

SCHEDULES

SCHEDULE 3

THE NEW TOWNS CODE

PART III

PROCEDURE ON COMPULSORY ACQUISITION

Acquisitions by the Board or a local highway authority

- 3 (1) Where land is to be acquired by means of a compulsory purchase order made, submitted and confirmed in accordance with this Part of the new towns code by the Board or a local highway authority, the order—
- (a) shall designate the land to which it relates by reference to a map or maps annexed thereto, either with or without descriptive matter, and
 - (b) subject to that, shall be in such form as may be prescribed.
- (2) In the case of any discrepancy between the map or maps and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the order.
- 4 (1) After submitting the order to the Secretary of State, the acquiring authority—
- (a) shall publish a notice in the prescribed form describing the land, stating that an order authorising the compulsory acquisition thereof has been submitted to the Secretary of State, naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the first local advertisement) within which, and the manner in which, objections to the order may be made ; and
 - (b) if the Secretary of State so directs in the case of the order in question, shall serve on every owner of any of the land to which the order relates a notice to the like effect as the notice required to be published under (a) above:

Provided that (b) above shall not apply if the order relates only to land within the area of a new town.

- (2) The notice required to be published by sub-paragraph (1)(a) above shall be published—
- (a) in the case of such an order as is described in the proviso to sub-paragraph (1) above, and in any other case where service on owners is not effected under (b) of that sub-paragraph, by publishing it in the London Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land to which the order relates is situated, and by affixing a copy of the notice, addressed to " the owners and any occupiers " of the land (describing it), to some conspicuous object or objects on the land ;

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- (b) where service on owners is effected under (b) of sub-paragraph (1) above, by publishing it in one or more newspapers circulating as aforesaid.
- (3) Publication and, if applicable, service in accordance with the foregoing provisions of this paragraph shall be effected—
- (a) in the case of an order relating only to land within the area of a new town, as soon as may be after the order has been submitted;
 - (b) in any other case, as soon as may be after the order has been submitted and any direction of the Secretary of State as to service on owners under sub-paragraph (1)(b) above has been given or the Secretary of State has notified the Board or the local highway authority that he does not propose to give such a direction.
- (4) In this paragraph "the first local advertisement", in relation to a notice, means the first publication of the notice in a newspaper circulating in the locality where the land to which the notice relates is situated, and includes, in relation to a notice so published once only, the publication thereof.
- 5 Subject to the provisions of paragraph 6 below in any case in which those provisions have effect, the Secretary of State may confirm the order with or without modification, but shall not, unless all persons interested consent, so modify it as to extend it to any land which was not designated by the order as submitted.
- 6 (1) If any objection is duly made to the order and is not withdrawn, the following provisions of this paragraph shall have effect.
- For the purposes of this Part of the new towns code an objection shall not be treated as duly made unless—
- (a) it is made within the time and in the manner specified in the notice required by paragraph 4 above, and
 - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (2) Unless the Secretary of State decides apart from the objection not to confirm the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the Secretary of State shall, before making a final decision, consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (3) In so far as the Secretary of State, after considering the grounds of the objection as set out in the original statement and any such further statement, is satisfied—
- (a) that the objection relates to a matter which can be dealt with in the assessment of compensation, or
 - (b) in the case of an order relating to land within the area of a new town, that the objection is made on the ground that the acquisition is unnecessary or inexpedient,
- the Secretary of State may treat the objection as irrelevant for the purpose of making a final decision.
- (4) If, after considering the grounds of the objection as set out in the original statement and any such further statement, the Secretary of State is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is not submitted

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within the specified period, the Secretary of State may make a final decision without further investigation as to those matters.

- (5) Subject to sub-paragraphs (3) and (4) above, the Secretary of State, before making a final decision, shall afford to the objector an opportunity of appearing before and being heard by a person appointed for the purpose by the Secretary of State ; and if the person making the objection avails himself of that opportunity, the Secretary of State shall afford an opportunity of appearing and being heard on the same occasion to the Board or the local highway authority and to any other persons to whom it appears to the Secretary of State to be expedient to afford it.
- (6) Notwithstanding anything in the foregoing provisions of this paragraph, if it appears to the Secretary of State that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held ; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time when he so determines shall be dispensed with.
- (7) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to confirm the order or what modification, if any, ought to be made.
- 7 As soon as may be after the order has been confirmed the acquiring authority shall publish in one or more newspapers circulating in the locality in which the land thereby designated is situated a notice in the prescribed form describing the land, stating that the order has been confirmed and naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at any reasonable hour, and shall serve a like notice on—
- (a) any owner or occupier of any of the land thereby designated who, at any time after the publication of the notice of the order as submitted, has sent to the acquiring authority a request in writing to serve him with the notice required by this paragraph giving an address for service and the prescribed particulars of his interest;
 - (b) any person who has duly made an objection to the order and at the time of making it or thereafter has sent to the acquiring authority such a request as aforesaid ; and
 - (c) such other persons, if any, as the Secretary of State may specify, whether individually or as members of a class of persons.

