



# Neighbourhood Planning Act 2017

## 2017 CHAPTER 20

### PART 2

#### COMPULSORY PURCHASE ETC

### CHAPTER 1

#### TEMPORARY POSSESSION OF LAND

#### **18 Power to take temporary possession of land**

- (1) Subsection (2) applies where a person (an “acquiring authority”)—
  - (a) has a power conferred by an Act to acquire land compulsorily (with or without authorisation from another person), or
  - (b) is or has been, at any time, otherwise authorised to acquire land compulsorily.
- (2) The acquiring authority may, for purposes connected with the purposes for which it could acquire land compulsorily, take temporary possession of land—
  - (a) by agreement, or
  - (b) compulsorily, if authorised to do so in accordance with section 19.
- (3) Subject to any express provision in another Act, the power in subsection (2) is the only power under which a person may take temporary possession of land compulsorily.
- (4) For the purposes of this Chapter references to acquiring land include references to acquiring a right over land by creation.

#### **19 Procedure for authorising temporary possession etc**

- (1) This section sets out how an acquiring authority may be authorised to take temporary possession of land compulsorily under section 18(2).
- (2) The temporary possession of the land must be authorised by the type of instrument (the “authorising instrument”) that would be required if the acquiring authority proposed to

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acquire that land compulsorily for the purposes for which it proposes to take temporary possession of that land.

- (3) Accordingly, the authorising instrument—
  - (a) may make provision relating to temporary possession of land as well as, or instead of, compulsory acquisition,
  - (b) if it authorises the compulsory acquisition of land, may authorise temporary possession of the same or other land, and
  - (c) if it makes provision relating to temporary possession, is to be subject to the same procedures for authorising and challenging it as if the provision relating to temporary possession were provision relating to compulsory acquisition.
- (4) But in so far as an authorising instrument authorises the temporary possession of land, the instrument is not to be subject to special parliamentary procedure by virtue of any enactment applying that procedure to an instrument authorising the compulsory acquisition of land, unless the land which is proposed to be subject to temporary possession is held by the National Trust inalienably.
- (5) For the purposes of subsection (4)—
  - (a) “the National Trust” means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907, and
  - (b) land is held by the National Trust “inalienably” if it is inalienable under section 21 of the National Trust Act 1907 or section 8 of the National Trust Act 1939.
- (6) For the purposes of subsection (3)(c), the reference to compulsory acquisition does not include the compulsory acquisition of a right over land by creation unless section 18(2) applies in relation to the acquiring authority by virtue only of a power or authorisation to acquire a right over land by creation.
- (7) The authorising instrument must—
  - (a) identify the land which is to be subject to temporary possession,
  - (b) describe the purposes for which temporary possession is required, and
  - (c) specify the total period of time for which the land may be subject to temporary possession.
- (8) The authorising instrument does not need to include the dates of any particular period of temporary possession (but see section 20).

## **20 Notice requirements**

- (1) Before taking temporary possession of land compulsorily for a period of time by virtue of section 18(2) an acquiring authority must give a notice of intended entry to each person who has an interest in or a right to occupy the land, so far as known to the authority after making diligent inquiry.
- (2) The notice must specify the period after the end of which the acquiring authority may take temporary possession of the land (“the notice period”).
- (3) The notice period must not end earlier than the end of the period of three months beginning with the day on which the notice is given.
- (4) The notice must specify the period for which the acquiring authority is to take temporary possession of the land.

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- (5) For the purposes of this section an acquiring authority is to be treated as taking temporary possession of land at the beginning of the first day of any period of temporary possession.
- (6) The notice period may be reduced by agreement between the acquiring authority and all persons to whom a notice must be given under subsection (1).
- (7) An acquiring authority must comply with this section again in relation to each subsequent period of temporary possession even if there is to be no gap between periods.
- (8) Where the authorising instrument mentioned in section 19 is a compulsory purchase order, a notice of intended entry under this section may not be served after the end of the period of three years beginning with the day on which the authorising instrument becomes operative.
- (9) In any other case, a notice of intended entry under this section may not be served after the end of the period of five years beginning with the day on which the authorising instrument becomes operative.

## **21 Counter-notice**

- (1) This section applies where an acquiring authority gives a notice of intended entry under section 20 in relation to land to a person (the “owner”) who—
  - (a) has a leasehold interest in, and the right to occupy, the land, or
  - (b) has the freehold interest in the land.
- (2) The owner may give the acquiring authority a counter-notice which provides that the total period of time for which the land may be subject to temporary possession is limited to—
  - (a) 12 months where the land is or is part of a dwelling, or
  - (b) 6 years in any other case.
- (3) If the owner falls within subsection (1)(a), the owner may instead give the acquiring authority a counter-notice which provides that the authority may not take temporary possession of the land.
- (4) A counter-notice under subsection (2) or (3) must be given within the period of 28 days beginning with the day on which the notice of intended entry was given.
- (5) On receiving a counter-notice under subsection (2), the acquiring authority must decide whether to—
  - (a) accept the counter-notice,
  - (b) withdraw the notice of intended entry, or
  - (c) proceed as if the land were subject to compulsory acquisition.
- (6) On receiving a counter-notice under subsection (3), the acquiring authority must decide whether to—
  - (a) accept the counter-notice, or
  - (b) proceed as if the land were subject to compulsory acquisition.
- (7) The acquiring authority must give a notice of its decision in response to a counter-notice to the owner within the period of 28 days beginning with the day on which the counter-notice was given.

