

EXPLANATORY MEMORANDUM TO
THE COMPULSORY PURCHASE OF LAND (VESTING DECLARATIONS)
(ENGLAND) REGULATIONS 2017

2017 No. 3

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument prescribes forms for the purposes of the Compulsory Purchase (Vesting Declarations) Act 1981 (“the 1981 Act”). The forms reflect changes made to the general vesting declaration procedure by Part 7 of the Housing and Planning Act 2016 (“the 2016 Act”). The instrument revokes, with savings, the Compulsory Purchase of Land (Vesting Declarations) Regulations 1990 (SI 1990 No. 497) (“the 1990 Regulations”) in relation to England.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Once an acquiring authority has been authorised to acquire land by way of a compulsory purchase order, it may follow the procedure for executing a general vesting declaration under the 1981 Act. Other types of orders (such as development consent orders under the Planning Act 2008) and Hybrid Acts which authorise compulsory acquisition can also apply the 1981 Act.
- 4.2 Section 4(1) of the 1981 Act provides that an acquiring authority may execute a declaration in the prescribed form vesting the land in themselves from the end of such period as may be specified in the declaration.
- 4.3 Section 6(1) of the 1981 Act provides that after executing a general vesting declaration the acquiring authority must serve on every occupier of the land specified in the declaration (and certain others) a notice in the prescribed form specifying the land and stating the effect of the declaration.
- 4.4 This instrument provides that the prescribed form for the purposes of section 4 of the 1981 Act is Form 1 in the Schedule to the Regulations (or a form substantially to the same effect). The prescribed form for the purposes of section 6 of the 1981 Act is Form 2 in the Schedule to the Regulations (or a form substantially to the same effect).

- 4.5 The prescribed forms are very similar to Forms 1 and 3 in the 1990 Regulations, apart from they have been updated to reflect changes to the general vesting declaration procedure made by Part 7 of the 2016 Act. The 2016 Act increased the minimum period after which land may vest in the acquiring authority after the service of the notices required under section 6 of the 1981 Act (see section 184 of the 2016 Act), and repealed the requirement to serve a preliminary notice under section 3 of the 1981 Act (see paragraph 5 of Schedule 15 to the 2016 Act).
- 4.6 These Regulations revoke, with savings, the 1990 Regulations in relation to England.
- 4.7 The 1990 Regulations will continue to apply in relation to a compulsory purchase which is authorised before 3rd February 2017.

5. Extent and Territorial Application

- 5.1 This instrument extends to England and Wales.
- 5.2 This instrument applies in relation to the compulsory purchase of land in England only.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The 2016 Act makes technical changes to the compulsory purchase regime. One of these is to lengthen the minimum period of notice for entry and taking possession of a claimant's interest in land (from 14 days under the notice to treat / notice of entry system and 28 days under a general vesting declaration) to three months. As part of the changes to the general vesting declaration system, the preliminary notice, issued two months before the execution of a general vesting declaration, is abolished.
- 7.2 These Regulations are therefore required in consequence.
- 7.3 The current forms regulations for the general vesting declaration procedure are the 1990 Regulations. These apply in both England and Wales. Following the devolution of the executive functions of the Secretary of State under the 1981 Act to the Welsh Ministers (by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999 No. 672)), any replacement regulations must be made separately in England and Wales.
- 7.4 The 1990 Regulations contain three forms: Form 1 – the general vesting declaration; Form 2 – the preliminary notice; and Form 3 – notice that a general vesting declaration has been made. As Schedule 15 to the 2016 Act repeals the provision in the 1981 Act which required an acquiring authority to serve a preliminary notice, these Regulations contain only two forms: Form 1 – the general vesting declaration; and Form 2 – notice that a general vesting declaration has been made.
- 7.5 Forms 1 and 2 in these Regulations are substantially the same as Forms 1 and 3 in the 1990 Regulations, apart from they have been updated to reflect the procedural changes made by the 2016 Act described above.

- 7.6 The preliminary notice (Form 2 of the 1990 Regulations) contained important information about the effect of Parts 2 and 3 of the 1981 Act; and an invitation to everyone who would be entitled to claim compensation if a general vesting declaration were made to provide the acquiring authority with their name and address and details of their interest in the land in question. As a result of the 2016 Act, this information will now be issued with the confirmation notice of a compulsory purchase order under section 15 of the Acquisition of Land Act 1981. The Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004 (SI 2004 No. 2595) will, therefore, be updated accordingly (see the Compulsory Purchase of Land (Prescribed Forms) (Ministers) (Amendment) Regulations 2017 (SI 2017 No. 2)).

Consolidation

- 7.7 These Regulations replace and revoke, with savings, the 1990 Regulations in relation to England, so there is no consolidation.

8. Consultation outcome

- 8.1 No consultation has taken place on these Regulations as they are consequential to the provisions of Schedule 15 to the 2016 Act.

9. Guidance

- 9.1 Any necessary amendments will be made to the Compulsory Purchase process guidance: <https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance> .

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 These Regulations simply ensure that there is no longer a prescribed form of a preliminary notice (as section 3 of the 1981 Act is repealed by the 2016 Act) and that the prescribed forms for the purposes of sections 4 and 6 of the 1981 Act reflect the changes made by the 2016 Act.
- 10.4 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

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

12. Monitoring & review

- 12.1 While these Regulations should have no impact on business, they make regulatory provision in relation to a qualifying activity for the purposes of section 28 of the Small Business, Enterprise and Employment Act 2015 (duty to review regulatory provisions in secondary legislation). While the majority of acquiring authorities serving the prescribed forms will be public authorities, there are private sector acquiring authorities. The Regulations, therefore, include provision for a review.
- 12.2 The Secretary of State must review the operation and effect of regulations 1 to 3 and publish a report within five years after they come into force and within every five years after that.

13. Contact

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