

Planning and Compulsory Purchase Act 2004 c. 5

s. 38 Development plan



Law In Force With Amendments Pending

Version 7 of 7

21 January 2021 - Present

Subjects

Planning

Keywords

Development plans; Interpretation

38 Development plan

(1) A reference to the development plan in any enactment mentioned in subsection (7) must be construed in accordance with subsections (2) to (5).

(2) For the purposes of any area in Greater London the development plan is—

- (a) the spatial development strategy, [...] ¹
- (b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area [, and] ¹

[

- (c) the neighbourhood development plans which have been made in relation to that area.

] ¹

(3) For the purposes of any other area in England the development plan is—

- (a) the [regional strategy] ² for the region in which the area is situated [(if there is a regional strategy for that region)] ³ , [...] ⁴
- (b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area [, and] ⁴

[

- (c) the neighbourhood development plans which have been made in relation to that area.

] ⁴

[

(3A) For the purposes of any area in England (but subject to subsection (3B)) a neighbourhood development plan which relates to that area also forms part of the development plan for that area if—

- (a) [section 38A\(4\)\(a\)](#) (approval by referendum) applies in relation to the neighbourhood development plan, but
- (b) the local planning authority to whom the proposal for the making of the plan has been made have not made the plan.

(3B) The neighbourhood development plan ceases to form part of the development plan if the local planning authority decide under [section 38A\(6\)](#) not to make the plan.

] ⁵

(4) For the purposes of any area in Wales the development plan is [—] ⁶[

(a) the National Development Framework for Wales,

[

(b) any strategic development plan for an area that includes all or part of that area, and

] ⁷

(c) the local development plan for that area.

] ⁶

(5) If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document [to become part of the development plan] ⁸.

(6) If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

(7) The enactments are—

(a) this Act;

(b) the planning Acts;

(c) any other enactment relating to town and country planning;

(d) the [Land Compensation Act 1961](#) (c. 33);

(e) the [Highways Act 1980](#) (c. 66).

(8) In subsection (5) references to a development plan include a development plan for the purposes of [paragraph 1 of Schedule 8](#).

[

(9) Development plan document must be construed in accordance with [section 37\(3\)](#).

] ⁹[

(10) Neighbourhood development plan must be construed in accordance with [section 38A](#).

] ¹⁰

Notes

- 1 Added by Localism Act 2011 c. 20 [Sch.9\(2\) para.6\(a\)](#) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)
- 2 Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 [Pt 5 s.82\(1\)](#) (April 1, 2010)
- 3 Words inserted by Localism Act 2011 c. 20 [Sch.8 para.13\(1\)](#) (November 15, 2011)
- 4 Added by Localism Act 2011 c. 20 [Sch.9\(2\) para.6\(b\)](#) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)
- 5 Added by Neighbourhood Planning Act 2017 c. 20 [Pt 1 s.3](#) (July 19, 2017)
- 6 S.38(4)(a)–(c) substituted for words by Planning (Wales) Act 2015 anaw. 4 [Pt 3 s.9](#) (December 4, 2020)
- 7 Substituted by Local Government and Elections (Wales) Act 2021 asc. 1 [Sch.9\(1\) para.2](#) (January 21, 2021)
- 8 Words substituted by Localism Act 2011 c. 20 [Sch.9\(2\) para.6\(c\)](#) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)
- 9 Added by Planning Act 2008 c. 29 [Pt 9 c.2 s.180\(7\)](#) (April 6, 2009 in relation to England and Wales)
- 10 Added by Localism Act 2011 c. 20 [Sch.9\(2\) para.6\(d\)](#) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5)(j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)

Part 3 DEVELOPMENT > Development plan > s. 38 Development plan

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s. 38A Meaning of “neighbourhood development plan”



Law In Force

Version 4 of 4

31 December 2020 - Present

Subjects

Planning

Keywords

Interpretation; Local planning authorities; Neighbourhood development plans

[

38A Meaning of “neighbourhood development plan”

(1) Any qualifying body is entitled to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood development plan.

(2) A “*neighbourhood development plan*” is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan.

(3) [Schedule 4B](#) to the principal Act, which makes provision about the process for the making of neighbourhood development orders, including—

(a) provision for independent examination of orders proposed by qualifying bodies, and

(b) provision for the holding of referendums on orders proposed by those bodies,

is to apply in relation to neighbourhood development plans (subject to the modifications set out in [section 38C\(5\)](#) of this Act).

(4) A local planning authority to whom a proposal for the making of a neighbourhood development plan has been made—

(a) must make a neighbourhood development plan to which the proposal relates if in each applicable referendum under that Schedule (as so applied) more than half of those voting have voted in favour of the plan, and

(b) if paragraph (a) applies, must make the plan as soon as reasonably practicable after the referendum is held [and, in any event, by such date as may be prescribed]².

(5) If—

(a) there are two applicable referendums under that Schedule as so applied (because the plan relates to a neighbourhood area designated as a business area under [section 61H](#) of the principal Act), and

(b) in one of those referendums (but not the other) more than half of those voting have voted in favour of the plan,

the authority may (but need not) make a neighbourhood development plan to which the proposal relates.

(6) The authority are not to be subject to the duty under subsection (4)(a) if they consider that the making of the plan would breach, or would otherwise be incompatible with, any [retained EU obligation]³ or any of the Convention rights (within the meaning of the [Human Rights Act 1998](#)).

(7) Regulations made by the Secretary of State may make provision as to the procedure to be followed by local planning authorities in cases where they act under subsection (6).

(8) The regulations may in particular make provision—

- (a) for the holding of an examination,
- (b) as to the payment by a local planning authority of remuneration and expenses of the examiner,
- (c) as to the award of costs by the examiner,
- (d) as to the giving of notice and publicity,
- (e) as to the information and documents that are to be made available to the public,
- (f) as to the making of reasonable charges for anything provided as a result of the regulations,
- (g) as to consultation with and participation by the public, and (h) as to the making and consideration of representations (including the time by which representations must be made).

(9) The authority must publish in such manner as may be prescribed—

- (a) their decision to act under subsection (4) or (6),
- (b) their reasons for making that decision, and
- (c) such other matters relating to that decision as may be prescribed.

(10) The authority must send a copy of the matters required to be published to—

- (a) the qualifying body that initiated the process for the making of the plan, and
- (b) such other persons as may be prescribed.

(11) If a neighbourhood development plan is in force in relation to a neighbourhood area—

- (a) a qualifying body may make a proposal for the existing plan to be replaced by a new one, and
- (b) the process for the making of the replacement plan is the same as the process for the making of the existing plan.

[

(11A) Subsection (11) is subject to [Schedule A2](#), which makes provision for the modification of a neighbourhood development plan.

]⁴[

(11B) Subsection (11C) applies if, as a result of a modification of a neighbourhood area under [section 61G\(6\)](#) of the principal Act, a neighbourhood development plan relates to more than one neighbourhood area.

(11C) The replacement of the plan by a new plan in relation to one or some of those areas does not affect the continuation in force of the plan in relation to the other area or areas.

]⁵

(12) For the purposes of this section—

“*local planning authority*” has the same meaning as it has in [Part 2](#) (see [section 37](#)), but the Broads Authority are to be the only local planning authority for the Broads,

“*neighbourhood area*” has the meaning given by [sections 61G](#) and [61I\(1\)](#) of the principal Act,

“*prescribed*” means prescribed by regulations made by the Secretary of State, and

“*qualifying body*” means a parish council, or an organisation or body designated as a neighbourhood forum, authorised for the purposes of a neighbourhood development plan to act in relation to a neighbourhood area as a result of [section 61F](#) of the principal Act, as applied by [section 38C](#) of this Act.

