

### The Housing and Planning Act Received the Royal Assent on 12 May 2016

The key points to note on compulsory purchase and compensation matters are as follows:

- The right to enter and survey land prior to making a compulsory purchase is now extended to all acquiring authorities, including statutory undertakers and Transport for London. Warrants can be issued if necessary to secure possession and a minimum of 14 days' notice is required.
- The Secretary of State has agreed to publish a timetable for confirming Compulsory Purchase Orders which should speed up the decision making process with a maximum timescale of 24 weeks to issue a decision from the end of the public inquiry.
- New provisions are also being introduced to enable an Inspector to confirm a Compulsory Purchase Order in certain circumstances.
- There are new implementation timescales:
  - A General Vesting Declaration may now be made as soon as the Compulsory Purchase Order becomes operative, but vesting cannot take place for at least three months.
  - A Notice of Entry, which previously allowed entry after 14 days, cannot take effect until three months have passed. This provision also applies to notices for minor tenancies where a General Vesting Declaration is issued.
  - A landowner will, in future, be able to serve a counter Notice on an acquiring authority, requiring the authority to take possession 28 days from the date of service of the Notice of Entry or Section 6 Notice (GVD), providing this falls after the original three month date. This prevents acquiring authorities serving a notice and then not taking entry.
- Amendments to the law will now allow the postponement of the three year "life" of a Compulsory Purchase Order for up to a 12 month period where a legal challenge is made to the confirmation of the Compulsory Purchase Order.
- New rules are to be introduced to regulate the procedure for submitting a compensation claim. Full details will be published in the regulations.
- Courts will be allowed to refer a decision to confirm a Compulsory Purchase Order back to the decision maker rather than, at present, requiring a new Order to be made.

- New rules on advance payments will be introduced as follows:
  - New regulations will provide details of the form to be completed in order to make an application for an advance payment.
  - A new power is introduced enabling a landowner to request an advance payment at any time after the Compulsory Purchase Order has been confirmed, with an obligation on the acquiring authority to pay the advance payment within two months of receiving the application, or the date of service of a Notice to Treat or General Vesting Declaration, whichever is later.
  - A penal rate of interest will be chargeable if the advance payment is made late.
  - There is a duty on the landowner to repay the advance payment if the compulsory purchase does not go ahead.
- New rules have been introduced to deal with the acquisition of a part of land where the landowner requires the acquiring authority to take the whole of it. At present the rules are such that landowners can delay the implementation of a General Vesting Declaration. The new rules to overcome this problem are quite detailed and were the subject of some debate during the passage of the Bill.
- The new Act repeals Sections 237 and 238 of the Town and Country Planning Act 1990 and replaces them with similar provisions, but extends the power to statutory undertakers. Compensation will continue to be on a diminution value basis rather than open market value.

These new provisions will not apply retrospectively and are likely to only apply to orders made or confirmed either after 12 May 2016 or from a prescribed date.

For more information please contact a member of the Compulsory Purchase and Compensation Services team.

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