- 8 The Secretary of State may by regulations make provision for enabling proceedings required to be taken for the purposes of the foregoing provisions of this Part of the new towns code in relation to an order authorising a compulsory acquisition of land in an area proposed to be designated as the site of a new town by an order a draft of which has been published in accordance with Schedule 1 to the New Towns Act 1965, to be taken, so far as may be practicable, contemporaneously with the proceedings on the last-mentioned order.

Special provisions as to acquisitions by local highway authorities

- 9 (1) Except in a case falling within sub-paragraph (2) below, where a compulsory purchase order made by the local highway authority under Part II of the new towns code is submitted to the Secretary of State, the notice required to be published under paragraph 4 above shall be published not only as mentioned in that paragraph but also by being exhibited at such places in the locality to which the order relates as

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appear to the local highway authority to be suitable for bringing it to the attention of all persons concerned.

- (2) Sub-paragraph (1) above shall not apply in any case where the Secretary of State is satisfied that the land to which the compulsory purchase order relates is required for the purpose of a project—
- (a) which was adequately set out in a statement prepared for the purposes of an order under section 1 of the New Towns Act 1965 which has been made, or
 - (b) which has been the subject of an inquiry for the purposes of section 7 or 9 of the Highways Act 1959.
- 10 Where there is submitted to the Secretary of State a compulsory purchase order made by the local highway authority under Part II of the new towns code authorising the acquisition of any land forming a frontage to, or abutting on or adjacent to, a road, and the Secretary of State is satisfied as respects the whole or any part of the land—
- (a) that the acquisition would be requisite only for the purpose of controlling development, and
 - (b) that every owner has entered, or is willing to enter, into such an agreement with the local highway authority or the Secretary of State as is provided for by paragraph 1(4) of this Schedule, or is bound by such an agreement, and that the agreement or proposed agreement is satisfactory for the said purpose. the order shall not be confirmed so as to authorise the acquisition of any part of the land as to which the Secretary of State is satisfied as aforesaid.

Acquisitions for roads by the Secretary of State

- 11 (1) Where land is to be acquired by means of a compulsory purchase order made by the Secretary of State in accordance with this Part of the new towns code, the order—
- (a) shall designate the land to which it relates by reference to a map or maps annexed thereto, either with or without descriptive matter, and
 - (b) subject to that, shall be in such form as the Secretary of State may determine.
- (2) In the case of any discrepancy between the map or maps and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the order.
- 12 Where the Secretary of State proposes to make such an order, he shall prepare a draft thereof, and as soon as may be thereafter shall—
- (a) publish in the manner mentioned in paragraph 4 above, and
 - (b) in any case in which he thinks it requisite to do so, serve on every owner of any of the land to which the order as prepared in draft relates,
- a notice, in such form as he may determine, similar, with requisite adaptations, to the notice mentioned in paragraph 4(1) above.
- 13 Paragraphs 5, 6, 7, 9 and 10 above shall have effect in relation to such an order—
- (a) with the substitution, for references to the Board and to the local highway authority, of references to the Secretary of State;
 - (b) with the substitution, for references to an order as submitted and to confirmation of an order, of references respectively to an order as prepared in draft and to the making of an order;

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- (c) with the omission, in paragraph 6(5), of the references to the Board and the local highway authority ;
- (d) with the substitution, for the references to a compulsory purchase order made by the local highway authority and to the notice required by paragraph 4 above, of references respectively to a compulsory purchase order made by the Secretary of State and to the notice required by paragraph 12 above; and
- (e) with the substitution, in paragraph 10, of the words " the Secretary of State proposes to make " for the words " there is submitted to the Secretary of State ".