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- (8) If the acquiring authority decides to proceed as if the land were subject to compulsory acquisition—
- (a) the instrument which authorised temporary possession of the land is to be treated as authorising the compulsory acquisition of the owner’s interest in the land (as well as the temporary possession of the land, if there are other interests in it), and
  - (b) the authority may proceed as if it had given any notice or taken any step required in relation to the authorisation or confirmation of the instrument.
- (9) See Schedule 2A to the Compulsory Purchase Act 1965 and Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 for options available to the owner if, in response to a counter-notice under this section, the acquiring authority decides to purchase the owner’s interest in part of a house, building or factory.
- (10) Nothing in this section prevents an acquiring authority acquiring land compulsorily after accepting a counter-notice or withdrawing a notice of intended entry in respect of that land.

## 22 Refusal to give up possession

Section 13 of the Compulsory Purchase Act 1965 (refusal to give up possession of land to acquiring authority) applies in relation to temporary possession by virtue of section 18(2) of this Act as if—

- (a) the reference to “this Act” in subsection (1) were a reference to section 18(2) of this Act, and
- (b) the references to taking possession of land were references to taking temporary possession of land compulsorily by virtue of section 18(2) of this Act.

## 23 Compensation

- (1) This section applies if an acquiring authority takes or is authorised to take temporary possession of land compulsorily by virtue of section 18(2).
- (2) A person (a “claimant”) who has an interest in or a right to occupy the land is entitled to receive compensation from the authority for any loss or injury the claimant sustains as a result.
- (3) A person (a “beneficial claimant”) is entitled to receive compensation from the authority for any loss or injury the beneficial claimant sustains as a result of the authority—
  - (a) interfering with a relevant right or interest annexed to land belonging to the beneficial claimant, or
  - (b) breaching a restriction as to the user of land arising by virtue of a contract where—
    - (i) the beneficial claimant is a party to the contract, or
    - (ii) the restriction benefits land which belongs to the beneficial claimant.
- (4) Where the claimant is carrying on a trade or business on the land, the compensation to which the claimant is entitled includes compensation for any loss which the claimant sustains by reason of the disturbance of the trade or business consequent upon the claimant having to quit the land for the period of the temporary possession.

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- (5) In estimating loss for the purposes of subsection (4) regard is to be had—
  - (a) to the period for which the land occupied by the claimant may reasonably have been expected to be available for the purposes of the claimant’s trade or business,
  - (b) to the terms on which the land may reasonably have been expected to be available for those purposes, and
  - (c) to the availability of other land suitable for those purposes during the period of temporary possession.
- (6) For the purposes of section 9 of the Limitation Act 1980, a cause of action for compensation under this section which, apart from this subsection, would accrue before or during a period of compulsory temporary possession for which notice is given under section 20 is to be treated as accruing on the last day of the period.
- (7) Compensation under this section in relation to a particular head of loss or injury carries interest from the day after the last day on which that loss or injury occurs.
- (8) The interest is to be at the rate prescribed by regulations under section 32 of the Land Compensation Act 1961 in relation to the compulsory acquisition of land.
- (9) Any dispute about compensation payable under this section may be referred to and determined by the Upper Tribunal.
- (10) In this Chapter “relevant right or interest” means any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land (including any natural right to support).

## **24 Advance payments**

- (1) This section applies where a person (a “claimant”) to whom compensation is or will be payable under section 23 makes a request in accordance with subsection (3).
- (2) The acquiring authority—
  - (a) must make an advance payment on account of the compensation if it has given a notice of intended entry under section 20 in relation to the land in respect of which the claimant is or will be entitled to compensation, but
  - (b) may not do so if it has not given such a notice.
- (3) A request for advance payment must be made in writing by the claimant and must include—
  - (a) details of the basis on which the claimant is or is going to be entitled to compensation, and
  - (b) information which is sufficient to enable the acquiring authority to estimate the amount of the compensation in respect of which the advance payment is to be made.
- (4) Before the end of the period of 28 days beginning with the day on which the acquiring authority receives a request under subsection (3), the authority must—
  - (a) determine whether it has enough information to estimate the amount of compensation, and
  - (b) if it needs more information, require the claimant to provide it.
- (5) The amount of an advance payment is to be equal to 90% of—

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- (a) if the acquiring authority and the claimant have agreed on the amount of the compensation, the agreed amount, or
  - (b) in any other case, an amount equal to the compensation as estimated by the acquiring authority.
- (6) An advance payment must be made—
- (a) before the end of the day on which the authority takes temporary possession of the land, or
  - (b) if later, before the end of the period of two months beginning with the day on which the authority—
    - (i) receives the request for the advance payment, or
    - (ii) receives any further information required under subsection (4)(b).
- (7) If, after making an advance payment on the basis of its estimate of the compensation, the acquiring authority considers that its estimate was too low, the authority must pay the claimant the balance of the amount of the advance payment calculated on the basis of the authority's new estimate of the compensation.
- (8) Where the total amount of any payments under this section made on the basis of the acquiring authority's estimate of the compensation exceeds the compensation as finally determined or agreed, the excess is to be repaid.
- (9) If, after a payment under this section has been made to a person, it is discovered that the person was not entitled to it, the person must repay it.

## **25 Interest on advance payments of compensation paid late**

- (1) If an acquiring authority is required by section 24(2) to make an advance payment of compensation but pays some or all of it after the day or (as the case may be) the end of the period specified in section 24(6), the authority must pay interest on the amount which is paid after that period (the “unpaid amount”).
- (2) Interest under subsection (1) accrues on the unpaid amount for the period beginning with the day after the day or (as the case may be) the end of the period specified in section 24(6).
- (3) If the total amount of any advance payment made under section 24 is greater than the compensation as finally determined or agreed (the “actual amount”), the claimant must repay any interest paid under this section that is attributable to the amount by which the advance payment exceeded the actual amount.
- (4) The Treasury must by regulations specify the rate of interest for the purposes of subsection (1).
- (5) Regulations under subsection (4) may contain further provision in connection with the payment of interest under subsection (1).