]¹

Notes

- 1 Added by Localism Act 2011 c. 20 [Sch.9\(2\) para.7](#) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5) (j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)
- 2 Words inserted by Housing and Planning Act 2016 c. 22 [Pt 6 s.140\(3\)](#) (May 12, 2016)
- 3 Words substituted by Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 [Pt 2 reg.3\(2\)](#) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- 4 Added by Neighbourhood Planning Act 2017 c. 20 [Pt 1 s.4\(5\)](#) (January 31, 2018: 2017 c.20 s.4 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 otherwise)
- 5 Added by Neighbourhood Planning Act 2017 c. 20 [Pt 1 s.5\(6\)](#) (January 31, 2018)

Part 3 DEVELOPMENT > Development plan > s. 38A Meaning of “neighbourhood development plan”

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s. 38B Provision that may be made by neighbourhood development plans



Law In Force

Version 2 of 2

31 January 2018 - Present

Subjects

Planning

Keywords

Local planning authorities; Neighbourhood development plans; Publication; Regulations; Secretaries of State

[

38B Provision that may be made by neighbourhood development plans

- (1) A neighbourhood development plan—
 - (a) must specify the period for which it is to have effect,
 - (b) may not include provision about development that is excluded development, and
 - (c) may not relate to more than one neighbourhood area.
- (2) Only one neighbourhood development plan may be made for each neighbourhood area.

[

(2A) Subsections (1)(c) and (2) are subject to [section 61G\(6D\)](#) of the principal Act (as applied by [section 38C\(5A\)](#) of this Act).

]²

- (3) If to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.
- (4) Regulations made by the Secretary of State may make provision—
 - (a) restricting the provision that may be included in neighbourhood development plans about the use of land,
 - (b) requiring neighbourhood development plans to include such matters as are prescribed in the regulations, and
 - (c) prescribing the form of neighbourhood development plans.
- (5) A local planning authority must publish each neighbourhood development plan that they make in such manner as may be prescribed by regulations made by the Secretary of State.
- (6) [Section 61K](#) of the principal Act (meaning of “excluded development”) is to apply for the purposes of subsection (1)(b).

]¹

Notes

- 1 Added by Localism Act 2011 c. 20 [Sch.9\(2\) para.7](#) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5) (j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)
 - 2 Added by Neighbourhood Planning Act 2017 c. 20 [Pt 1 s.5\(7\)](#) (January 31, 2018)
-

*Part 3 DEVELOPMENT > Development plan > s. 38B Provision
that may be made by neighbourhood development plans*

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s. 38C Supplementary provisions



Law In Force

Version 2 of 2

31 January 2018 - Present

Subjects

Planning

Keywords

Neighbourhood development plans; Supplemental provisions

[

38C Supplementary provisions

(1) The following provisions of the principal Act are to apply in relation to neighbourhood development plans.

(2) The provisions to be applied are—

- (a) [section 61F](#) (authorisation to act in relation to neighbourhood areas),
- (b) [section 61I\(2\) and \(3\)](#) (neighbourhood areas in areas of two or more local planning authorities),
- (c) [section 61M](#) (revocation or modification of neighbourhood development orders),
- (d) [section 61N](#) (legal challenges),
- (e) [section 61O](#) (guidance), and
- (f) [section 61P](#) (provision as to the making of certain decisions by local planning authorities).

[

(2A) [Section 61F](#) of the principal Act is to apply in accordance with subsection (2) of this section as if—

- (a) [subsections \(8\)\(a\) and \(8B\)](#) also referred to a proposal for the modification of a neighbourhood development plan,
- (b) [subsection \(13\)\(b\)](#) also referred to a proposal for the modification of a neighbourhood development plan made by a neighbourhood forum, and
- (c) [subsection \(13\)\(c\)](#) also referred to any duty of a local planning authority under [paragraph 7, 8 or 9 of Schedule A2](#) to this Act.

]²

(3) [Section 61M](#) of the principal Act is to apply in accordance with subsection (2) of this section as if [—]³[

- (a) the words “by order” (wherever occurring) were omitted, and
- (b) the reference in [subsection \(4A\)](#) to a modification materially affecting any planning permission granted by the order were to a modification materially affecting the policies in the plan.

]³

(4) [Section 61N\(1\)](#) of the principal Act is to apply in accordance with subsection (2) of this section as if the reference to [section 61E\(4\)](#) or (8) of that Act were a reference to [section 38A\(4\)](#) or (6) of this Act.

(5) [Schedule 4B](#) to the principal Act is to apply in accordance with [38A\(3\)](#) of this Act with the following modifications—

- (a) the reference to [section 61E\(8\)](#) of the principal Act is to be read as a reference to [section 38A\(6\)](#) of this Act,
- (b) references to the provision made by or under [sections 61E\(2\)](#), [61J](#) and [61L](#) of the principal Act are to be read as references to the provision made by or under [sections 38A and 38B](#) of this Act,
- (c) references to [section 61L\(2\)\(b\)](#) or (5) of the principal Act are to be disregarded, and
- (d) [paragraph 8](#) is to have effect as if [sub-paragraphs \(2\)\(b\) and \(c\) and \(3\) to \(5\)](#) were omitted.

[

(5A) [Section 61G\(6D\)](#) of the principal Act is to apply in relation to neighbourhood development plans as if it also provided that a modification under [section 61G\(6\)](#) of that Act of a designation of a neighbourhood area does not affect the continuation in force of a neighbourhood development plan even though, as a result of the modification, more than one plan has effect for the same area.

]⁴

(6) Regulations under [section 61G\(11\)](#) of the principal Act (designation of areas as neighbourhood areas) may include provision about the consequences of the modification of designations [—]⁵[

- (a) on proposals for neighbourhood development plans, or on neighbourhood development plans, that have already been made, or
- (b) on proposals for the modification of neighbourhood development plans, or on modifications of neighbourhood development plans, that have already been made.

]⁵

(7) The fact that the list of applied provisions includes [section 61N\(2\) and \(3\)](#) of the principal Act is not to affect the operation of [section 20\(2\)](#) of the [Interpretation Act 1978](#) in relation to other references to enactments applied in accordance with this section.

]¹

Notes

- ¹ Added by Localism Act 2011 c. 20 [Sch.9\(2\) para.7](#) (November 15, 2011 for the purpose specified in 2011 c.20 s.240(5) (j); April 6, 2012 except for the purpose specified in SI 2012/628 art.8(a) subject to transitional, saving and transitory provisions specified in SI 2012/628 arts 9, 12, 13, 16 and 18-20; August 3, 2012 except for the purpose specified in SI 2012/2029 art.3(a) subject to transitional, saving and transitory provisions specified in SI 2012/2029 art.5; April 6, 2013 otherwise)
- ² Added by Neighbourhood Planning Act 2017 c. 20 [Pt 1 s.4\(7\)](#) (January 31, 2018: 2017 c.20 s.4 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 otherwise)
- ³ Existing words renumbered as s.38C(3)(a) and word and s.38C(3)(b) inserted by Neighbourhood Planning Act 2017 c. 20 [Pt 1 s.4\(8\)](#) (January 31, 2018: 2017 c.20 s.4 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 otherwise)
- ⁴ Added by Neighbourhood Planning Act 2017 c. 20 [Pt 1 s.5\(8\)](#) (January 31, 2018)

Notes

- 5 Existing words renumbered as s.38C(6)(a) and word and s.38C(6)(b) inserted by Neighbourhood Planning Act 2017 c. 20 [Pt 1 s.4\(9\)](#) (January 31, 2018: 2017 c.20 s.4 came into force on April 27, 2017 for the limited purpose of making regulations; January 31, 2018 otherwise)
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Part 3 DEVELOPMENT > Development plan > s. 38C Supplementary provisions

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s. 39 Sustainable development



Law In Force With Amendments Pending

Version 4 of 5

1 April 2016 - Present

Subjects

Planning

Keywords

Secretaries of State; Sustainable development

England

[

39 Sustainable development

(1) This section applies to any person who or body which exercises any function—[...] ¹

(b) under [Part 2](#)[of this Act] ² in relation to local development documents [...] ³

[...] ³

(2) The person or body must exercise the function with the objective of contributing to the achievement of sustainable development.

(2A) For the purposes of subsection (2) the person or body must (in particular) have regard to the desirability of achieving good design.

