
STATUTORY INSTRUMENTS

2017 No. 105

INFRASTRUCTURE PLANNING

The Infrastructure Planning (Compulsory Acquisition) (Amendment) Regulations 2017

<i>Made</i>	- - - -	<i>6th February 2017</i>
<i>Laid before Parliament</i>		<i>7th February 2017</i>
<i>Coming into force</i>	- -	<i>23rd February 2017</i>

The Secretary of State, in exercise of the powers conferred by sections 134(7), 232(3) and 235(1)(1) of the Planning Act 2008(2), makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Infrastructure Planning (Compulsory Acquisition) (Amendment) Regulations 2017 and come into force on 23rd February 2017.

(2) The amendments made by regulation 2(2) and (4) apply only in relation to an order granting development consent which is made on or after 23rd February 2017.

Amendments to the Infrastructure Planning (Compulsory Acquisition) Regulations 2010

2.—(1) The Infrastructure Planning (Compulsory Acquisition) Regulations 2010(3) are amended as follows.

(2) For regulation 3 (prescribed forms in connection with authorisation of compulsory acquisition), substitute—

“Prescribed forms etc in connection with authorisation of compulsory acquisition

3.—(1) For the purposes of section 134(7), the prescribed form of a compulsory acquisition notice is Form A in Schedule 1 to these Regulations.

(1) See the definition of “prescribed”.

(2) 2008 c. 29. Section 134(7)(ca) was inserted by the Localism Act 2011 (c. 20), section 142(1) and (3). Section 134(7)(cza) was inserted by S.I. 2017/16.

(3) S.I. 2010/104, amended by S.I. 2012/635; there are other amending instruments but none are relevant.

(2) For the purposes of section 134(7)(cza)(i), the prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981(4) is set out in Part 1 of Form B in Schedule 1 to these Regulations.

(3) For the purposes of section 134(7)(cza)(ii), the prescribed form for giving information to the prospective purchaser(5) is Part 2 of Form B in Schedule 1 to these Regulations.”.

(3) After regulation 3 (prescribed forms in connection with authorisation of compulsory acquisition) insert—

“Review

3A.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in regulation 3 and the associated forms (Forms A and B), and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 23rd February 2022.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(6) requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),

(b) assess the extent to which those objectives are achieved,

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).”.

(4) For Schedule 1, substitute Schedule 1 set out in the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Gavin Barwell
Minister of State
Department for Communities and Local
Government

6th February 2017

(4) 1981 c. 66.

(5) See the definition of “prospective purchaser” in section 134(2) of the Planning Act 2008 (c. 29).

(6) 2015 c. 26.

SCHEDULE

Regulation 2(4)

“SCHEDULE 1

Regulation 3

FORM A
NOTICE OF COMPULSORY ACQUISITION UNDER SECTION 134(7) OF THE
PLANNING ACT 2008

[THE (a) DEVELOPMENT CONSENT ORDER]
[(b)]

NOTICE OF AUTHORISATION OF COMPULSORY ACQUISITION

The above order, made under the Planning Act 2008 by the Secretary of State for [(c)] and published on [(d)], includes provision authorising the compulsory acquisition [of land] [existing rights over land] [of a right over land by creating a new right over it] (e) as described in [the Schedule] [Schedule 1] (e).

The order includes provision authorising the acquisition for the purpose of [(f)].

A copy of the order has been deposited at [(g)] and may be inspected at all reasonable hours.

A person aggrieved by the order may challenge the order only in accordance with section 118 of the Planning Act 2008, which stipulates that any proceeding must be brought by filing a claim form for judicial review during the period of 6 weeks beginning with the day on which the order was published (or, if later, the day on which the statement of reasons for making the order is published).

[(h) Once the provision in the order authorising compulsory acquisition comes into force, the [(i)] may acquire any of the land (including any existing rights and / or new rights) described in Schedule 1 below by executing a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981. A statement on the effect of Parts 2 and 3 of that Act is set out in Schedule 2.