## **26 Consequential amendments**

- (1) The Town and Country Planning Act 1990 is amended in accordance with subsections (2) to (7).
- (2) In section 150 (notices requiring purchase of blighted land), in subsection (1)(b), for “or paragraph 24” substitute “, paragraph 24 or paragraph 24A”.

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- (3) In section 151 (counter-notice objecting to blight notices)—
- (a) in subsection (4)(b), after “to acquire” insert “or (in the case of land to which paragraph 24A of Schedule 13 applies) take temporary possession of”, and
  - (b) in subsection (8), for “to acquire that land” substitute “to acquire or (in the case of land to which paragraph 24A of Schedule 13 applies) to take temporary possession of that land”.
- (4) In section 155 (effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire)—
- (a) in the heading, after “acquire” insert “etc.”, and
  - (b) in subsection (2)—
    - (i) in paragraph (a), after “appropriate enactment” insert “, or, in a case to which paragraph 24A of Schedule 13 applies, the temporary possession of land has been authorised by the appropriate enactment.”,
    - (ii) in the closing words, after “that order” insert “or appropriate enactment.”, and
    - (iii) after “claimant in” insert “, or the temporary possession of.”.
- (5) In section 169 (meaning of “appropriate authority” in relation to blighted land), in subsection (1)—
- (a) the words from “by whom” to the end become paragraph (a), and
  - (b) after that paragraph insert “, or
    - (b) which is authorised to take temporary possession of the land as mentioned in paragraph 24A of Schedule 13.”
- (6) In section 170 (meaning of “appropriate enactment” in relation to blighted land), after subsection (8B) insert—
- “(8BA) In relation to land falling within paragraph 24A of that Schedule “the appropriate enactment” is the instrument mentioned in section 19(2) of the Neighbourhood Planning Act 2017 (procedure for authorising temporary possession etc.) under which the acquiring authority mentioned in section 18(1) of that Act (power to take temporary possession of land) is authorised to take temporary possession of the land.”
- (7) In Schedule 13 (list of categories of land which are blighted land as a result of planning proposals etc. by public authorities), after paragraph 24 insert—
- “24A Land the temporary possession of which is authorised by virtue of section 18(2) of the Neighbourhood Planning Act 2017.”
- (8) In section 172 of the Housing and Planning Act 2016 (right to enter and survey land in connection with proposal to acquire land etc.)—
- (a) in subsection (1)—
    - (i) the words from “to” to the end become paragraph (a), and
    - (ii) after paragraph (a) insert “, or
      - (b) take temporary possession of land compulsorily under section 18(2) of the Neighbourhood Planning Act 2017.”” and
  - (b) in subsection (6) for the words from “acquiring authority” to the end of the subsection substitute “—



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- (a) “acquiring authority” means a person who could be authorised to acquire compulsorily the land to which the proposal mentioned in subsection (1) relates (regardless of whether the proposal is to acquire an interest in or a right over the land or to take temporary possession of it), and
- (b) “owner” has the meaning given in section 7 of the Acquisition of Land Act 1981.”

## 27 Powers of acquiring authority in relation to land

- (1) Subject to subsection (4) and to any regulations under section 29, where an acquiring authority takes temporary possession of land compulsorily by virtue of section 18(2), the authority may use the land as if it had acquired all interests in it.
- (2) In particular, the acquiring authority may—
  - (a) remove or erect buildings or other works, and
  - (b) remove any vegetation,
 to the extent that it would be able to do so if it had acquired all interests in the land.
- (3) The acquiring authority may use land as described in subsection (1) even if this involves—
  - (a) interfering with a relevant right or interest, or
  - (b) breaching a restriction as to the user of land arising by virtue of a contract.
- (4) But the acquiring authority may use the land only for the purposes for which temporary possession was required, as described in the authorising instrument (see section 19(7)(b)).
- (5) Nothing in this section authorises an interference with—
  - (a) a right of way on, under or over land that is a protected right, or
  - (b) a right of laying down, erecting, continuing or maintaining apparatus on, under or over land if it is a protected right.
- (6) Nothing in this section authorises—
  - (a) an interference with a relevant right or interest annexed to land belonging to the National Trust which is held by the National Trust inalienably, or
  - (b) a breach of a restriction as to the user of land which does not belong to the National Trust—
    - (i) arising by virtue of a contract to which the National Trust is a party, or
    - (ii) benefiting land which does belong to the National Trust.
- (7) For the purposes of subsection (6)—
  - (a) “the National Trust” means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907, and
  - (b) land is held by the National Trust “inalienably” if it is inalienable under section 21 of the National Trust Act 1907 or section 8 of the National Trust Act 1939.
- (8) In this section—
 

“protected right” means—

  - (a) a right vested in, or belonging to, a statutory undertaker for the purpose of carrying on its statutory undertaking, or



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(b) a right conferred by, or in accordance with, the electronic communications code on the operator of an electronic communications code network (and expressions used in this paragraph have the meaning given by paragraph 1(1) of Schedule 17 to the Communications Act 2003);

“statutory undertaker” means a person who is, or who is deemed to be, a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990;

“statutory undertaking” is to be read in accordance with section 262 of the Town and Country Planning Act 1990 (meaning of “statutory undertakers”).