(3) For the purposes of subsection (2) the person or body must have regard to national policies and advice contained in guidance issued by—

(a) the Secretary of State for the purposes of [subsection (1)(b)] ⁴[.] ⁵

[...] ⁵

] ⁶

Wales

39 Sustainable development

(1) This section applies to any person who or body which exercises any function—[...] ¹

(b) under [Part 2](#)[of this Act] ² in relation to local development documents [...] ³

[...] ³

(2) The person or body must exercise the function with the objective of contributing to the achievement of sustainable development.

(3) For the purposes of subsection (2) the person or body must have regard to national policies and advice contained in guidance issued by—

(a) the Secretary of State for the purposes of [subsection (1)(b)]⁴[.]⁵

[...] ⁵

Notes

- 1 Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 [Sch.7\(4\) para.1](#) (April 1, 2010)
 - 2 Words inserted by Local Democracy, Economic Development and Construction Act 2009 c. 20 [Sch.5 para.18\(2\)\(b\)](#) (April 1, 2010)
 - 3 Repealed by Planning (Wales) Act 2015 anaw. 4 [Pt 2 s.2\(6\)\(a\)](#) (April 1, 2016 subject to transitional provision specified in SI 2015/1987 art.6)
 - 4 Words substituted by Local Democracy, Economic Development and Construction Act 2009 c. 20 [Sch.5 para.18\(3\)](#) (April 1, 2010)
 - 5 Repealed by Planning (Wales) Act 2015 anaw. 4 [Pt 2 s.2\(6\)\(b\)](#) (April 1, 2016 subject to transitional provision specified in SI 2015/1987 art.6)
 - 6 Added by Planning Act 2008 c. 29 [Pt 9 c.2 s.183](#) (April 6, 2009 as SI 2009/400)
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Part 3 DEVELOPMENT > Sustainable development > s. 39 Sustainable development

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Planning and Compulsory Purchase Act 2004 c. 5

s. 99 Compulsory acquisition of land for development etc



Law In Force

Version 1 of 1

31 October 2004 - Present

Subjects

Planning

99 Compulsory acquisition of land for development etc

(1) [Section 226](#) of the principal Act (compulsory acquisition of land for development and other planning purposes) is amended as follows.

(2) In [subsection \(1\)](#)–

(a) the first “which” is omitted;

(b) for [paragraph \(a\)](#) there is substituted the following paragraph–

“(a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land,”;

(c) in [paragraph \(b\)](#) at the beginning there is inserted “which”.

(3) After [subsection \(1\)](#) there is inserted the following subsection–

“(1A) But a local authority must not exercise the power under paragraph (a) of subsection (1) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects–

(a) the promotion or improvement of the economic well-being of their area;

(b) the promotion or improvement of the social well-being of their area;

(c) the promotion or improvement of the environmental well-being of their area.”

(4) [Subsection \(2\)](#) is omitted.

(5) Nothing in this section affects a compulsory purchase order made before the commencement of this section.

Part 8 COMPULSORY PURCHASE > Acquisition of land for development > s. 99 Compulsory acquisition of land for development etc

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s. 100 Procedure for authorisation by authority other than a Minister



Law In Force

Version 1 of 1

6 August 2004 - Present

Subjects

Planning

100 Procedure for authorisation by authority other than a Minister

(1) The [Acquisition of Land Act 1981 \(c. 67\)](#) (the “1981 Act”) is amended as follows.

(2) In [section 6](#) (service of documents), in [subsection \(4\)](#)–

(a) after “lessee” in each place there is inserted “, tenant”;

(b) after ““lessee” there is inserted “, “tenant””.

(3) In [section 7](#) (interpretation), after [subsection \(2\)](#) there is added–

“(3) But an instrument containing regulations made for the purposes of section 13A or paragraph 4A of Schedule 1 is subject to annulment in pursuance of a resolution of either House of Parliament.”

(4) In [section 11](#) (notices in newspapers), after [subsection \(2\)](#) there is added–

“(3) In addition, the acquiring authority shall affix a notice in the prescribed form to a conspicuous object or objects on or near the land comprised in the order.

(4) The notice under subsection (3) must–

(a) be addressed to persons occupying or having an interest in the land, and

(b) set out each of the matters mentioned in subsection (2) (but reading the reference there to first publication of the notice as a reference to the day when the notice under subsection (3) is first affixed).”

(5) In [section 12](#) (notices to owners, lessees and occupiers)–

(a) in [subsection \(1\)](#), for the words from “owner” to “order” (where it first appears) there is substituted “qualifying person”;

(b) for [subsection \(2\)](#) there is substituted–

“(2) A person is a qualifying person, in relation to land comprised in an order, if–

(a) he is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land, or

(b) he falls within subsection (2A).

(2A) A person falls within this subsection if he is–

(a) a person to whom the acquiring authority would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat, or

(b) a person the acquiring authority thinks is likely to be entitled to make a relevant claim if the order is confirmed and the compulsory purchase takes place, so far as he is known to the acquiring authority after making diligent inquiry.

(2B) A relevant claim is a claim for compensation under section 10 of the Compulsory Purchase Act 1965 (compensation for injurious affection).”

(6) For [section 13](#) (confirmation of compulsory purchase order) there are substituted the following sections–

“13 Confirmation of order: no objections

(1) The confirming authority may confirm a compulsory purchase order with or without modifications if it is satisfied–

(a) that the notice requirements have been complied with, and

(b) that one of the conditions in subsection (2) is satisfied.

(2) The conditions are–

(a) no relevant objection is made;

(b) every relevant objection made is either withdrawn or disregarded.

(3) The confirming authority may require every person who makes a relevant objection to state the grounds of the objection in writing.

(4) If the confirming authority is satisfied that an objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed it may disregard the objection.

(5) The notice requirements are the requirements under sections 11 and 12 to publish, affix and serve notices in connection with the compulsory purchase order.

(6) A relevant objection is an objection by a person who is a qualifying person for the purposes of section 12(2), but if such a person qualifies only by virtue of section 12(2A)(b) and the confirming authority thinks that he is not likely to be entitled to make a relevant claim his objection is not a relevant objection.

(7) Disregarded means disregarded under subsection (4) or under any other power to disregard a relevant objection contained in the enactment providing for the compulsory purchase.

13A Confirmation of order: remaining objections

(1) This section applies to the confirmation of a compulsory purchase order if a relevant objection is made which is neither—

(a) withdrawn, nor

(b) disregarded,

(a remaining objection).

(2) The confirming authority may proceed under the written representations procedure—

(a) if the order is not subject to special parliamentary procedure,

(b) in the case of an order to which section 16 applies, if a certificate has been given under subsection (2) of that section, and

(c) if every person who has made a remaining objection consents in the prescribed manner.

(3) If subsection (2) does not apply or if the confirming authority decides not to proceed under that subsection, it must either—

(a) cause a public local inquiry to be held, or

(b) give every person who has made a remaining objection an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose.

(4) If a person who has made a remaining objection takes the opportunity to appear before a person appointed

under subsection (3)(b) the confirming authority must give the acquiring authority and any other person it thinks appropriate the opportunity to be heard at the same time.

(5) The confirming authority may confirm the order with or without modifications if it has considered the objection and either—

(a) it has followed the written representations procedure, or

(b) in a case which falls within subsection (3), if an inquiry was held or a person was appointed under subsection (3)(b), it has considered the report of the person who held the inquiry or who was so appointed.

(6) The written representations procedure is such procedure as is prescribed for the purposes of this section including provision affording an opportunity to—

(a) every person who has made a remaining objection,

(b) the acquiring authority, and

(c) any other person the confirming authority thinks appropriate,

to make written representations as to whether the order should be confirmed.

(7) Relevant objection and disregarded must be construed in accordance with section 13.

13B Written representations procedure: supplementary

(1) This section applies where the confirming authority decides under section 13A to follow the written representations procedure.

(2) The confirming authority may make orders as to the costs of the parties to the written representations procedure, and as to which party must pay the costs.

(3) An order under subsection (2) may be made a rule of the High Court on the application of any party named in the order.

(4) The costs incurred by the confirming authority in connection with the written representations procedure must be paid by the acquiring authority, if the confirming authority so directs.

(5) The confirming authority may certify the amount of its costs, and any amount so certified and directed to be paid by the acquiring authority is recoverable summarily by the confirming authority as a civil debt.

