Government issued updated guidance on compulsory purchase processes in October 2015. It is available here: <https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crischel-down-rules-guidance> . This guidance will be revised once Part 7 of the 2016 Act has been commenced. The Department will inform key stakeholder organisations once the updated guidance is issued.

## **10. Impact**

- 10.1 The regulations have no material impact on business, charities or voluntary bodies (as claimants), as the amendments made by the regulations will simply mean claimants continue to receive information about the effect of Parts 2 and 3 of the CP(VD)A 1981.
- 10.2 The regulations have no material impact on the public sector (as acquiring authorities), as the amendments made by these regulations simply require acquiring authorities to provide information to claimants which they previously provided as part of the preliminary notice under section 3 of the CP(VD)A 1981.
- 10.3 An Impact Assessment has not been prepared for this instrument. The Impact Assessment for the 2015 consultation referred to above (which was not updated as respondents to the consultation did not provide any further information) is available here: <https://www.gov.uk/government/consultations/improving-the-compulsory-purchase-process> .

## **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

## **12. Monitoring & review**

- 12.1 The Minister of State for Housing and Planning, Gavin Barwell MP, has determined that it is not appropriate to make provision for review in this instrument because its sole function is to amend primary legislation.

## **13. Contact**

- 13.1 Robert Segall at the Department for Communities and Local Government Telephone: 030344 41717 or email: [robert.segall@communities.gsi.gov.uk](mailto:robert.segall@communities.gsi.gov.uk) can answer any queries regarding the instrument.