## **28 Impact of temporary possession on tenancies etc**

- (1) Subsection (2) applies where an acquiring authority takes temporary possession under section 18(2) of land subject to a tenancy.
- (2) A person is not to be treated as being in breach of—
  - (a) any term of the tenancy, or
  - (b) any other obligation associated with the tenancy or the land subject to temporary possession,to the extent that the person cannot reasonably comply with the term or other obligation as a result of the temporary possession.
- (3) Subsection (2) does not affect terms or obligations about—
  - (a) the length of the tenancy, or
  - (b) the payment of rent.
- (4) Subsection (5) applies where—
  - (a) an acquiring authority takes temporary possession of land subject to a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (security of tenure for business tenants) applies immediately before the period of temporary possession,
  - (b) the tenancy expires during the period of temporary possession, and
  - (c) prior to the period of temporary possession the tenant notifies in writing both the acquiring authority and the landlord that the tenant intends to resume occupation of the land after the period of temporary possession.
- (5) For the purposes of Part 2 of the Landlord and Tenant Act 1954 the tenant is to be deemed to continue to occupy the land in accordance with the tenancy mentioned in subsection (4)(b), and any tenancy which succeeds that tenancy, despite the period of temporary possession.
- (6) But if the tenant notifies in writing both the acquiring authority and the landlord that the tenant no longer intends to resume occupation of the land after the period of temporary possession subsection (5) ceases to apply.
- (7) In this section “tenancy” includes a sub-tenancy.

## **29 Supplementary provisions**

- (1) The appropriate national authority must by regulations make provision about—
  - (a) the reinstatement of land subject to a period of temporary possession, and

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- (b) the resolution by an independent person of disputes about reinstatement.
- (2) The Secretary of State may by regulations exclude the application of any provision of this Chapter in relation to a person who is an acquiring authority as a result of an authorisation by virtue of—
- (a) section 11, 12 or 12A of the Pipe-lines Act 1962 (compulsory purchase of land or rights over land in connection with pipe-lines),
  - (b) section 12 or 13 of the Gas Act 1965 (compulsory purchase of rights in relation to storage of gas etc),
  - (c) paragraph 1 of Schedule 3 to the Gas Act 1986 (compulsory purchase of land by gas transporter), or
  - (d) paragraph 1 of Schedule 3 to the Electricity Act 1989 (compulsory purchase of land by licence holder).
- (3) The appropriate national authority may by regulations make further provision in relation to—
- (a) the authorisation and exercise of the power to take temporary possession of land by virtue of section 18(2), and
  - (b) the circumstances in which an acquiring authority may be authorised to acquire land after being authorised to take temporary possession of it.
- (4) Regulations under subsection (3) may for example—
- (a) make provision that appears to the appropriate national authority to be necessary or expedient for giving full effect to a provision of this Chapter in relation to particular cases or types of case, including by modifying that provision so that it is effective in relation to those cases or types of case,
  - (b) limit the period for which an acquiring authority may take temporary possession of land,
  - (c) limit the circumstances in which an acquiring authority may take temporary possession of land,
  - (d) make provision about the use by an acquiring authority of land of which it has taken temporary possession (for example, by limiting what an acquiring authority may do or by requiring an acquiring authority to do certain things),
  - (e) limit the types of land which may be subject to temporary possession in specified circumstances,
  - (f) require an acquiring authority to provide specified information relating to a period of temporary possession to specified persons before, during or after the period,
  - (g) make provision in relation to the sale by a person with an interest in land where that land is or may be subject to temporary possession, and
  - (h) make provision for a person who has a right to occupy land subject to temporary possession to be deemed to occupy that land for specified purposes during the period of temporary possession.
- (5) Before making regulations under this section the Secretary of State or the Welsh Ministers, as the case may be, must carry out a public consultation.
- (6) In this section—
- “appropriate national authority” means—
  - (a) in relation to cases where the Welsh Ministers are the acquiring authority or the confirming authority, the Welsh Ministers, and

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- (b) in all other cases, the Secretary of State;  
“confirming authority” means the authority having power to authorise the acquiring authority to take temporary possession of land;
- “specified” means specified in regulations under subsection (3).

### **30 Interpretation**

In this Chapter—

- “acquiring authority” has the meaning given in section 18(1);
- “the notice period” has the meaning given in section 20(2);
- “possession” means exclusive occupation;
- “relevant right or interest” has the meaning given by section 23(10).

### **31 Application to Crown land**

- (1) This Chapter applies in relation to Crown land.
- (2) An acquiring authority may exercise the power conferred by section 18(2) in relation to Crown land only if the acquiring authority has the consent of the appropriate authority.
- (3) In this section “Crown land” and “the appropriate authority” have the meanings given in section 293 of the Town and Country Planning Act 1990.

## **CHAPTER 2**

### **OTHER PROVISIONS RELATING TO COMPULSORY PURCHASE**

### **32 No-scheme principle**

- (1) The Land Compensation Act 1961 is amended in accordance with subsections (2) to (4).
- (2) In section 5, after rule (2) insert—
  - “(2A) The value of land referred to in rule (2) is to be assessed in the light of the no-scheme principle set out in section 6A.”
- (3) For sections 6 to 9 (provisions about how scheme is to be disregarded when assessing compensation in respect of compulsory acquisition) substitute—

#### **“6A No-scheme principle**

- (1) The no-scheme principle is to be applied when assessing the value of land in order to work out how much compensation should be paid by the acquiring authority for the compulsory acquisition of the land (see rule 2A in section 5).
- (2) The no-scheme principle is the principle that—
  - (a) any increase in the value of land caused by the scheme for which the authority acquires the land, or by the prospect of that scheme, is to be disregarded, and
  - (b) any decrease in the value of land caused by that scheme or the prospect of that scheme is to be disregarded.