Special provisions as to local authority and National Trust land and commons and allotments

- 14 In so far as a compulsory purchase order made under the new towns code authorises the acquisition of land which is the property of a local authority, or of land belonging to the National Trust which is held by the Trust inalienably, the order shall be subject to special parliamentary procedure in any case where an objection to the order has been duly made by the local authority or the National Trust, as the case may be, and has not been withdrawn.
- 15 (1) In so far as a compulsory purchase order made under the new towns code authorises the acquisition of land forming part of any common, open space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—
- (a) that there has been or will be given in exchange for such land other land, not being less in area, and being equally advantageous to the persons (if any) entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land acquired was vested, and subject to the like rights, trusts and incidents as attached to the land acquired; or
 - (b) that the land is required for the widening of any existing highway and that 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,
- and certifies accordingly.
- (2) Where it is proposed to give a certificate under this paragraph, the Secretary of State shall give public notice of his intention so to do, and—
- (a) after affording an opportunity to all persons interested to make representations and objections in relation thereto, and
 - (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,
- the Secretary of State may, after considering any representations and objections made and, if an inquiry has been held, the report of the person who made the inquiry, give the certificate.
- (3) A compulsory purchase order may provide for vesting land given in exchange as mentioned in sub-paragraph (1) above in the persons, and subject to the rights, trusts and incidents therein mentioned, and for discharging the land acquired from all rights, trusts and incidents to which it was previously subject.

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- (4) As soon as may be after the giving of a certificate under this paragraph the acquiring authority shall publish in the London Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land designated by the order is situated, a notice in the prescribed form stating that the certificate has been given.

Alternative procedure for acquiring operational land of statutory undertakers

- 16 (1) In the case of operational land of statutory undertakers—
- (a) a compulsory purchase order under the new towns code authorising the Board or a local highway authority to acquire that land may, instead of being made and confirmed in accordance with the foregoing provisions of this Part of the new towns code, be made by the Secretary of State and the appropriate Minister in accordance with the provisions of paragraphs 17 to 21 below on the application of the Board or local highway authority ;
 - (b) a compulsory purchase order under Part II of the new towns code authorising the Secretary of State to acquire that land may, instead of being made in accordance with the foregoing provisions of this Part of the new towns code, be made by the Secretary of State and the appropriate Minister in accordance with the provisions of paragraphs 22 to 24 below.
- (2) If any objection to an application for a compulsory purchase order to be made in accordance with sub-paragraph (1)(a) above, or to a proposal to make such an order in accordance with sub-paragraph (1)(b) above, is duly made by any statutory undertakers, and any of the land to which the application or proposal relates is operational land of those undertakers, then, unless that objection is withdrawn, any order made on the application or proposal shall be subject to special parliamentary procedure.
- (3) Where a compulsory purchase order under the new towns code, (not being an order made in accordance with paragraphs 17 to 21 or 22 to 24 below), is submitted, or is proposed to be made, in accordance with the foregoing provisions of this Part of the new towns code, and with respect to any land (being the whole or part of the land to which the order relates) statutory undertakers make to the appropriate Minister, in the prescribed manner and within the time within which objections to the order may be made—
- (a) a representation that the first mentioned land is operational land, and
 - (b) a request for that land to be excluded from the order,
- and it is determined that that land is operational land, then, subject to sub-paragraph (4) below—
- (i) if that land constitutes the whole of the land to which the order relates, the order shall not be confirmed or not be made, as the case may be, and
 - (ii) if that land forms part only of the land to which the order relates, the order shall be modified so as to exclude that land.
- (4) Where, in the case of a compulsory purchase order under the new towns code, any land to which the order relates is within the area of a new town and is land in relation to which, apart from this sub-paragraph, sub-paragraph (3) above would apply, the said sub-paragraph (3) shall not apply in relation to that land—
- (a) if no representation was made under subsection (4) of section 10 of the New Towns Act 1965 with respect thereto, or ,