(6) Section 42(2) of the Housing and Planning Act 1986 (recovery of Minister's costs in connection with inquiries) applies to the written representations procedure as if the procedure is an inquiry specified in section 42(1) of that Act.

(7) Regulations under section 13A(6) may make provision as to the giving of reasons for decisions taken in cases

where the written representations procedure is followed.

13C Confirmation in stages

(1) The confirming authority may confirm an order (with or without modifications) so far as it relates to part of the land comprised in the order (the “relevant part”) if each of the conditions in subsection (2) is met.

(2) The conditions are—

(a) the confirming authority is satisfied that the order ought to be confirmed so far as it relates to the relevant part but has not for the time being determined whether the order ought to be confirmed so far as it relates to the remaining part;

(b) the confirming authority is satisfied that the notice requirements have been complied with.

(3) If there is a remaining objection in respect of the order, the confirming authority may only act under subsection (1) after complying with section 13A(2) or (3) (as the case may be).

(4) But it may act under subsection (1) without complying with those provisions if it is satisfied that all remaining objections relate solely to the remaining part of the land.

(5) If the confirming authority acts under subsection (1)—

(a) it must give a direction postponing consideration of the order, so far as it relates to the remaining part, until such time as may be specified by or under the direction;

(b) the order so far as it relates to each part of the land must be treated as a separate order.

(6) The notices to be published, affixed and served under section 15 must include a statement as to the effect of the direction given under subsection (5)(a).

(7) Notice requirements must be construed in accordance with section 13.

(8) Remaining objection must be construed in accordance with section 13A.”

(7) For [section 15](#) there is substituted—

“15 Notices after confirmation of order

(1) After the order has been confirmed, the acquiring authority must—

(a) serve a confirmation notice and a copy of the order as confirmed on each person on whom a notice was required to be served under section 12, and

(b) affix a confirmation notice to a conspicuous object or objects on or near the land comprised in the order.

(2) The notice under subsection (1)(b) must—

(a) be addressed to persons occupying or having an interest in the land;

(b) so far as practicable, be kept in place by the acquiring authority until the expiry of a period of six weeks beginning with the date when the order becomes operative.

(3) The acquiring authority must also publish a confirmation notice in one or more local newspapers circulating in the locality in which the land comprised in the order is situated.

(4) A confirmation notice is a notice—

(a) describing the land;

(b) stating that the order has been confirmed;

(c) (except in the case of a notice under subsection (1)(a)) naming a place where a copy of the order as confirmed and of the map referred to there may be inspected at all reasonable hours;

(d) that a person aggrieved by the order may apply to the High Court as mentioned in section 23.

(5) A confirmation notice must be in the prescribed form.”

(8) The amendments made by this section do not apply to orders of which notice under [section 11](#) of the 1981 Act has been published before commencement of this section.

Part 8 COMPULSORY PURCHASE > Authorisation of compulsory acquisition > s. 100 Procedure for authorisation by authority other than a Minister

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s. 101 Procedure for authorisation by a Minister



Law In Force

Version 1 of 1

6 August 2004 - Present

Subjects

Planning

101 Procedure for authorisation by a Minister

(1) [Schedule 1](#) to the [Acquisition of Land Act 1981 \(c. 67\)](#) (the “1981 Act”) is amended as follows.

(2) In [paragraph 2](#) (notices in newspapers), after [sub-paragraph \(2\)](#) there is added–

“(3) In addition, the Minister shall affix a notice in the prescribed form to a conspicuous object or objects on or near the land comprised in the draft order.

(4) The notice under sub-paragraph (3) must–

(a) be addressed to persons occupying or having an interest in the land, and

(b) set out each of the matters mentioned in sub-paragraph (2) (but reading the reference there to first publication of the notice as a reference to the day when the notice under sub-paragraph (3) is first affixed).”

(3) In [paragraph 3](#) (notices to owners, lessees and occupiers)–

(a) in [sub-paragraph \(1\)](#), for the words from “owner” to “order” (where it first appears) there is substituted “qualifying person”;

(b) for [sub-paragraph \(2\)](#) there is substituted–

“(2) A person is a qualifying person, in relation to land comprised in a draft order, if–

(a) he is an owner, lessee, tenant (whatever the tenancy period) or occupier of any such land, or

(b) he falls within sub-paragraph (2A).

(2A) A person falls within this sub-paragraph if he is—

- (a) a person to whom the Minister would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat, or
- (b) a person the Minister thinks is likely to be entitled to make a relevant claim if the order is made and the compulsory purchase takes place, so far as he is known to the Minister after making diligent inquiry.

(2B) A relevant claim is a claim for compensation under section 10 of the Compulsory Purchase Act 1965 (compensation for injurious affection).”

(4) For [paragraph 4](#) there are substituted the following paragraphs—

“4

(1) The Minister may make a compulsory purchase order with or without modifications if he is satisfied—

- (a) that the notice requirements have been complied with, and
- (b) that one of the conditions in sub-paragraph (2) is satisfied.

(2) The conditions are—

- (a) no relevant objection is made;
- (b) every relevant objection made is either withdrawn or disregarded.

(3) The appropriate authority may require every person who makes a relevant objection to state the grounds of the objection in writing.

(4) If the appropriate authority is satisfied that an objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed it may disregard the objection.

(5) The notice requirements are the requirements under paragraphs 2 and 3 to publish, affix and serve notices in connection with the compulsory purchase order.

(6) A relevant objection is an objection by a person who is a qualifying person for the purposes of paragraph 3(2), but if such a person qualifies only by virtue of paragraph 3(2A)(b) and the Minister thinks that he is not likely to be entitled to make a relevant claim his objection is not a relevant objection.

(7) Disregarded means disregarded under sub-paragraph (4) or under any other power to disregard a relevant objection contained in the enactment providing for the compulsory purchase.

(8) The appropriate authority is–

- (a) in the case of an order proposed to be made in the exercise of highway land acquisition powers, the Minister and the planning Minister acting jointly,
- (b) in any other case, the Minister.

(9) Highway land acquisition powers must be construed in accordance with the Highways Act 1980.

(10) The planning Minister is the Secretary of State for the time being having general responsibility in planning matters.

4A

(1) This paragraph applies to the making of a compulsory purchase order if a relevant objection is made which is neither–

- (a) withdrawn, nor
 - (b) disregarded,
- (a remaining objection).

(2) The appropriate authority may proceed under the written representations procedure–

- (a) if the order is not subject to special parliamentary procedure;
- (b) in the case of an order to which section 16 applies, if a certificate has been given under subsection (2) of that section, and
- (c) if every person who has made a remaining objection consents in the prescribed manner.

(3) If sub-paragraph (2) does not apply or if the appropriate authority decides not to proceed under that sub-paragraph, it must either–

- (a) cause a public local inquiry to be held, or
- (b) give every person who has made a remaining objection an opportunity of appearing before and being heard by a person appointed by the appropriate authority for the purpose.

(4) If a person who has made a remaining objection takes the opportunity to appear before a person appointed under sub-paragraph (3)(b) the appropriate authority must give any other person it thinks appropriate the opportunity to be heard at the same time.

(5) The Minister may make the order with or without modifications if–

- (a) the appropriate authority has considered the objection, and
 - (b) one of the conditions in sub-paragraph (6) is satisfied.
- (6) The conditions are—
- (a) the appropriate authority has followed the written representations procedure;
 - (b) in a case which falls within sub-paragraph (3), if an inquiry was held or a person was appointed under sub-paragraph (3)(b), the appropriate authority has considered the report of the person who held the inquiry or who was so appointed.
- (7) The written representations procedure is such procedure as is prescribed for the purposes of this paragraph including provision affording an opportunity to—
- (a) every person who has made a remaining objection, and
 - (b) any other person the appropriate authority thinks appropriate,
- to make written representations as to whether the order should be made.
- (8) Regulations under sub-paragraph (7) may make provision as to the giving of reasons for decisions taken in cases where the written representations procedure is followed.
- (9) Expressions used in this paragraph and in paragraph 4 must be construed in accordance with paragraph 4.