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- (3) In applying the no-scheme principle the following rules in particular (the “no-scheme rules”) are to be observed.
- (4) Rule 1: it is to be assumed that the scheme was cancelled on the relevant valuation date.
- (5) Rule 2: it is to be assumed that no action has been taken (including acquisition of any land, and any development or works) by the acquiring authority wholly or mainly for the purposes of the scheme.
- (6) Rule 3: it is to be assumed that there is no prospect of the same scheme, or any other project to meet the same or substantially the same need, being carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers.
- (7) Rule 4: it is to be assumed that no other projects would have been carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers if the scheme had been cancelled on the relevant valuation date.
- (8) Rule 5: if there was a reduction in the value of land as a result of—
  - (a) the prospect of the scheme (including before the scheme or the compulsory acquisition in question was authorised), or
  - (b) the fact that the land was blighted land as a result of the scheme,
 that reduction is to be disregarded.
- (9) In this section—
 

“blighted land” means land of a description listed in Schedule 13 to the Town and Country Planning Act 1990;

“relevant valuation date” has the meaning given by section 5A.
- (10) See also section 14 for assumptions to be made in respect of planning permission.

### **6B Lower compensation if other land gains value**

- (1) This section applies where—
  - (a) a person is entitled to compensation for the compulsory acquisition of land (the “original land”) for the purposes of a scheme,
  - (b) on the date the notice to treat is served in respect of the original land, the person is entitled to an interest in other land (the “other land”) which is contiguous or adjacent to the original land,
  - (c) the person is entitled to the interest in the other land in the same capacity as the person is entitled to the interest in the original land, and
  - (d) the person’s interest in the other land has increased in value as a result of the scheme.
- (2) The amount of compensation to which the person is entitled in respect of the compulsory acquisition of the original land is to be reduced by the amount of the increase in the value of the person’s interest in the other land as at the relevant valuation date (determined in accordance with section 5A).

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- (3) An amount by which the other land increases in value may not be set off against compensation payable to the person (for the original land or otherwise) in accordance with subsection (2) more than once.
- (4) If the other land is subsequently subject to compulsory acquisition for the purposes of the scheme mentioned in subsection (1), the compensation to which the person is entitled for the other land includes the amount which was deducted from the person's compensation for the original land in accordance with subsection (2) (despite the no-scheme principle).
- (5) If part only of the other land is subject to compulsory acquisition, the compensation to which the person is entitled by virtue of subsection (4) is to be reduced accordingly.
- (6) Subsections (4) and (5) apply in relation to a person (a "successor") who derives title from the person mentioned in that subsection as if the original land had been acquired from the successor.
- (7) This section does not apply in relation to compensation which is to be assessed in accordance with section 261 of the Highways Act 1980 (benefit to vendor to be taken into account in assessing compensation on certain compulsory acquisitions for highway purposes).

#### **6C Increased compensation if other land loses value**

- (1) This section applies where—
  - (a) land (the "original land") belonging to a person is acquired for the purposes of a scheme,
  - (b) as a result of the acquisition of the original land the person receives compensation for injurious affection in relation to other land, and
  - (c) the other land is subsequently subject to compulsory acquisition for the purposes of that scheme.
- (2) The compensation to which the person is entitled as a result of the compulsory acquisition of the other land is to be reduced by the amount which the person received in compensation for injurious affection in relation to the other land as a result of the acquisition of the original land.
- (3) Subsection (2) applies in relation to a person (a "successor") who derives title from the person mentioned in that subsection as if the compensation for injurious affection had been paid to the successor.

#### **6D Meaning of "scheme" etc.**

- (1) For the purposes of sections 6A, 6B and 6C, the "scheme" in relation to a compulsory acquisition means the scheme of development underlying the acquisition (subject to subsections (2) to (5)).
- (2) Where the acquiring authority is authorised to acquire land in connection with the development of an area designated as—
  - (a) an urban development area by an order under section 134 of the Local Government, Planning and Land Act 1980,

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- (b) a new town by an order under section 1 of the New Towns Act 1981, or
- (c) a Mayoral development area by a designation under section 197 of the Localism Act 2011,

the scheme is the development of any land for the purposes for which the area is or was designated.

- (3) Where land is acquired for regeneration or redevelopment which is facilitated or made possible by a relevant transport project, the scheme includes the relevant transport project (subject to section 6E).
- (4) For the purposes of subsection (3) and section 6E—
  - (a) a “relevant transport project” means a transport project carried out in the exercise of a statutory function or by the exercise of compulsory purchase powers (regardless of whether it is carried out before, after or at the same time as the regeneration or redevelopment), and
  - (b) where different parts of the works comprised in such a transport project are first opened for use on different dates, each part is to be treated as a separate relevant transport project.
- (5) If there is a dispute as to what is to be taken to be the scheme (the “underlying scheme”) then, for the purposes of this section, the underlying scheme is to be identified by the Upper Tribunal as a question of fact, subject as follows—
  - (a) the underlying scheme is to be taken to be the scheme provided for by the Act, or other instrument, which authorises the compulsory acquisition unless it is shown (by either party) that the underlying scheme is a scheme larger than, but incorporating, the scheme provided for by that instrument, and
  - (b) except by agreement or in special circumstances, the Upper Tribunal may permit the acquiring authority to advance evidence of such a larger scheme only if that larger scheme is one identified in the following read together—
    - (i) the instrument which authorises the compulsory acquisition, and
    - (ii) any documents made available with it.
- (6) In the application of no-scheme rule 3 in relation to the acquisition of land for or in connection with the construction of a highway (the “scheme highway”) the reference in that rule to “any other project” includes a reference to any other highway that would meet the same or substantially the same need as the scheme highway would have been constructed to meet.

