



Infrastructure (Wales) Act 2024

2024 asc 3

PART 6

INFRASTRUCTURE CONSENT ORDERS

Provision in orders authorising compulsory acquisition

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—
 - (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),

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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.