4B

- (1) The Minister may make an order (with or without modifications) so far as it relates to part of the land comprised in the draft order (the “relevant part”) if each of the conditions in sub-paragraph (2) is met.
- (2) The conditions are—
- (a) the Minister or, if there is a remaining objection in respect of the order, the appropriate authority is satisfied that the order ought to be made so far as it relates to the relevant part but has not for the time being determined whether the order ought to be made so far as it relates to the remaining part;
 - (b) the Minister is satisfied that the notice requirements have been complied with.
- (3) If there is a remaining objection in respect of the order, the Minister may only act under sub-paragraph (1) after the appropriate authority has complied with paragraph 4A(2) or (3) (as the case may be).
- (4) But he may act under sub-paragraph (1) without the appropriate authority having complied with those provisions if he is satisfied that all remaining objections relate solely to the remaining part of the land.

(5) If the Minister acts under sub-paragraph (1)–

(a) he must give a direction postponing consideration of the order, so far as it relates to the remaining part, until such time as may be specified by or under the direction;

(b) the order so far as it relates to each part of the land must be treated as a separate order.

(6) The notices to be published, affixed and served under paragraph 6 must include a statement as to the effect of the direction given under sub-paragraph (5)(a).

(7) Expressions used in this paragraph and in paragraph 4 or 4A must be construed in accordance with paragraph 4 or 4A (as the case may be).”

(5) For [paragraph 6](#) there is substituted–

“6

(1) After the order has been made, the Minister must–

(a) serve a making notice, and a copy of the order as made, on each person on whom a notice was required to be served under paragraph 3, and

(b) affix a making notice to a conspicuous object or objects on or near the land comprised in the order.

(2) The notice under sub-paragraph (1)(b) must–

(a) be addressed to persons occupying or having an interest in the land;

(b) so far as practicable, be kept in place by the acquiring authority until the expiry of a period of six weeks beginning with the date when the order becomes operative.

(3) The Minister must also publish a making notice in one or more local newspapers circulating in the locality in which the land comprised in the order is situated.

(4) A making notice is a notice–

(a) describing the land;

(b) stating that the order has been made;

(c) (except in the case of a notice under sub-paragraph (1)(a)) naming a place where a copy of the order as made and of the map referred to there may be inspected at all reasonable hours;

(d) that a person aggrieved by the order may apply to the High Court as mentioned in section 23.

(5) A making notice must be in the prescribed form.”

(6) The amendments made by this section do not apply to orders of which notice under [paragraph 2 of Schedule 1](#) to the 1981 Act has been published before commencement of this section.

*Part 8 COMPULSORY PURCHASE > Authorisation of compulsory acquisition > s. 101 Procedure for authorisation
by a Minister*

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s. 102 Confirmation by acquiring authority



Law In Force

Version 1 of 1

31 October 2004 - Present

Subjects

Planning

102 Confirmation by acquiring authority

(1) The [Acquisition of Land Act 1981 \(c. 67\)](#) (the “1981 Act”) is amended as follows.

(2) After [section 14](#) there is inserted—

“14A Confirmation by acquiring authority

(1) The power to confirm an order may be exercised by the acquiring authority (instead of the confirming authority) if—

- (a) the confirming authority has notified the acquiring authority to that effect, and
- (b) the notice has not been revoked.

(2) But this section does not apply to an order in respect of land—

- (a) falling within section 16(1) or paragraph 3(1) of Schedule 3, or
- (b) forming part of a common, open space or fuel or field garden allotment for the purposes of section 19.

(3) The confirming authority may give notice under subsection (1) if it is satisfied—

- (a) that the notice requirements have been complied with,
- (b) that no objection has been made in relation to the proposed confirmation or that all objections have been withdrawn, and
- (c) that the order is capable of being confirmed without modification.

(4) An objection is an objection made by any person (whether or not a person mentioned in section 12(2)), including an objection which is disregarded.

(5) The power to confirm an order under subsection (1) does not include any power—

(a) to confirm the order with modifications, or

(b) to confirm only a part of the order.

(6) The acquiring authority must notify the confirming authority as soon as reasonably practicable after it has determined whether or not to confirm the order.

(7) The confirming authority may revoke a notice given by it under subsection (1).

(8) But a notice may not be revoked if the determination has already been made and notified by the acquiring authority under subsection (6).

(9) An order confirmed by the acquiring authority under subsection (1) is to have the same effect as if it were confirmed by the confirming authority.

(10) Notices under this section must be in writing.

(11) Notice requirements and disregarded must be construed in accordance with section 13.”

(3) The amendments made by this section do not apply to orders of which notice has been published under [section 11](#) of the 1981 Act before commencement of this section.

Part 8 COMPULSORY PURCHASE > Authorisation of compulsory acquisition > s. 102 Confirmation by acquiring authority

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s. 103 Assessment of compensation: valuation date



Law In Force

Version 1 of 1

31 October 2004 - Present

Subjects

Planning

103 Assessment of compensation: valuation date

(1) The [Land Compensation Act 1961 \(c. 33\)](#) is amended as follows.

(2) After [section 5](#) there is inserted–

“5A Relevant valuation date

(1) If the value of land is to be assessed in accordance with rule (2) in section 5, the valuation must be made as at the relevant valuation date.

(2) No adjustment is to be made to the valuation in respect of anything which happens after the relevant valuation date.

(3) If the land is the subject of a notice to treat, the relevant valuation date is the earlier of–

(a) the date when the acquiring authority enters on and takes possession of the land, and

(b) the date when the assessment is made.

(4) If the land is the subject of a general vesting declaration, the relevant valuation date is the earlier of–

(a) the vesting date, and

(b) the date when the assessment is made,

and “*general vesting declaration*” and “*vesting date*” have the meanings given in section 2 of the Compulsory Purchase (Vesting Declarations) Act 1981.

(5) If the acquiring authority enters on and takes possession of part of the land–

(a) specified in a notice of entry, or

(b) in respect of which a payment into court has been made,

the authority is deemed, for the purposes of subsection (3)(a), to have entered on and taken possession of the whole of that land on that date.

(6) Subsection (5) also applies for the purposes of calculating interest under the following enactments—

- (a) section 11(1) of the Compulsory Purchase Act 1965;
- (b) paragraph 3 of Schedule 3 to that Act;
- (c) section 85 of the Lands Clauses Consolidation Act 1845;
- (d) section 52A of the Land Compensation Act 1973,

and references there to the date or time of entry are to be construed accordingly.

(7) An assessment by the Lands Tribunal is treated as being made on the date certified by the Tribunal as—

- (a) the last hearing date before it makes its determination, or
- (b) in a case to be determined without an oral hearing, the last date for making written submissions before it makes its determination.

(8) Nothing in this section affects—

- (a) any express provision in any other enactment which requires the valuation of land subject to compulsory acquisition to be made at a particular date;
- (b) the valuation of land for purposes other than the compulsory acquisition of that land (even if the valuation is to be made in accordance with the rules in section 5).

(9) In this section—

- (a) a notice of entry is a notice under section 11(1) of the Compulsory Purchase Act 1965;
- (b) a payment into court is a payment into court under Schedule 3 to that Act or under section 85 of the Lands Clauses Consolidation Act 1845.”

Part 8 COMPULSORY PURCHASE > Valuation date > s. 103 Assessment of compensation: valuation date

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s. 104 Compensation: advance payments to mortgagees



Law In Force

Version 1 of 1

31 October 2004 - Present

Subjects

Planning

104 Compensation: advance payments to mortgagees

(1) The [Land Compensation Act 1973](#) is amended as follows.

(2) In [section 52](#) (right to advance payment of compensation)–

(a) after [subsection \(1\)](#) there are inserted the following subsections–

“(1A) If the acquiring authority have taken possession of part of the land–

(a) specified in a notice of entry, or

(b) in respect of which a payment into court has been made,

the compensation mentioned in subsection (1) is the compensation payable for the compulsory acquisition of the interest in the whole of the land.

(1B) Notice of entry and payment into court must be construed in accordance with section 5A of the Land Compensation Act 1961.”

(b) for subsection (6) there is substituted the following subsection–

“(6) If the land is subject to a mortgage sections 52ZA and 52ZB apply.”