### **6E Further provisions in relation to relevant transport projects**

- (1) This section has effect for the purposes of section 6D(3).
- (2) The scheme referred to in that section includes the relevant transport project only if—
  - (a) regeneration or redevelopment was part of the published justification for the relevant transport project,
  - (b) the works comprised in the relevant transport project are first opened for use after the period of 5 years beginning with the day on which

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- section 32 of the Neighbourhood Planning Act 2017 (which inserted this section) came into force,
- (c) the instrument authorising the compulsory acquisition of the land which is acquired for regeneration or redevelopment was made or prepared in draft on or after the day on which that section came into force,
  - (d) the compulsory acquisition of that land is authorised before the end of the period of 5 years beginning with the day on which the works comprised in the relevant transport project are first opened for use, and
  - (e) that land is in the vicinity of land comprised in the relevant transport project.
- (3) In assessing compensation payable to a person in respect of the compulsory acquisition of that land, the scheme is to be treated as if it did not include the relevant transport project if the person acquired the land—
- (a) after plans for the relevant transport project were announced, but
  - (b) before 8 September 2016.
- (4) Subsections (5) and (6) set out how subsection (2)(b) should be applied if a claim for compensation is made by a person (the “claimant”)—
- (a) during the period of 5 years mentioned in that subsection, and
  - (b) before the works are first opened for use.
- (5) Compensation is to be assessed on the basis that the works will first be opened for use after the period of 5 years unless the acquiring authority confirms that, in the authority’s opinion, the works will first be opened during that period (in which case compensation is to be assessed on the basis that the works will first be opened for use during that period).
- (6) If the basis on which compensation was assessed proves to be incorrect—
- (a) the claimant’s entitlement to any compensation which the claimant has already been awarded is not affected,
  - (b) the acquiring authority must give the claimant a notice informing the claimant that the basis on which the compensation was assessed was incorrect,
  - (c) the claimant may make a further claim for compensation in respect of the compulsory acquisition, and
  - (d) for the purposes of the Limitation Act 1980, the further claim for compensation accrues on the day the claimant receives the notice.”
- (4) Omit—
- (a) section 15 (planning permission to be assumed for acquiring authority’s proposals), and
  - (b) Schedule 1 (actual or prospective development relevant for purposes of sections 6, 7 and 8).
- (5) In section 6(3) of the Land Compensation Act 1973 (reduction of compensation where land is benefited)—
- (a) for “section 6” substitute “section 6A”, and
  - (b) for “section 7” substitute “section 6B”.



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- (6) In section 78 of the Housing Act 1988 (supplementary provisions relating to vesting, acquisition and compensation) omit subsections (3) and (4).

### **33 Repeal of Part 4 of the Land Compensation Act 1961**

- (1) In the Land Compensation Act 1961 omit—
- (a) Part 4 (compensation where permission for additional development granted after acquisition), and
  - (b) Schedule 3 (application of Part 4 to certain cases).
- (2) In section 38(1) of that Act (service of notices) omit “or Part IV”.
- (3) In section 141 of the Local Government, Planning and Land Act 1980 (vesting by order of land in urban development corporation) omit subsection (5A) (no compensation payable under Part 4 of the Land Compensation Act 1961 by virtue of such an order).
- (4) In consequence of the amendments made by this section the following are repealed or revoked—
- (a) section 66 of the Planning and Compensation Act 1991;
  - (b) Schedule 14 to that Act;
  - (c) paragraph 25 of Schedule 15 to that Act;
  - (d) paragraph 14 of Schedule 14 to the Government of Wales Act 1998;
  - (e) paragraph 15 of Schedule 1 to the Fire and Rescue Services Act 2004;
  - (f) the first paragraph 3 in Part 1 of Schedule 2 to the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 ([SI 2005/3226](#));
  - (g) paragraph 2 of Schedule 8 to the Housing and Regeneration Act 2008;
  - (h) paragraph 1 of Schedule 2 to the Localism Act 2011 (Consequential Amendments) Order 2012 ([SI 2012/961](#)).
- (5) The repeals and revocations made by this section have effect in relation only to an acquisition or sale of an interest in land in relation to which the date of completion (within the meaning of Part 4 of the Land Compensation Act 1961) falls on or after the day on which this section comes into force.

### **34 Time limit for confirmation notices**

- (1) In section 15 of the Acquisition of Land Act 1981 (notices to be served and published etc after confirmation of compulsory purchase order) after subsection (3) insert—
- “(3A) The acquiring authority must comply with subsections (1) and (3) before the end of—
- (a) the period of 6 weeks beginning with the day on which the order is confirmed, or
  - (b) such longer period beginning with that day as may be agreed in writing between the acquiring authority and the confirming authority.
- (3B) If the acquiring authority fails to comply with subsections (1) and (3) in accordance with subsection (3A), the confirming authority may—
- (a) take any steps that the acquiring authority was required but has failed to take to comply with those subsections, and

- (b) recover the reasonable costs of doing so from the acquiring authority.”
- (2) The amendment made by this section applies only in relation to a compulsory purchase order which is confirmed after this section comes into force.

