



Housing and Regeneration Act 2008

2008 CHAPTER 17

PART 1

THE HOMES AND COMMUNITIES AGENCY

CHAPTER 2

LAND AND INFRASTRUCTURE

General

5 Powers to provide housing or other land

- (1) The HCA may provide housing or other land.
- (2) The HCA may facilitate the provision of housing or other land.
- (3) In this section “provide” includes provide by way of acquisition, construction, conversion, improvement or repair (and “provision” is to be read in the same way).

6 Powers for regeneration, development or effective use of land

- (1) The HCA may regenerate or develop land.
- (2) The HCA may bring about the more effective use of land.
- (3) The HCA may facilitate—
 - (a) the regeneration or development of land, or
 - (b) the more effective use of land.

7 Powers in relation to infrastructure

- (1) The HCA may provide infrastructure.

Status: This is the original version (as it was originally enacted).

- (2) The HCA may facilitate the provision of infrastructure.
- (3) In this section “provide” includes provide by way of acquisition, construction, conversion, improvement or repair (and “provision” is to be read in the same way).

Powers to deal with land etc.

8 Powers to deal with land etc.

The HCA may carry out, or facilitate the carrying out of, any of the following activities in relation to land—

- (a) acquiring, holding, improving, managing, reclaiming, repairing or disposing of housing,
- (b) acquiring, holding, improving, managing, reclaiming, repairing or disposing of other land, plant, machinery, equipment or other property, and
- (c) carrying out building and other operations (including converting or demolishing buildings).

9 Acquisition of land

- (1) The HCA may acquire land by agreement.
- (2) The HCA may acquire land compulsorily if the Secretary of State authorises it to do so.
- (3) The power of acquiring land compulsorily under subsection (2) includes power to acquire new rights over land.
- (4) Subsection (5) applies where—
 - (a) land or new rights over land are being acquired compulsorily under subsection (2), and
 - (b) the land which is being acquired, or over which new rights are being acquired, forms part of a common, open space or allotment.
- (5) The power under subsection (2) to acquire land compulsorily includes the power to acquire land compulsorily for giving in exchange for the land or (as the case may be) new rights mentioned in subsection (4)(a).
- (6) Schedule 2 (which makes further provision in relation to the acquisition of land by the HCA) has effect.
- (7) In this Part—
 - “allotment” means a fuel or field garden allotment,
 - “common” has the meaning given by section 19(4) of the Acquisition of Land Act 1981 (c. 67),
 - “open space” means any land which is—
 - (a) laid out as a public garden,
 - (b) used for the purposes of public recreation, or
 - (c) a disused burial ground.

Status: This is the original version (as it was originally enacted).

10 Restrictions on disposal of land

- (1) The HCA may not dispose of land for less than the best consideration which can reasonably be obtained unless the Secretary of State consents.
- (2) Subsection (1) does not apply to a disposal by way of a short tenancy if the disposal consists of—
 - (a) the grant of a term of not more than 7 years, or
 - (b) the assignment of a term which, at the date of assignment, has not more than 7 years to run.
- (3) The HCA may not dispose of land which has been compulsorily acquired by it under this Part unless the Secretary of State consents.
- (4) Subject as above, the HCA may dispose of land held by it in any way it considers appropriate.

Powers in relation to acquired land

11 Main powers in relation to acquired land

Schedule 3 (which makes provision about powers in relation to land of the HCA) has effect.

12 Powers in relation to, and for, statutory undertakers

Schedule 4 (which provides for powers in relation to, and for, statutory undertakers) has effect.

Planning

13 Power of Secretary of State to make designation orders

- (1) The Secretary of State may by order designate an area in England if the Secretary of State considers that—
 - (a) the area is suitable for development, and
 - (b) it is appropriate for the HCA to be the local planning authority for the whole or any part of the area—
 - (i) for particular permitted purposes, and
 - (ii) in relation to particular kinds of development.
- (2) In deciding whether it is appropriate for the HCA to be the local planning authority as mentioned in subsection (1)(b), the Secretary of State must, in particular, be satisfied that making the designation order is likely to improve the effectiveness with which the functions of the local planning authority for the area or part are discharged.
- (3) The Secretary of State must, before making a designation order—
 - (a) publish—
 - (i) a draft of the order, and
 - (ii) the Secretary of State's reasons for making the order, and
 - (b) consult the persons mentioned in subsection (4).