Any person who would be entitled to claim compensation if a general vesting declaration were executed is invited to give [(i)] at [(j)] information about the person's name, address and interest in land, using a prescribed form. The prescribed form is set out in Schedule 3.]

SCHEDULE [1]

DESCRIPTION OF THE [LAND] [EXISTING RIGHTS] [AND] [THE NEW RIGHTS] (e)
(k)

[SCHEDULE 2
STATEMENT ON THE EFFECT OF PARTS 2 AND 3 OF THE COMPULSORY
PURCHASE (VESTING DECLARATIONS) ACT 1981
(l)]

[SCHEDULE 3
FORM FOR GIVING INFORMATION
(m)]

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[Date and signature]

Notes

- (a) *Insert the title of the order.*
- (b) *Where the notice is to be affixed, the notice should be addressed at this point to persons occupying or having an interest in the land in question.*
- (c) *Insert the title of the relevant Secretary of State.*
- (d) *Insert the date on which the order was published.*
- (e) *Delete material which is inapplicable.*
- (f) *Insert the purpose of the acquisition.*
- (g) *Insert the address at which a copy of the order may be inspected.*
- (h) *Where the order applies Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981, insert the information in these two paragraphs. Otherwise, delete this material.*
- (i) *Insert the name of the prospective purchaser.*
- (j) *Insert the address of the prospective purchaser where the information should be sent.*
- (k) *Insert a description of all the land and/or existing or new rights described in the order. This need not repeat any relevant Schedule to the order itself, but must be in terms which enable the reader to appreciate what is included. If the details of the existing or new rights are lengthy, a summary may be included*
- (l) *Where the order applies Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981, insert the statement in Part 1 of Form B.*
- (m) *Where the order applies Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981, insert the form for giving information in Part 2 of Form B.*

FORM B

PART 1(a)

STATEMENT OF EFFECT OF PARTS 2 AND 3 OF THE COMPULSORY PURCHASE (VESTING DECLARATIONS) ACT 1981 (b)

Power to execute a general vesting declaration

1. Once the provision in the [order 20 (c)] which authorises compulsory acquisition comes into force, the [(hereinafter called)(d)] may acquire any of the land (including any existing rights and / or new rights) described in Schedule 1 above (e) by executing a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 ("the Act"). This has the effect, subject to paragraphs 3 and 5 below, of vesting the land in the [(d)] at the end of the period mentioned in paragraph 2 below.

Notices concerning general vesting declaration

2. As soon as may be after the [(d)] execute a general vesting declaration, they must serve notice of it on every occupier of any of the land specified in the declaration (except land where there is one of the tenancies described in paragraph 4) and on every person who gives them information relating to the land in pursuance of the invitation contained in the notice of the authorisation of the compulsory acquisition. When the service of notices of the general vesting declaration is completed, a period specified in the declaration, of not less than three months, will begin to run. On the first day after the end of this period the land described in the declaration will, subject to what is said in paragraphs 3 and 5, vest in the [(d)] together with the right to enter on the land and take possession of it. Every person on whom the [(d)] could have served a notice to treat in respect of his interest in the land (other than a tenant under one of the tenancies described in paragraph 4) will be entitled to claim compensation for the acquisition of his interest in the land, with interest on the compensation from the vesting date.
3. The "vesting date" for any land specified in a declaration will be the first day after the end of the period mentioned in paragraph 2 above, unless a counter-notice is served under Schedule A1 to the Act within that period. In such circumstances, the vesting date for the land which is the subject of the counter-notice will be determined in accordance with Schedule A1.

Modifications with respect to certain tenancies

4. In the case of certain tenancies, the position stated above is subject to modifications. The modifications apply where the tenancy is either a "minor tenancy", i.e. a tenancy for a year or a yearly tenancy or a lesser interest, or "a long tenancy which is about to expire". The latter expression means a tenancy granted for an interest greater than a minor tenancy but having on the vesting date a period still to run which is not more than the period specified in the declaration for this purpose (which must be more than a year). In calculating how long a tenancy has still to run, where any option to renew or to terminate it is available to either party, it shall

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be assumed that the landlord will take every opportunity open to him to terminate the tenancy while the tenant will use every opportunity to retain or renew his interest.

- 5. The modifications are that the [(d)] may not exercise the right of entry referred to in paragraph 2 in respect of land subject to a tenancy described in paragraph 4 unless they first serve notice to treat in respect of the tenancy and then serve every occupier of the land with a notice of their intention to enter and take possession after the period (not less than three months from the service of the notice) specified in the notice. The right of entry will be exercisable at the end of that period. The vesting of the land will be subject to the tenancy until the end of that period or until the tenancy comes to an end, whichever happens first.

PART 2(a)
FORM FOR GIVING INFORMATION

The Order 20

To: [(d)]

[I] [We] being [a person] [persons] who, if a general vesting declaration were executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in respect of all the land comprised in the order cited above in respect of which notice to treat has not been given, would be entitled to claim compensation in respect of [all] [part of] that land, give you the following information, pursuant to section 134(7)(cza) of the Planning Act 2008.

- 1. Name and address of informant(s) (i)
 - 2. Land in which an interest is held by informant(s) (ii)
 - 3. Nature of interest (iii)
- Signed
- [on behalf of]
- Date

- (i) In the case of a joint interest insert the names and addresses of all the informants.
- (ii) The land should be described concisely.

- (iii) If the interest is leasehold, the date of commencement and length of term should be given. If the land is subject to a mortgage or other incumbrance, details should be given, e.g. name of building society and roll number.

Notes

- (a) A notice of authorisation of compulsory acquisition under section 134(7) of the Planning Act 2008 must:--
- (i) contain a prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 (i.e. Part 1 of this Form); and
 - (ii) invite any person who, if a general vesting declaration were executed under section 4 of that Act, would be entitled to claim compensation to give the prospective purchaser information about the person's name, address and interest in land, using a prescribed form (i.e. Part 2 of this Form).
- (b) If the order modifies any provision of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981, the contents of this statement should be modified as necessary.
- (c) Insert the title of the order as made.
- (d) Insert the name of the prospective purchaser, and define them by an appropriate term. Thereafter rely on the definition wherever "(d)" appears in the text.
- (e) Schedule 1 to a notice of authorisation of compulsory acquisition under section 134(7) of the Planning Act 2008 will contain a description of all the land (and/or new rights (if any)) comprised in the order. The statement in Part 1 of this Form should be inserted as a subsequent Schedule to the notice.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 ("the 2010 Regulations") (S.I. 2010/104) and come into force on 23rd February 2017. The amendments made by regulation 2(2) and (4) apply only in relation to an order granting development consent which is made on or after that date.

Regulation 2(2) substitutes a new regulation 3 into the 2010 Regulations. New regulation 3 provides that:

for the purposes of section 134(7) of the Planning Act 2008 (c. 29), the prescribed form of a compulsory acquisition notice is Form A in Schedule 1 to the 2010 Regulations (as inserted by regulation 2(4) of, and the Schedule to, these Regulations);

for the purposes of section 134(7)(cza)(i) of the Planning Act 2008, the prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66) is set out in Part 1 of Form B in Schedule 1 to the 2010 Regulations (as inserted by regulation 2(4) of, and the Schedule to, these Regulations); and

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for the purposes of section 134(7)(cza)(ii), the prescribed form for giving information to the prospective purchaser is Part 2 of Form B in Schedule 1 to the 2010 Regulations (as inserted by regulation 2(4) of, and the Schedule to, these Regulations).

Regulation 2(3) inserts a new regulation 3A into the 2010 Regulations. It requires the Secretary of State to review the operation and effect of regulation 3 (and the associated forms) in the 2010 Regulations and to publish a report before 23rd February 2022 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether regulation 3 should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke or to amend it.

Regulation 2(4) substitutes a new version of Schedule 1 into the 2010 Regulations. The new Schedule 1 is contained in the Schedule to these Regulations and contains Forms A and B.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.