### **35 Compensation for disturbance**

For section 47 of the Land Compensation Act 1973 (compensation in respect of land subject to business tenancy) substitute—

#### **“47 Compensation in respect of land subject to business tenancy**

- (1) This section applies where—
  - (a) in pursuance of an enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority—
    - (i) acquires the interest of the landlord in land subject to a tenancy, or
    - (ii) acquires the interest of the tenant in, or takes possession of, land subject to a tenancy, and
  - (b) before the authority acquired the interest or took possession of the land, the tenant under the tenancy was carrying on a trade or business on the land.
- (2) The principles in subsections (3) and (4) are to be applied in assessing the compensation payable by the authority to the landlord or the tenant in respect of the acquisition of the interest in or the taking of possession of the land or, as the case may be, under section 121 of the Lands Clauses Consolidation Act 1845 or section 20 of the Compulsory Purchase Act 1965 (tenants from year to year etc).
- (3) Regard must be had to—
  - (a) the likelihood of the continuation or renewal of the tenancy,
  - (b) in the case of a tenancy to which Part 2 of the Landlord and Tenant Act 1954 (security of tenure for business tenants) applies, the right of the tenant to apply for the grant of a new tenancy,
  - (c) the total period for which the tenancy may reasonably have been expected to continue, including after any renewal, and
  - (d) the terms and conditions on which a tenancy may reasonably have been expected to be renewed or continued.
- (4) It is to be assumed that neither the acquiring authority nor any other authority possessing compulsory purchase powers have acquired or propose to acquire any interest in the land.”

### **36 GLA, MDCs and TfL: joint acquisition of land**

- (1) The Greater London Authority Act 1999 is amended as follows.
- (2) After section 403 insert—

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*“Acquisition of land for shared purposes*

**403A Acquisition of land by the Authority and TfL for shared purposes**

- (1) This section applies where the Authority and Transport for London agree that the purposes for which they may acquire land compulsorily under—
  - (a) section 333ZA of this Act, and
  - (b) paragraph 19(1) of Schedule 11 to this Act or Part 12 of the Highways Act 1980,would be advanced by one or both of them acquiring land for a joint project.
- (2) The purposes for which the Authority may acquire land compulsorily under section 333ZA(1) are to be read as if they included the purposes for which Transport for London may acquire land compulsorily.
- (3) The purposes for which Transport for London may acquire land compulsorily under paragraph 19(1) of Schedule 11 to this Act or Part 12 of the Highways Act 1980 are to be read as if they included the purposes for which the Authority may acquire land compulsorily.
- (4) The Authority and Transport for London may agree that one of them is to acquire land on behalf of the other.
- (5) Where subsection (4) applies, a compulsory acquisition is to proceed under—
  - (a) section 333ZA if it is agreed that the Authority will acquire the land, or
  - (b) paragraph 19(1) of Schedule 11 to this Act or Part 12 of the Highways Act 1980 if it is agreed that Transport for London will acquire the land.
- (6) Subsection (7) applies where—
  - (a) the Authority and Transport for London both propose to acquire land compulsorily for a joint project, and
  - (b) the proposed compulsory acquisitions require authorisation by different confirming authorities.
- (7) The proposed compulsory acquisitions are to be treated as requiring the joint authorisation of the confirming authorities.
- (8) The Authority or Transport for London may acquire land by agreement for the same purposes as those for which that body may acquire land compulsorily by virtue of subsection (2) or (3).
- (9) The joint project mentioned in subsection (1) is to be treated as the scheme for the purposes of the no-scheme principle in section 6A of the Land Compensation Act 1961 (impact of scheme to be disregarded when assessing value of land for compulsory purchase).

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### **403B Acquisition of land by MDC and TfL for shared purposes**

- (1) This section applies where a Mayoral development corporation and Transport for London agree that the purposes for which they may acquire land compulsorily under—
    - (a) section 207 of the Localism Act 2011, and
    - (b) paragraph 19(1) of Schedule 11 to this Act or Part 12 of the Highways Act 1980,would be advanced by one or both of them acquiring land for a joint project.
  - (2) The purposes for which the Mayoral development corporation may acquire land compulsorily under section 207 of the Localism Act 2011 are to be read as if they included the purposes for which Transport for London may acquire land compulsorily.
  - (3) The purposes for which Transport for London may acquire land compulsorily under paragraph 19(1) of Schedule 11 to this Act or Part 12 of the Highways Act 1980 are to be read as if they included the purposes for which the Mayoral development corporation may acquire land compulsorily.
  - (4) The Mayoral development corporation and Transport for London may agree that one of them is to acquire land on behalf of the other.
  - (5) Where subsection (4) applies, a compulsory acquisition is to proceed under—
    - (a) section 207 of the Localism Act 2011 if it is agreed that the Mayoral development corporation will acquire the land, or
    - (b) paragraph 19(1) of Schedule 11 to this Act or Part 12 of the Highways Act 1980 if it is agreed that Transport for London will acquire the land.
  - (6) Subsection (7) applies where—
    - (a) the Mayoral development corporation and Transport for London both propose to acquire land compulsorily for a joint project, and
    - (b) the proposed compulsory acquisitions require authorisation by different confirming authorities.
  - (7) The proposed compulsory acquisitions are to be treated as requiring the joint authorisation of the confirming authorities.
  - (8) The Mayoral development corporation or Transport for London may acquire land by agreement for the same purposes as those for which that body may acquire land compulsorily by virtue of subsection (2) or (3).
  - (9) The joint project mentioned in subsection (1) is to be treated as the scheme for the purposes of the no-scheme principle in section 6A of the Land Compensation Act 1961 (impact of scheme to be disregarded when assessing value of land for compulsory purchase).”
- (3) In paragraph 20 of Schedule 11 (limitations on Transport for London’s power to acquire land compulsorily), after “provided by” insert “section 403A, 403B or”.