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- (4) The persons are—
- (a) every local authority any part of whose area is intended to be included in the proposed designated area,
 - (b) any person, other than a local authority, who is the local planning authority for the proposed designated area or any part of it,
 - (c) such persons which appear to the Secretary of State to represent the interests of local authorities as the Secretary of State considers appropriate, and
 - (d) persons who reside or carry on business in the proposed designated area.
- (5) In this Part—
- “designated area” means an area designated by a designation order,
- “designation order” means an order under this section,
- “local planning authority”, in relation to a designation order or proposed designation order, means—
- (a) so far as the order relates to permitted purposes under Part 2 of the Planning and Compulsory Purchase Act 2004 (c. 5), the local planning authority within the meaning of that Part of that Act, and
 - (b) in any other case, the local planning authority within the meaning of Part 1 of the Town and Country Planning Act 1990 (c. 8),
- “permitted purposes” means any purposes of—
- (a) the Town and Country Planning Act 1990 (other than section 137A, Parts 9 and 13, and sections 325A, 329A and 330A, of that Act),
 - (b) the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) (other than section 32A, Chapter 5 of Part 1, and sections 82A to 82F and 88C, of that Act), and
 - (c) Part 2 of the Planning and Compulsory Purchase Act 2004,
- and references to a designated area, in the case of an area whose boundaries have been amended by an order made under this section by virtue of section 14 of the Interpretation Act 1978 (c. 30), are to be read as references to the designated area as so amended.
- (6) In this section “local authority” means a county council in England, a district council, a London borough council or the Common Council of the City of London.

14 Contents of designation orders

- (1) A designation order may contain provisions of the following kind.
- (2) The order may provide for the HCA to be the local planning authority for the whole or any part of the designated area—
 - (a) for specified permitted purposes, and
 - (b) in relation to specified kinds of development.
- (3) The order may provide that where the HCA is the local planning authority for the whole or any part of the designated area it is to have—
 - (a) in relation to the whole or any part of the designated area, and
 - (b) subject to any specified modifications,
 specified relevant functions conferred by or under specified planning-related provisions.

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- (4) An order which makes provision of the kind mentioned in subsection (2) may make provision about the application of enactments relating to local planning authorities to the HCA in its capacity as the local planning authority by virtue of the order.
- (5) An order which makes provision of the kind mentioned in subsection (3)—
 - (a) may provide for the HCA to have the functions concerned instead of, or concurrently with, other persons who have them,
 - (b) may make provision about the application to the HCA of enactments relating to the functions concerned.
- (6) Provision made by virtue of subsection (4) or (5), or section 320(1)(d) in its application to an order of a kind falling within this section, may, in particular, provide that any enactment—
 - (a) is to apply to the HCA without modification,
 - (b) is to apply to it subject to specified modifications.
- (7) In this section—
 - “planning-related provisions” means—
 - (a) Chapter 1 of Part 6 (other than section 137A), and sections 188 and 330, of the Town and Country Planning Act 1990 (c. 8),
 - (b) sections 32 and 33 to 37, 54 and 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9), and
 - (c) the Planning (Hazardous Substances) Act 1990 (c. 10) (other than sections 30A to 31A and 36C of that Act),
 - “relevant functions” means functions of—
 - (a) a district council, a London borough council, the Common Council of the City of London, or any other body which is a local authority within the meaning of the Town and Country Planning Act 1990,
 - (b) a district planning authority (within the meaning of that Act), or
 - (c) a hazardous substances authority (within the meaning of the Planning (Hazardous Substances) Act 1990),
 - “specified”, in relation to a designation order, means specified or described in the order.

15 HCA as local planning authority: local involvement

- (1) Subsections (2) to (6) apply where a designation order provides for the HCA to be the local planning authority for the whole or any part of the designated area.
- (2) The HCA must prepare and publish a statement of local involvement.
- (3) The statement of local involvement is a statement of the HCA’s policy as to the extent to which it intends to involve persons mentioned in subsection (4) in relation to the exercise by the HCA of functions conferred on it by virtue of the designation order.
- (4) The persons are—
 - (a) every local authority for the designated area or any part of the area in relation to which a function is to be exercised, and
 - (b) persons appearing to the HCA to have special knowledge or experience of matters relevant to functions to be exercised in relation to the area or part.
- (5) The HCA must—

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- (a) keep the statement under review, and
 - (b) publish any revision of it.
- (6) In deciding its policy about the extent of involvement of persons mentioned in subsection (4), the HCA must, in particular, have regard to—
- (a) the benefits that it might receive from their knowledge and experience, and
 - (b) the nature of the functions concerned.
- (7) Subsection (8) applies where—
- (a) the HCA establishes a committee for the purpose of exercising functions conferred on the HCA by virtue of a designation order,
 - (b) such a committee establishes a sub-committee for such a purpose, or
 - (c) a new or replacement member is to be appointed to such a committee or sub-committee.
- (8) The HCA must—
- (a) inform every local authority for the designated area or any part of the area in relation to which the functions are to be, or are being, exercised of—
 - (i) the establishment of the committee or sub-committee concerned, or
 - (ii) (as the case may be) the proposed appointment, and
 - (b) invite the authority to suggest one or more candidates for membership of the committee or (as the case may be) sub-committee.
- (9) In this section “local authority” has the same meaning as in section 13.

16 Regional planning

- (1) Section 4 of the Planning and Compulsory Purchase Act 2004 (c. 5) (assistance for regional planning bodies from certain local authorities) is amended as follows.
- (2) For subsection (4) substitute—
- “(4) These are the authorities which fall within this subsection—
- (a) each of the following if their area or any part of their area is in the RPB’s region—
 - (i) a county council;
 - (ii) a metropolitan district council;
 - (iii) a district council for an area for which there is no county council;
 - (iv) a National Park authority; and
 - (b) the Homes and Communities Agency if it is the local planning authority for an area or part of an area in the RPB’s region.
- (4A) For the purposes of subsection (4), the Homes and Communities Agency is the local planning authority for an area or part of an area in the RPB’s region if it is the local planning authority for that area or part, or for an area which includes that area or part, by virtue of an order of the kind mentioned in section 14(2) of the Housing and Regeneration Act 2008 (designation orders).
- (4B) In subsections (4) and (4A) “local planning authority” has the same meaning as in Part 1 of the Housing and Regeneration Act 2008 (see section 13(5) of that Act).”

Status: This is the original version (as it was originally enacted).

- (3) In subsection (8) after “(5)” insert “other than arrangements with the Homes and Communities Agency”.

Other powers etc. in relation to land

17 Power to enter and survey land

- (1) Any person authorised by the HCA may, at any reasonable time and subject as follows, enter any land for the purpose of surveying it, or estimating its value, in connection with—
- (a) any proposal for the HCA to acquire that land or any other land, or
 - (b) any claim for compensation in respect of any such acquisition.
- (2) A person authorised under subsection (1) to enter any land—
- (a) must, if required, produce evidence of the authority before entering the land, and
 - (b) must not demand admission as of right to the land unless the HCA has served notice of the intended entry on every owner or occupier of the land not less than 28 days before the making of the demand.
- (3) A notice under subsection (2)(b) must—
- (a) state the purpose for which entry is required, and
 - (b) inform the person to whom it is given of the person’s rights under this section and, if applicable, section 18.
- (4) A person interested in any land may recover compensation from the HCA in respect of any damage done to the land—
- (a) in the exercise of a right of entry under this section, or
 - (b) in making a survey under this section.
- (5) Section 118 of the Town and Country Planning Act 1990 (c. 8) (determination of claims for compensation) applies in relation to compensation under subsection (4) as it applies in relation to compensation under Part 4 of that Act.
- (6) A person (“A”) commits an offence if A intentionally obstructs another person (“B”) in the exercise of B’s powers under subsection (1) above.
- (7) A person who commits an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (8) In subsection (2)(b) “owner” has the same meaning as in the Acquisition of Land Act 1981 (c. 67).
- (9) The references in subsections (4) and (6) to this section or subsection (1) include references to those provisions as extended by section 18.

18 Section 17: supplementary

- (1) The power to survey land conferred by section 17(1) includes power to search and bore for the purpose of ascertaining—
- (a) the nature of the subsoil, or
 - (b) the presence of minerals in it.

Status: This is the original version (as it was originally enacted).

- (2) But this is subject to subsections (3) to (5).
- (3) No person may carry out any works authorised by virtue of subsection (1) unless notice of the person's intention to do so was included in the notice required by section 17(2)(b).
- (4) The authority of the appropriate Minister is required for the carrying out of any works authorised by virtue of subsection (1) if—
 - (a) the land concerned is held by statutory undertakers, and
 - (b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to carrying on their undertaking.
- (5) The references in subsection (4) to the appropriate Minister, statutory undertakers and their undertaking have the same meanings as they have in section 325(9) of the Town and Country Planning Act 1990 (c. 8) (supplementary provisions as to rights of entry).