(3) After [section 52](#) of that Act there are inserted the following sections–

“52ZA Advance payments: land subject to mortgage

(1) This section applies if–

- (a) an acquiring authority take possession of land,
 - (b) a request is made in accordance with section 52(2) for an advance payment, and
 - (c) the land is subject to a mortgage the principal of which does not exceed 90% of the relevant amount.
- (2) The advance payment made to the claimant must be reduced by the amount the acquiring authority think will be required by them to secure the release of the interest of the mortgagee (or all the mortgagees if there is more than one).
- (3) The acquiring authority must pay to the mortgagee the amount the acquiring authority think will be required by them to secure the release of the mortgagee's interest, if–
- (a) the claimant so requests, and
 - (b) the mortgagee consents to the making of the payment.
- (4) If there is more than one mortgagee–
- (a) subsection (3) applies to each mortgagee individually, but
 - (b) payment must not be made to a mortgagee before the interest of each mortgagee whose interest has priority to his interest is released.
- (5) The amount of the advance payment made to the claimant under section 52 and the amount of the payments made to mortgagees under this section must not in aggregate exceed 90% of the relevant amount.
- (6) Subsection (7) applies if–
- (a) the acquiring authority estimated the compensation,
 - (b) it appears to the acquiring authority that their estimate was too low and they revise the estimate, and
 - (c) a request is made by the claimant in accordance with section 52(2).
- (7) The provisions of subsections (2) to (5) must be re-applied on the basis of the revised estimate.

52ZB Advance payments: land subject to mortgage exceeding 90% threshold

- (1) This section applies if–
- (a) an acquiring authority take possession of land,
 - (b) a request is made in accordance with section 52(2) for an advance payment, and
 - (c) the land is subject to a mortgage the principal of which exceeds 90% of the relevant amount.

- (2) No advance payment is to be made to the claimant.
- (3) But the acquiring authority must pay to the mortgagee the amount found under subsection (4), if—
 - (a) the claimant so requests, and
 - (b) the mortgagee consents to the making of the payment.
- (4) The amount is whichever is the lesser of—
 - (a) 90% of the value of the land;
 - (b) the principal of the mortgagee's mortgage.
- (5) The value of the land is the value—
 - (a) agreed by the claimant and the acquiring authority, or (failing such agreement)
 - (b) estimated by the acquiring authority.
- (6) For the purposes of subsection (5) the value of the land is to be calculated in accordance with rule 2 of section 5 of the Land Compensation Act 1961 (market value), whether or not compensation is or is likely to be assessed in due course in accordance with rule 5 of that section (equivalent re-instatement).
- (7) If there is more than one mortgagee, payment must not be made to a mortgagee until the interest of each mortgagee whose interest has priority to his interest is released.
- (8) But the total payments under subsection (3) must not in any event exceed 90% of the value of the land.
- (9) Subsection (10) applies if—
 - (a) the acquiring authority estimated the compensation,
 - (b) it appears to the acquiring authority that their estimate was too low and they revise the estimate,
 - (c) the condition in section 52ZA(1)(b) would have been satisfied if the revised estimate had been used instead of their estimate, and
 - (d) a request is made by the claimant in accordance with section 52(2).
- (10) The provisions of section 52ZA(2) to (5) must be applied on the basis of the revised estimate.
- (11) If—
 - (a) the acquiring authority estimated the value of the land,
 - (b) it appears to the acquiring authority that their estimate was too low and they revise the estimate, and

(c) a request is made by the claimant in writing,

any balance found to be due to a mortgagee on the basis of the revised estimate is payable in accordance with this section.

52ZC Land subject to mortgage: supplementary

(1) This section applies for the purposes of sections 52ZA and 52ZB.

(2) The claimant must provide the acquiring authority with such information as they may require to enable them to give effect to those sections.

(3) A request under section 52ZA(3) or 52ZB(3) must be made in writing and must be accompanied by the written consent of the mortgagee.

(4) Subsections (4) and (8) to (9) of section 52 apply to a payment which may be or is made under section 52ZA or 52ZB as they apply to a payment which may be or is made under section 52.

(5) The relevant amount is the amount of the compensation agreed or estimated as mentioned in section 52(3).

(6) If the land is subject to more than one mortgage, the reference in sections 52ZA(1)(c) and 52ZB(1)(c) to the principal is to the aggregate of the principals of all of the mortgagees.

(7) A payment made to a mortgagee under section 52ZA or 52ZB—

(a) must be applied by the mortgagee in or towards the discharge of the principal, interest and costs and any other money due under the mortgage;

(b) must be taken to be a payment on account of compensation and treated for the purposes of section 52(10) as if it were an advance payment made under section 52;

(c) must be taken, with effect from the date of the payment, to reduce by the amount of the payment the amount in respect of which interest accrues for the purposes of section 11(1) of the Compulsory Purchase Act 1965, any bond under Schedule 3 to that Act or section 85 of the Lands Clauses Compensation Act 1845;

(d) must be taken into account for the purposes of determining any payments (or payments into court) which may be made for the purposes of sections 14 to 16 of the Compulsory Purchase Act 1965.

(8) If the amount, or aggregate amount, of any payments under—

(a) sections 52 and 52ZA, or

(b) section 52ZB, on the basis of the acquiring authority's estimate of the compensation exceed the compensation as finally determined or agreed, the excess must be repaid by the claimant.

(9) No payment must be made to a mortgagee—

(a) if any of the circumstances mentioned in subsection (10) applies, or

(b) if the compulsory acquisition is only of a right over land.

(10) The circumstances are—

- (a) payment has been made under section 14(2) of the Compulsory Purchase Act 1965;
- (b) a notice under section 14(3) of that Act has been given;
- (c) there is an agreement under section 15(1) or 16(1) of that Act or the matter has been referred to the Lands Tribunal under that section.

(11) The claimant in relation to settled land for the purposes of the Settled Land Act 1925 is the persons entitled to give a discharge for capital money.”

(4) In [section 52A](#) (right to interest where advance payment made) for [subsection \(2\)](#) there is substituted—

“(2) If the authority make a payment under section 52(1) to any person on account of the compensation—

- (a) they must at the same time make a payment to that person of accrued interest, for the period beginning with the date of entry, on the amount of the compensation agreed or estimated under section 52(3) (the total amount), and
- (b) the difference between the paid amount and the total amount is an unpaid balance for the purposes of this section.

(2A) The paid amount is—

- (a) the amount of the payment under section 52(1), or
- (b) if the land is subject to a mortgage, the aggregate of that amount and the amount of any payment made under section 52ZA(3).”

Part 8 COMPULSORY PURCHASE > Advance payments > s. 104 Compensation: advance payments to mortgagees

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s. 105 Power to require information



Law In Force

Version 1 of 1

31 October 2004 - Present

Subjects

Planning

105 Power to require information

(1) The [Acquisition of Land Act 1981 \(c. 67\)](#) is amended as follows.

(2) After [section 5](#) (local inquiries) there is inserted–

“5A Power to require information

(1) This section applies to information about land in relation to which an acquiring authority is entitled to exercise a power of compulsory purchase.

(2) The acquiring authority may serve a notice on a person mentioned in subsection (4) requiring him to give to the authority in writing the following information–

(a) the name and address of any person he believes to be an owner, lessee, tenant (whatever the tenancy period) or occupier of the land;

(b) the name and address of any person he believes to have an interest in the land.

(3) The power in subsection (2) is exercisable for the purpose of enabling the acquiring authority to acquire the land.

(4) The persons are–

(a) the occupier of the land;

(b) any person who has an interest in the land either as freeholder, mortgagee or lessee;

(c) any person who directly or indirectly receives rent for the land;

(d) any person who, in pursuance of an agreement between himself and a person interested in the land, is authorised to manage the land or to arrange for the letting of it.

- (5) The notice must specify the period within which the information must be given to the acquiring authority (being a period of not less than 14 days beginning with the day on which the notice is served).
- (6) The notice must also specify or describe—
 - (a) the land,
 - (b) the compulsory purchase power, and
 - (c) the enactment which confers the power.
- (7) The notice must be in writing.
- (8) Section 6(4) does not apply to notices to be served under this section.

5B Offences relating to information

- (1) A person commits an offence if he fails without reasonable excuse to comply with a notice served on him under section 5A.
- (2) A person commits an offence if, in response to a notice served on him under section 5A—
 - (a) he gives information which is false in a material particular, and
 - (b) when he does so, he knows or ought reasonably to know that the information is false.
- (3) If an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person purporting to act in any such capacity,he, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.
- (4) The reference in subsection (3) to a director must be construed in accordance with section 331(2) of the Town and Country Planning Act 1990.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

Part 8 COMPULSORY PURCHASE > Information > s. 105 Power to require information

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s. 106 Basic loss payment



Law In Force

Version 1 of 1

31 October 2004 - Present

Subjects

Planning

106 Basic loss payment

(1) After [section 33](#) of the [Land Compensation Act 1973 \(c. 26\)](#) (home loss payments for certain caravan dwellers) there is inserted the following section–

“Other loss payments

33A Basic loss payment

(1) This section applies to a person–

- (a) if he has a qualifying interest in land,
- (b) if the interest is acquired compulsorily, and
- (c) to the extent that he is not entitled to a home loss payment in respect of any part of the interest.

(2) A person to whom this section applies is entitled to payment of whichever is the lower of the following amounts–

- (a) 7.5% of the value of his interest;
- (b) £75,000.

(3) A payment under this section must be made by the acquiring authority.

(4) An interest in land is a qualifying interest if it is a freehold interest or an interest as tenant and (in either case) it subsists for a period of not less than one year ending with whichever is the earliest of–

- (a) the date on which the acquiring authority takes possession of the land under section 11 of the Compulsory Purchase Act 1965 (entry to take possession of land);
- (b) the date on which the acquiring authority enters the land if it proceeds under Schedule 3 to that Act;

(c) the vesting date (within the meaning of the Compulsory Purchase (Vesting Declarations) Act 1981) if a declaration is made under section 4 of that Act (general vesting declaration);

(d) the date on which compensation is agreed between the person and the acquiring authority;

(e) the date on which the amount of compensation is determined by the Lands Tribunal.

(5) The compulsory acquisition of an interest in land includes acquisition of the interest in consequence of the service of—

(a) a purchase notice under section 137 of the Town and Country Planning Act 1990 (right to require purchase of certain interests);

(b) a notice under section 150 of that Act (purchase of blighted land).

(6) The value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition; but this is subject to subsections (7) and (8).

(7) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.

(8) If rule (5) of section 5 of the Land Compensation Act 1961 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.”

(2) [Section 33A](#) of the [Land Compensation Act 1973 \(c. 26\)](#) (as inserted by subsection (1) above) does not apply in relation to a pre-commencement acquisition of an interest in land.

(3) A pre-commencement acquisition of an interest in land is any of the following—

(a) acquisition by means of a compulsory purchase order if the order is made or made in draft before the commencement of this section;

(b) acquisition by means of an order made under [section 1](#) or [3](#) of the [Transport and Works Act 1992 \(c. 42\)](#) (orders relating to certain transport works) if the application for the order was made to the Secretary of State before the commencement of this section;

(c) acquisition by means of an order under [section 1](#) or [3](#) of that Act if the order is made in pursuance of [section 7](#) of that Act (orders made without application) and the order is made in draft before the commencement of this section;

(d) acquisition by means of a power contained in an enactment (including a private or local Act) to acquire compulsorily specified land or a specified interest in land if the Bill providing for the power is introduced into Parliament before the commencement of this section.

Part 8 COMPULSORY PURCHASE > Loss payments > s. 106 Basic loss payment

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s. 107 Occupier's loss payment



Law In Force

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Subjects

Planning

107 Occupier's loss payment

(1) After [section 33A](#) of the [Land Compensation Act 1973](#) (inserted by [section 106](#) of this Act) there are inserted the following sections–

“33B Occupier's loss payment: agricultural land

(1) This section applies to a person if–

- (a) he has a qualifying interest in land for the purposes of section 33A,
- (b) the land is agricultural land,
- (c) the interest is acquired compulsorily, and
- (d) he occupied the land for the period specified in section 33A(4).

(2) A person to whom this section applies is entitled to a payment of whichever is the greatest of the following amounts–

- (a) 2.5% of the value of his interest;
- (b) the land amount;
- (c) the buildings amount.

(3) But the maximum amount which may be paid to a person under this section in respect of an interest in land is £25,000.

(4) A payment under this section must be made by the acquiring authority.

(5) The value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition; but this is subject to subsections (6) and (7).

(6) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the

value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.

(7) If rule (5) of section 5 of the Land Compensation Act 1961 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.

(8) The land amount is the greater of £300 and the amount found in accordance with the following Table—

<i>Area of the land</i>	<i>Amount per hectare</i>
Not exceeding 100 hectares	£100 per hectare or part of a hectare
Exceeding 100 hectares	
	(a) £100 per hectare for the first 100 hectares;
	(b) £50 per hectare for the next 300 hectares or part of a hectare.

(9) The buildings amount is £25 per square metre (or part of a square metre) of the gross floor space of any buildings on the land.

(10) The gross floor space must be measured externally.

33C Occupier's loss payment: other land

(1) This section applies to a person if—

- (a) he has a qualifying interest in land for the purposes of section 33A,
- (b) the land is not agricultural land,
- (c) the interest is acquired compulsorily, and
- (d) he occupied the land for the period specified in section 33A(4).

(2) A person to whom this section applies is entitled to a payment of whichever is the greatest of the following amounts—

- (a) 2.5% of the value of his interest;
- (b) the land amount;
- (c) the buildings amount.

(3) But the maximum amount which may be paid to a person under this section in respect of an interest in land is £25,000.

(4) A payment under this section must be made by the acquiring authority.

(5) The value of an interest is its value for the purpose of deciding the amount of compensation payable in respect of the acquisition; but this is subject to subsections (6) and (7).

(6) If an interest consists partly of a dwelling in respect of which the person is entitled to a home loss payment the value of the interest is the value of the whole interest less the value of so much of the interest as is represented by the dwelling.

(7) If rule (5) of section 5 of the Land Compensation Act 1961 (equivalent reinstatement) applies for the purpose of assessing the amount of compensation the value of the interest is nil.

(8) The land amount is the greater of—

(a) £2,500;

(b) £2.50 per square metre (or part of a square metre) of the area of the land.

(9) But if only part of land in which a person has an interest is acquired, for the figure specified in subsection (8)(a) there is substituted £300.

(10) The buildings amount is £25 per square metre (or part of a square metre) of the gross floor space of any buildings on the land.

(11) The gross floor space must be measured externally.”

(2) [Sections 33B and 33C](#) of the [Land Compensation Act 1973 \(c. 26\)](#) (as inserted by subsection (1) above) do not apply in relation to a pre-commencement acquisition of an interest in land.

(3) A pre-commencement acquisition of an interest in land is any of the following—

(a) acquisition by means of a compulsory purchase order if the order is made or made in draft before the commencement of this section;

(b) acquisition by means of an order made under [section 1](#) or [3](#) of the [Transport and Works Act 1992 \(c. 42\)](#) (orders relating to certain transport works) if the application for the order was made to the Secretary of State before the commencement of this section;

(c) acquisition by means of an order under [section 1](#) or [3](#) of that Act if the order is made in pursuance of [section 7](#) of that Act (orders made without application) and the order is made in draft before the commencement of this section;

(d) acquisition by means of a power contained in an enactment (including a private or local Act) to acquire compulsorily specified land or a specified interest in land if the Bill providing for the power is introduced into Parliament before the commencement of this section.

Part 8 COMPULSORY PURCHASE > Loss payments > s. 107 Occupier's loss payment

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s. 108 Loss payments: exclusions



Law In Force

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Subjects

Planning

108 Loss payments: exclusions

(1) After [section 33C](#) of the [Land Compensation Act 1973](#) (inserted by [section 107](#) of this Act) there is inserted the following section–

“33D Loss payments: exclusions

(1) This section applies to a person if–

- (a) he is a person to whom section 33A, 33B or 33C applies,
- (b) a notice falling within subsection (4) has been served on him in relation to the land mentioned in that section,
- (c) at the relevant time the notice has effect or is operative, and
- (d) he has failed to comply with any requirement of the notice.

(2) This section also applies to a person if–

- (a) he is a person to whom section 33A, 33B or 33C applies,
- (b) a copy of an order falling within subsection (5) has been served on him in relation to the land mentioned in that section, and
- (c) the order has not been quashed on appeal.

(3) No payment may be made under section 33A, 33B or 33C to a person to whom this section applies.

(4) These are the notices–

- (a) notice under section 215 of the Town and Country Planning Act 1990 (power to require proper maintenance of land);

(b) notice under section 189 of the Housing Act 1985 (requirement to repair dwelling etc. unfit for human habitation);

(c) notice under section 190 of that Act (requirement to repair dwelling etc. in state of disrepair);

(d) notice under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (repairs notice prior to compulsory notice of acquisition of listed building).

(5) These are the orders—

(a) an order under section 264 of the Housing Act 1985 (closure of dwelling etc. unfit for human habitation);

(b) an order under section 265 of that Act (demolition of dwelling etc. unfit for human habitation).

(6) The relevant time is the time at which the compulsory purchase order in relation to the person's interest in the land—

(a) is confirmed, in the case of an order falling within section 2(2) of the Acquisition of Land Act 1981 (procedure for authorisation);

(b) is made, in the case of an order falling within section 2(3) of that Act.

(7) The Secretary of State may by regulations amend subsections (4) and (5).”

(2) [Section 33D](#) of the [Land Compensation Act 1973 \(c. 26\)](#) (as inserted by subsection (1) above) does not apply in relation to a notice or order specified in [subsection \(4\) or \(5\)](#) of that section if the notice or copy of the order was served on a person to whom that section applies before the commencement of this section.

Part 8 COMPULSORY PURCHASE > Loss payments > s. 108 Loss payments: exclusions

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s. 109 Loss payments: supplementary



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109 Loss payments: supplementary

After [section 33D](#) of the [Land Compensation Act 1973](#) (inserted by [section 108](#) of this Act) there are inserted the following sections–

“33E Claims

- (1) This section applies for the purposes of sections 33A to 33C.
- (2) A claim for payment must be made in writing to the acquiring authority.
- (3) The claim must give such particulars as the authority may reasonably require for the purpose of deciding–
 - (a) whether a payment is to be made;
 - (b) the amount of any such payment.
- (4) For the purposes of the Limitation Act 1980 a person’s right of action to recover a payment must be taken to have accrued–
 - (a) in the case of a claim under section 33A on the last day of the period specified in subsection (4) of that section;
 - (b) in the case of a claim under section 33B or 33C on the date of his displacement from the land.

33F Insolvency

- (1) This section applies if a person is entitled to a payment under section 33A, 33B or 33C but before a claim is made under section 33E insolvency proceedings are started in relation to the person.
- (2) Any of the following may make a claim instead of the person mentioned in subsection (1)–
 - (a) a receiver, trustee in bankruptcy or the official receiver in the case of an individual;

(b) an administrator, administrative receiver, liquidator or provisional liquidator or the official receiver in the case of a company or a partnership.

(3) Insolvency proceedings are—

(a) proceedings in bankruptcy;

(b) proceedings under the Insolvency Act 1986 for the winding up of a company or an unregistered company (including voluntary winding up of a company under Part 4 of that Act);

(c) proceedings for the winding up of a partnership.

33G Death

(1) This section applies if a person is entitled to a payment under section 33A, 33B or 33C but before a claim is made under section 33E the person dies (the deceased).

(2) A claim may be made by a person who—

(a) occupied the land for a period of not less than one year ending with the date on which the deceased is displaced from the land, and

(b) is entitled to benefit on the death of the deceased by virtue of a ground mentioned in subsection (3).

(3) The grounds are—

(a) a testamentary disposition;

(b) the law of intestate succession;

(c) the right of survivorship between joint tenants.

33H Agricultural land: dual entitlement

(1) This section applies if a person is entitled in respect of the same interest in agricultural land to a payment both—

(a) under section 33B of this Act, and

(b) by virtue of section 12(1) of the Agriculture (Miscellaneous Provisions) Act 1968 (additional payments in consequence of compulsory acquisition of agricultural holding).

(2) Payment may be made in respect of only one entitlement.

(3) If the person makes a claim under both provisions he must be paid in respect of the entitlement which produces the greater amount.

33I Payment

- (1) Any dispute as to the amount of a payment to be made under section 33A, 33B or 33C must be determined by the Lands Tribunal.
- (2) The acquiring authority must make any payment required by section 33A not later than whichever is the latest of the following dates—
 - (a) the last day of the period specified in section 33A(4);
 - (b) the last day of the period of three months beginning with the day the claim is made;
 - (c) the day on which the amount of the payment is determined.
- (3) The authority must make any payment required by section 33B or 33C not later than whichever is the latest of the following dates—
 - (a) the date the person is displaced from the land;
 - (b) the last day of the period of three months beginning with the day the claim is made;
 - (c) the day on which the amount of the payment is determined.
- (4) If paragraph (c) of subsection (2) or (3) applies the authority may at any time make a payment in advance to the person entitled to a payment (the claimant).
- (5) If when the value of the interest is agreed or determined the amount of a payment made under subsection (4) differs from the payment required by section 33A, 33B or 33C—
 - (a) the amount by which the advance payment exceeds the payment required must be repaid by the claimant to the authority;
 - (b) the amount by which the payment required exceeds the advance payment must be paid by the authority to the claimant.
- (6) The acquiring authority must pay interest on the amount required to be paid at the rate prescribed by regulations under section 32 of the Land Compensation Act 1961.
- (7) Interest accrues from the date specified in paragraph (a) of subsection (2) or (3) (as the case may be).
- (8) The authority may, at the request of the person entitled to the payment, make a payment on account of the interest mentioned in subsection (6).

33J Acquisition by agreement

- (1) This section applies if—
 - (a) an interest in land which is a qualifying interest for the purpose of section 33A is acquired by agreement by an authority which has power to acquire the interest compulsorily, and

(b) the interest is acquired from a person who would be entitled to a payment under section 33A, 33B or 33C if the interest is acquired compulsorily.

(2) The authority may make a payment to the person of an amount equal to the amount they would be required to pay if the interest is acquired compulsorily.

33K Regulations

(1) This section applies for the purposes of sections 33A to 33I.

(2) The Secretary of State may by regulations substitute for any amount or percentage figure specified in these sections such other amount or percentage figure (as the case may be) as he thinks fit.

(3) Except as provided in the following provisions of this section, a power to make regulations must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) This subsection applies to regulations under subsection (2) which substitute—

(a) a percentage figure, or

(b) an amount, in a case where the change in value condition is not satisfied.

(5) A statutory instrument containing regulations to which subsection (4) applies must not be made unless a draft of the regulations has been laid before and approved by resolution of each House of Parliament.

(6) The change in value condition is satisfied if the Secretary of State thinks that in the case of the substitution of an amount it is expedient to make the substitution in consequence of changes in the value of money or land.

(7) Regulations under subsection (2) may make different provision for different purposes.”

Part 8 COMPULSORY PURCHASE > Loss payments > s. 109 Loss payments: supplementary

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s. 110 Corresponding amendments of other enactments



Law In Force

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Planning

110 Corresponding amendments of other enactments

(1) This section applies to any enactment passed or made before or in the same session as the passing of this Act (other than an enactment amended by this Part) which makes provision—

- (a) in connection with the compulsory acquisition of an interest in land,
- (b) creating a power which permits the interference with or affectation of any right in relation to land, or
- (c) for the payment of any sum in connection with the acquisition, interference or affectation.

(2) The Secretary of State may by order amend an enactment to which this section applies for the purpose of making provision which—

- (a) corresponds to provision made by this Part, or
- (b) applies any such provision or corresponding provision.

Part 8 COMPULSORY PURCHASE > Corresponding amendments of other enactments > s. 110 Corresponding amendments of other enactments

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