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### 37 **Overriding easements: land held on behalf of GLA or TfL**

- (1) The Housing and Planning Act 2016 is amended in accordance with subsections (2) to (4).
- (2) In section 203 (power to override easements and other rights)—
- (a) in the opening words of subsection (2)(b), for “13 July 2016” substitute “the relevant day”,
  - (b) in subsection (2)(b)(i), after “specified authority” insert “or a specified company acting on behalf of a specified authority”,
  - (c) in the opening words of subsection (5)(b), for “13 July 2016” substitute “the relevant day”, and
  - (d) in subsection (5)(b)(i), after “specified authority” insert “or a specified company acting on behalf of a specified authority”.
- (3) In section 204 (compensation for overridden easements), for subsection (4) substitute—
- “(4) The authority against which a liability is enforceable by virtue of subsection (3)(a) is—
- (a) where the land to which the compensation relates was vested in or acquired by a company through which the Greater London Authority exercises or has exercised functions in relation to housing or regeneration, the Greater London Authority,
  - (b) where the land was vested in or acquired by a company through which Transport for London exercises or has exercised any of its functions, Transport for London, or
  - (c) in all other cases, the specified or qualifying authority in which the land was vested, or by which the land was acquired or appropriated.”
- (4) In section 205 (interpretation of sections 203 and 204)—
- (a) in the definition of “other qualifying land”, in the opening words of paragraph (g), after “regeneration,” insert “or vested in or acquired by a company or body through which the Greater London Authority exercises functions in relation to housing or regeneration,”,
  - (b) in the definition of “qualifying authority”—
    - (i) for the words from “authority in” to “or which” substitute “person in whom the land was vested, or who”, and
    - (ii) at the end insert “(but, for the purposes of section 203(3)(c) and (6)(c), where that person is a company or body through which the Greater London Authority exercises functions in relation to housing or regeneration, the qualifying authority is the Greater London Authority)”,
  - (c) after the definition of “qualifying authority” insert—
 

““relevant day” means—

    - (a) in relation to a specified company which is a company or body through which Transport for London exercises any of its functions, the day on which section 37 of the Neighbourhood Planning Act 2017 comes into force, and
    - (b) in all other cases, 13 July 2016.”, and
  - (d) after the definition of “specified authority” insert—
 

““specified company” means—

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- (a) a company or body through which the Greater London Authority exercises functions in relation to housing or regeneration, or
  - (b) a company or body through which Transport for London exercises any of its functions;”.
- (5) In the Housing and Planning Act 2016 (Commencement No. 2, Transitional Provisions and Savings) Regulations 2016 (S.I. 2016/733), the following regulations are revoked—
- (a) regulation 10 (savings in relation to company through which Greater London Authority exercises functions), and
  - (b) regulation 12(3) (substitution of actual date for reference to commencement date).

### **38 Timing of advance payments of compensation**

- (1) The Land Compensation Act 1973 is amended as follows.
- (2) In section 52 (right to advance payment of compensation)—
- (a) in subsection (4)(b)—
    - (i) omit the “or” before sub-paragraph (ii), and
    - (ii) at the end insert “, or
    - (iii) received any further information required under section 52ZC(2)(b).”, and
  - (b) in subsection (4ZA)(b)—
    - (i) omit the “or” before sub-paragraph (ii), and
    - (ii) at the end insert “, or
    - (iii) received any further information required under section 52ZC(2)(b).”
- (3) In section 52ZC (land subject to mortgage: supplementary provisions)—
- (a) in subsection (3A)(b)—
    - (i) omit the “or” before sub-paragraph (ii), and
    - (ii) at the end insert “, or
    - (iii) received any further information required under section 52(2A)(b).”, and
  - (b) in subsection (3B)(b)—
    - (i) omit the “or” before sub-paragraph (ii), and
    - (ii) at the end insert “, or
    - (iii) received any further information required under section 52(2A)(b).”

### **39 Interest on advance payments of compensation**

In section 52A of the Land Compensation Act 1973 (right to interest where advance payment made), in subsection (2B), for “the paid amount” substitute “the amount in respect of which the authority is required to pay interest under section 52B”.

**40 Interest on payments to mortgagee paid late**

- (1) Section 52B of the Land Compensation Act 1973 (interest on advance payments of compensation paid late) is amended as follows.
- (2) In the heading, after “compensation” insert “etc.”
- (3) In subsection (1)—
  - (a) after “(1B)” insert “, 52ZA(3) or 52ZB(3)”,
  - (b) after “compensation” insert “or (as the case may be) a payment to a mortgagee”, and
  - (c) after “interest” insert “to the claimant”.
- (4) In subsection (2), after “(4ZA)” insert “or (as the case may be) section 52ZC(3A) or (3B)”.
- (5) In subsection (3)—
  - (a) for “the amount of the advance payment” substitute “the total amount which the acquiring authority pays under section 52, 52ZA or 52ZB in respect of the claimant (the “paid amount”)”, and
  - (b) for “by which the advance payment” substitute “by which the paid amount”.

**41 Compensation for temporary severance of land after vesting declaration**

In Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (counter-notice requiring purchase of land not in general vesting declaration), in paragraph 16, after sub-paragraph (3) insert—

“(4) If the vesting date for the specified land is after the vesting date for any land proposed to be acquired, the Upper Tribunal’s power to award compensation under section 7 of the Compulsory Purchase Act 1965 includes power to award compensation for any loss suffered by the owner by reason of the temporary severance of the land proposed to be acquired from the specified land.”

**CHAPTER 3**

## CONSEQUENTIAL PROVISION

**42 Consequential provision**

- (1) The Secretary of State may by regulations make provision in consequence of any provision of this Part.
- (2) Regulations under subsection (1) may amend, repeal or revoke any enactment.
- (3) In subsection (2) “enactment” includes—
  - (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978, and
  - (b) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales.