



# Infrastructure (Wales) Act 2024

2024 asc 3

## PART 6

### INFRASTRUCTURE CONSENT ORDERS

#### *Provision in orders authorising compulsory acquisition*

#### **64 Purpose for which compulsory acquisition may be authorised**

- (1) An infrastructure consent order may include provision authorising the compulsory acquisition of land only if the Welsh Ministers are satisfied that the conditions in subsections (2) and (3) are met.
- (2) The condition is that the land—
  - (a) is required for the development to which the development consent relates,
  - (b) is required to facilitate or is incidental to that development, or
  - (c) is replacement land which is to be given in exchange for the order land under section 70 or 71.
- (3) The condition is that there is a compelling case in the public interest for the land to be acquired compulsorily.

#### **65 Land to which authorisation of compulsory acquisition can relate**

- (1) An infrastructure consent order may include provision authorising the compulsory acquisition of land only if—
  - (a) the land is in Wales or the Welsh marine area, and
  - (b) the Welsh Ministers are satisfied that one of the conditions in subsections (2) to (4) is met.
- (2) The condition is that the application for infrastructure consent included a request for compulsory acquisition of the land to be authorised.

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- (3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.
- (4) The condition is that the procedure specified in regulations for the purpose of this section has been followed in relation to the land.

## **66 Application of compulsory acquisition provisions**

- (1) This section applies in relation to an infrastructure consent order that includes provision authorising the compulsory acquisition of land.
- (2) Part 1 of the Compulsory Purchase Act 1965 (c. 56) (procedure for compulsory purchase) applies to the compulsory acquisition of land under the order—
  - (a) as it applies to a compulsory purchase to which Part 2 of the Acquisition of Land Act 1981 (c. 67) applies, and
  - (b) as if the order were a compulsory purchase order under that Act.
- (3) Part 1 of the Compulsory Purchase Act 1965, as applied by subsection (2), has effect with the omission of the following provisions—
  - (a) section 4 (time limit for exercise of compulsory purchase powers);
  - (b) section 10 (compensation for injurious affection).
- (4) Subsections (2) and (3) are subject to any contrary provision made by the infrastructure consent order.

## **67 Compensation for compulsory acquisition**

- (1) This section applies in relation to an infrastructure consent order that includes provision authorising the compulsory acquisition of land.
- (2) The order may not include provision the effect of which is to modify the application of a compensation provision, except to the extent necessary to apply the provision to the compulsory acquisition of land authorised by the order.
- (3) The order may not include provision the effect of which is to exclude the application of a compensation provision.
- (4) A “compensation provision” is an enactment that relates to compensation for the compulsory acquisition of land.

## **68 Statutory undertakers’ land**

- (1) This section applies in relation to land (“statutory undertakers’ land”) if—
  - (a) the land has been acquired by statutory undertakers for the purposes of their undertaking,
  - (b) a representation has been made about an application for infrastructure consent before the completion of the examination of the application, and the representation has not been withdrawn, and
  - (c) as a result of the representation the Welsh Ministers are satisfied that—
    - (i) the land is used for the purposes of carrying on the statutory undertakers’ undertaking, or
    - (ii) an interest in the land is held for those purposes.

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- (2) An infrastructure consent order may include provision authorising the compulsory acquisition of statutory undertakers' land only to the extent that the Welsh Ministers are satisfied of the matters set out in subsection (3).
- (3) The matters are that the nature and situation of the land are such that—
  - (a) it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or
  - (b) if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.
- (4) Subsections (2) and (3) do not apply in a case within subsection (5).
- (5) An infrastructure consent order may include provision authorising the compulsory acquisition of a right over statutory undertakers' land by the creation of a new right over land only to the extent that the Welsh Ministers are satisfied of the matters set out in subsection (6).
- (6) The matters are that the nature and situation of the land are such that—
  - (a) the right can be purchased without serious detriment to the carrying on of the undertaking, or
  - (b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to or available for acquisition by them.
- (7) In this section, “statutory undertakers” has the meaning given by section 8 of the Acquisition of Land Act 1981 (c. 67) and also includes the undertakers—
  - (a) that are deemed to be statutory undertakers for the purposes of that Act, by virtue of another enactment;
  - (b) that are statutory undertakers for the purposes of section 16(1) and (2) of that Act (see section 16(3) of that Act).
- (8) In the application of this section to a statutory undertaker which is a health service body (as defined in section 60(7) of the National Health Service and Community Care Act 1990 (c. 19)), references to land acquired or available for acquisition by the statutory undertakers are to be construed as references to land acquired or available for acquisition by the Welsh Ministers for use or occupation by the body.

## **69 National Trust land**

- (1) This section applies to land belonging to the National Trust which is held by the Trust inalienably.
- (2) An infrastructure consent order is subject to special Senedd procedure, to the extent that the order authorises the compulsory acquisition of land to which this section applies, if the condition in subsection (3) is met.
- (3) The condition is that—
  - (a) a representation has been made by the National Trust about the application for the infrastructure consent order before the completion of the examination of the application,
  - (b) the representation contains an objection to the compulsory acquisition of the land, and

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- (c) the objection has not been withdrawn.
- (4) In a case to which this section applies and to which section 70 or 71 also applies, special Senedd procedure—
  - (a) may be required by subsection (2) whether or not also required by section 70(3) or 71(2), and
  - (b) may be required by section 70(3) or 71(2) whether or not also required by subsection (2).
- (5) In this section, “held inalienably”, in relation to land belonging to the National Trust, means that the land is inalienable under section 21 of the [National Trust Act 1907 \(c. cxxxvi\)](#) or section 8 of the [National Trust Act 1939 \(c. lxxxvi\)](#).

## **70 Commons, open spaces etc: compulsory acquisition of land**

- (1) This section applies to any land forming part of a common, open space or fuel or field garden allotment.
- (2) This section does not apply in a case to which section 71 applies.
- (3) An infrastructure consent order is subject to special Senedd procedure to the extent that the order authorises the compulsory acquisition of land to which this section applies, unless—
  - (a) the Welsh Ministers are satisfied that one of subsections (4) to (7) applies, and
  - (b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order.
- (4) This subsection applies if—
  - (a) replacement land has been or will be given in exchange for the order land, and
  - (b) the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land.
- (5) This subsection applies if—
  - (a) the order land is, or forms part of, an open space,
  - (b) none of the order land is of any of the other descriptions in subsection (1),
  - (c) either—
    - (i) there is no suitable land available to be given in exchange for the order land, or
    - (ii) any suitable land available to be given in exchange is available only at prohibitive cost, and
  - (d) it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to special Senedd procedure.
- (6) This subsection applies if—
  - (a) the order land is, or forms part of, an open space,
  - (b) none of the order land is of any of the other descriptions in subsection (1), and
  - (c) the order land is being acquired for a temporary (although possibly long-lived) purpose.
- (7) This subsection applies if—

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- (a) the order land does not exceed 200 square metres in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway, and
  - (b) the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.
- (8) If an infrastructure consent order authorises the compulsory acquisition of land to which this section applies, it may include provision—
- (a) for vesting replacement land given in exchange as mentioned in subsection (4)
    - (a) in the prospective seller and subject to the rights, trusts and incidents mentioned in subsection (4)(b), and
    - (b) for discharging the order land from all rights, trusts and incidents to which it is subject.
- (9) In this section—
- “common” (“*tir comin*”), “fuel or field garden allotment” (“*rhandir tanwydd neu ardd gae*”) and “open space” (“*man agored*”) have the same meanings as in section 19 of the Acquisition of Land Act 1981 (c. 67);
  - “the order land” (“*tir y gorchymyn*”) means the land authorised to be compulsorily acquired;
  - “the prospective seller” (“*y darpar werthwr*”) means the person or persons in whom the order land is vested;
  - “replacement land” (“*tir amnewid*”) means land which is not less in area than the order land and which is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public.

## **71 Commons, open spaces etc: compulsory acquisition of rights over land**

- (1) This section applies to any land forming part of a common, open space or fuel or field garden allotment.
- (2) An infrastructure consent order is subject to special Senedd procedure to the extent that the order authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, unless—
- (a) the Welsh Ministers are satisfied that one of subsections (3) to (7) applies, and
  - (b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order.
- (3) This subsection applies if the order land, when burdened with the order right, will be no less advantageous than it was before to the following persons—
- (a) the persons in whom it is vested,
  - (b) other persons, if any, entitled to rights of common or other rights, and
  - (c) the public.
- (4) This subsection applies if—
- (a) replacement land has been or will be given in exchange for the order right, and
  - (b) the replacement land has been or will be vested in the persons in whom the order land is vested and subject to the same rights, trusts and incidents as attach to the order land (ignoring the infrastructure consent order).
- (5) This subsection applies if—

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- (a) the order land is, or forms part of, an open space,
  - (b) none of the order land is of any of the other descriptions in subsection (1),
  - (c) either—
    - (i) there is no suitable land available to be given in exchange for the order right, or
    - (ii) any suitable land available to be given in exchange is available only at prohibitive cost, and
  - (d) it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to special Senedd procedure.
- (6) This subsection applies if—
- (a) the order land is, or forms part of, an open space,
  - (b) none of the order land is of any of the other descriptions in subsection (1), and
  - (c) the order right is being acquired for a temporary (although possibly long-lived) purpose.
- (7) This subsection applies if—
- (a) the order land does not exceed 200 square metres in extent or the order right is required in connection with the widening or drainage of an existing highway or in connection partly with the widening and partly with the drainage of such a highway, and
  - (b) the giving of other land in exchange for the order right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.
- (8) If an infrastructure consent order authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, it may include provision—
- (a) for vesting replacement land given in exchange as mentioned in subsection (4)
    - (a) in the persons in whom the order land is vested and subject to the rights, trusts and incidents mentioned in subsection (4)(b), and
  - (b) for discharging the order land from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of the order right.
- (9) In this section—
- “common” (*“tir comin”*), “fuel or field garden allotment” (*“rhandir tanwydd neu ardd gae”*) and “open space” (*“man agored”*) have the same meanings as in section 19 of the Acquisition of Land Act 1981 (c. 67);
  - “the order land” (*“tir y gorchymyn”*) means the land to which this section applies over which the order right is to be exercisable;
  - “the order right” (*“hawl y gorchymyn”*) means the right authorised to be compulsorily acquired;
  - “replacement land” (*“tir amnewid”*) means land which will be adequate to compensate the following persons for the disadvantages which result from the compulsory acquisition of the order right—
    - (a) the persons in whom the order land is vested,
    - (b) the persons, if any, entitled to rights of common or other rights over the order land, and
    - (c) the public.

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## 72 Notice of authorisation of compulsory acquisition

- (1) Regulations must make provision imposing requirements on a prospective purchaser—
  - (a) to give, publish or display a compulsory acquisition notice;
  - (b) to provide the public with access to a copy of the infrastructure consent order to which the notice relates.
- (2) A compulsory acquisition notice is a notice in the form specified in regulations—
  - (a) describing the order land,
  - (b) in a case where the infrastructure consent order authorises the compulsory acquisition of a right over land by the creation of a new right, describing the right,
  - (c) stating that the infrastructure consent order includes provision authorising the compulsory acquisition of a right over the land by the creation of a right over it or (as the case may be) the compulsory acquisition of the land,
  - (d) in a case where the order applies Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)—
    - (i) containing a statement specified in regulations about the effect of those Parts, and
    - (ii) inviting any person who would be entitled to claim compensation if a declaration were executed under section 4 of that Act to give the prospective purchaser information about the person’s name, address and interest in land, using a form specified in regulations,
  - (e) stating where and when a copy of the order is available for inspection in accordance with regulations under subsection (1)(b), and
  - (f) stating that a person aggrieved by the order may challenge the order only in accordance with section 96.
- (3) In this section—

“the order land” (“*tir y gorchymyn*”) means—

  - (a) in a case where the infrastructure consent order authorises the compulsory acquisition of a right over land by the creation of a new right, the land over which the right is to be exercisable or (in the case of a restrictive covenant) to which it applies;
  - (b) in any other case where the infrastructure consent order authorises the compulsory acquisition of land, the land authorised to be compulsorily acquired;

“the prospective purchaser” (“*y darpar brynwr*”) means—

  - (a) in a case where the infrastructure consent order authorises the compulsory acquisition of a right over land by the creation of a new right, the person for whose benefit the order authorises the creation of the right;
  - (b) in any other case where the infrastructure consent order authorises the compulsory acquisition of land, the person authorised by the order to compulsorily acquire the land.
- (4) The prospective purchaser must send a compulsory acquisition notice to the Chief Land Registrar and it is to be a local land charge in respect of the land to which it relates.