



Neighbourhood Planning Act 2017

2017 CHAPTER 20

PART 2

COMPULSORY PURCHASE ETC

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

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- (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).

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.”