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- (b) if an order under subsection (5) of that section has come into force with respect thereto.
- 17 An application by the Board or local highway authority for the purpose of paragraph 16(1)(a) above shall be in such form as may be prescribed, and shall describe by reference to a map the land to which the application relates.
- 18 As soon as may be after submitting the application to the Secretary of State and the appropriate Minister the acquiring authority shall serve on every owner, lessee and occupier of any land to which application relates a notice in the prescribed form describing the land, stating that an application under the said paragraph 16(1)(a) has been submitted in relation to the land and is about to be considered by the Secretary of State and the appropriate Minister, naming a place where a copy of the application and of the map referred to therein may be seen at all reasonable hours, and specifying the time (not being less than twenty-eight days from the service of the notice) within which, and the manner in which, objections to the application may be made.
- 19 (1) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Secretary of State and the appropriate Minister may, if they think fit, make a compulsory purchase order in accordance with the application, with or without modification, but shall not, unless all persons interested consent, make the order with any modification which would extend it to any land to which the application did not relate.
- (2) If any objection is duly made by any of the persons on whom notices are required to be served and is not withdrawn, the Secretary of State and the appropriate Minister shall, before making an order on the application, consider the objection and shall, if either the person by whom the objection was made or the acquiring authority so desires, afford that person and the acquiring authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State and the appropriate Minister for the purpose, and may then, if they think fit, make an order as aforesaid.
- (3) An objection shall not be deemed for the purposes of paragraphs 16 to 18 above and this paragraph to be duly made unless—
- (a) it is made within the time and in the manner specified in the notice in that behalf, and
- (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- 20 A compulsory purchase order made on such an application shall be in such form as the Secretary of State and the appropriate Minister may determine, and shall describe by reference to a map the land to which the order relates.
- 21 As soon as may be after a compulsory purchase order has been made on such an application the acquiring authority shall serve on every owner, lessee and occupier of any land to which the order relates a notice in the prescribed form stating that the order has been made and naming a place where a copy of the order and of the map referred to therein may be seen at any reasonable hour.
- 22 A compulsory purchase order made by the Secretary of State and the appropriate Minister in pursuance of paragraph 16(1)(b) of this Schedule shall be in such form as they may determine, and shall describe by reference to a map the land to which the order relates.

- 23 Where the Secretary of State and the appropriate Minister propose to make such an order they shall prepare a draft thereof, and shall as soon as may be thereafter serve on every owner, lessee and occupier of any land to which the draft relates a notice in such form as they may determine describing the land, stating that the making of the order is proposed, naming a place where a copy of the draft and of the map referred to therein may be seen at any reasonable hour, and specifying the time (not being less than twenty-eight days from the service of the notice) within which, and the manner in which, objection to the proposal may be made.
- 24 Paragraphs 19 and 21 of this Schedule shall have effect in relation to such an order—
- (a) with the substitution, for references to an application and to the making of a compulsory purchase order thereon, of references to such an order as prepared in draft and to the making of such an order, and
 - (b) with the omission of the references in paragraph 19(2) to the acquiring authority.

Validity and date of operation of compulsory purchase orders and certificates

- 25 (1) If a person aggrieved by a compulsory purchase order, or by a certificate under paragraph 15 above, desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers conferred by the new towns code or that any requirement of that code or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the foregoing provisions of this Part of the new towns code in that behalf, make an application to the High Court.
- (2) The High Court, on such an application—
- (a) may by interim order suspend the operation of the order or any provision contained therein or of the certificate, either generally or in so far as it affects the property of the applicant, until the final determination of the proceedings; and
 - (b) if satisfied that the order or any provision contained therein, or the certificate, is not within the powers conferred by the new towns code or that the interests of the applicant have been substantially prejudiced by any requirement of that code or of any regulation made thereunder not having been complied with, may quash the order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.
- 26 Subject to the provisions of paragraph 25 above, a compulsory purchase order or a certificate under paragraph 15 above shall not, either before or after it has been made or confirmed or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in the said paragraph 25.
- 27 Paragraphs 25 and 26 of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945 but, except as aforesaid, shall have effect in relation to a compulsory purchase order to which that Act applies as if in paragraph 25 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Part of the new towns code in that behalf there were substituted a reference to the date on which the order becomes operative

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under the said Act of 1945, and as if in paragraph 26 the words from " and shall become operative " to the end were omitted.

- 28 Paragraphs 25 to 27 above shall, in their application to a compulsory purchase order made in pursuance of paragraph 16(1) above, have effect with the substitution, for the references to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Part of the new towns code in that behalf, of references to the date on which the service of notices required by paragraph 21 above is completed.

Registration as local land charge

- 29 A compulsory purchase order made under the new towns code shall, when operative, be a local land charge.