



# Land Compensation Act 1961

1961 CHAPTER 33 9 and 10 Eliz 2

## PART III

CERTIFICATION BY PLANNING AUTHORITIES OF APPROPRIATE ALTERNATIVE DEVELOPMENT

### [<sup>F1</sup>17] Certificates of appropriate alternative development

- (1) Where an interest in land is proposed to be acquired by an authority possessing compulsory purchase powers, either of the parties directly concerned may (subject to subsection (2)) apply to the local planning authority for a certificate containing whichever of the following statements is the applicable statement—
  - (a) that in the local planning authority's opinion there is development that, for the purposes of section 14, is appropriate alternative development in relation to the acquisition;
  - (b) that in the local planning authority's opinion there is no development that, for the purposes of section 14, is appropriate alternative development in relation to the acquisition.
- (2) If—
  - (a) the acquiring authority have served a notice to treat in respect of the interest or an agreement has been made for the sale of the interest to that authority, and
  - (b) a reference has been made to the Upper Tribunal to determine the amount of the compensation payable in respect of the interest,no application for a certificate under this section may be made after the making of that reference by either of the parties directly concerned except with the consent in writing of the other party directly concerned or the permission of the Upper Tribunal.
- (3) An application for a certificate under this section—
  - (a) must contain whichever of the following statements is the applicable statement—
    - (i) that in the applicant's opinion there is development that, for the purposes of section 14, is appropriate alternative development in relation to the acquisition concerned;

*Status: Point in time view as at 06/08/2020.*

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- (ii) that in the applicant's opinion there is no development that, for the purposes of section 14, is appropriate alternative development in relation to the acquisition concerned;
  - (b) must, if it contains a statement under paragraph (a)(i), specify—
    - (i) each description of development that in the applicant's opinion is, for the purposes of section 14, appropriate alternative development in relation to the acquisition, and
    - (ii) the applicant's reasons for holding that opinion; and
  - (c) must be accompanied by a statement specifying the date on which a copy of the application has been or will be served on the other party directly concerned.
- (4) Where an application is made to the local planning authority for a certificate under this section in respect of an interest in land, the local planning authority must not, without the agreement of the other party directly concerned, issue a certificate to the applicant before the end of 22 days beginning with the date specified in the statement under subsection (3)(c).
- (5) If a certificate under this section contains a statement under subsection (1)(a) it must also—
- (a) identify every description of development (whether specified in the application or not) that in the local planning authority's opinion is, for the purposes of section 14, appropriate alternative development in relation to the acquisition concerned, and
  - (b) give a general indication—
    - (i) of any conditions to which planning permission for the development could reasonably have been expected to be subject,
    - (ii) of when the permission could reasonably have been expected to be granted if it is one that could reasonably have been expected to be granted only at a time after the relevant valuation date, and
    - (iii) of any pre-condition for granting the permission (for example, entry into an obligation) that could reasonably have been expected to have to be met.
- (6) If a certificate under this section contains a statement under subsection (1)(a)—
- (a) then, for the purposes of section 14, development is appropriate alternative development in relation to the acquisition concerned if, and only if, it is of a description identified in accordance with subsection (5)(a) in the certificate, and
  - (b) the matters indicated in accordance with subsection (5)(b) in the certificate are to be taken to apply in relation to the planning permission that under section 14(3) may be assumed to be in force for that development.
- (7) If a certificate under this section contains a statement under subsection (1)(b) then, for the purposes of section 14, there is no development that is appropriate alternative development in relation to the acquisition concerned.
- (8) References in subsections (5) to (7) to a certificate under this section include references to the certificate as varied and to any certificate issued in place of the certificate.
- (9) On issuing to one of the parties directly concerned a certificate under this section in respect of an interest in land, the local planning authority must serve a copy of the certificate on the other of those parties.

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- (10) In assessing any compensation payable to any person in respect of any compulsory acquisition, there must be taken into account any expenses reasonably incurred by the person in connection with the issue of a certificate under this section (including expenses incurred in connection with an appeal under section 18 where any of the issues are determined in the person's favour).
- (11) For the purposes of this section and sections 18 to 20, the Broads Authority is the sole district planning authority for the Broads; and here “ the Broads ” has the same meaning as in the Norfolk and Suffolk Broads Act 1988. ]

**Textual Amendments**

- F1** S. 17 substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 232\(3\), 240\(2\)](#) (with [s. 232\(8\)](#)); [S.I. 2012/628](#), [art. 8\(d\)](#) (with [arts. 9,12,13,16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), [arts. 2, 4](#))

**[<sup>F2</sup>18 Appeal to Upper Tribunal against certificate under section 17**

- (1) Where the local planning authority have issued a certificate under section 17 in respect of an interest in land—
- (a) the person for the time being entitled to that interest, or
  - (b) any authority possessing compulsory purchase powers by whom that interest is proposed to be, or is, acquired,
- may appeal to the Upper Tribunal against that certificate.
- (2) On any appeal under this section against a certificate, the Upper Tribunal—
- (a) must consider the matters to which the certificate relates as if the application for a certificate under section 17 had been made to the Upper Tribunal in the first place, and
  - (b) must—
    - (i) confirm the certificate, or
    - (ii) vary it, or
    - (iii) cancel it and issue a different certificate in its place,
 as the Upper Tribunal may consider appropriate.
- (3) Where an application is made for a certificate under section 17, and at the expiry of the time prescribed by a development order for the issue of the certificate (or, if an extended period is at any time agreed upon in writing by the parties and the local planning authority, at the end of that period) no certificate has been issued by the local planning authority in accordance with that section, the preceding provisions of this section apply as if the local planning authority has issued such a certificate containing a statement under section 17(1)(b).]

**Textual Amendments**

- F2** S. 18 substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 232\(3\), 240\(2\)](#) (with [s. 232\(8\)](#)); [S.I. 2012/628](#), [art. 8\(d\)](#) (with [arts. 9,12,13,16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), [arts. 2, 4](#))

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**19 Extension of ss. 17 and 18 to special cases.**

- ( 1 ) Where an interest in land is proposed to be acquired [<sup>F3</sup> by an authority possessing compulsory purchase powers ] , and, by reason that the person entitled to the interest is absent from the United Kingdom or cannot be found, the compensation payable in respect of the interest falls to be determined by the valuation of a surveyor under section fifty-eight of the <sup>M1</sup> Lands Clauses Consolidation Act 1845, the surveyor, before carrying out his valuation, may apply to the local planning authority for a certificate under the said section seventeen; and the provisions of that section and of section eighteen of this Act shall apply in relation to an application made by virtue of this subsection as they apply in relation to an application made by virtue of subsection (1) of the said section seventeen.
- (2) Where, in pursuance of an application made by virtue of subsection (1) of this section, the local planning authority issue a certificate to the surveyor, the authority shall serve copies of the certificate on both the parties directly concerned.
- (3) An application for a certificate made by virtue of subsection (1) of this section shall specify the matters referred to in [<sup>F4</sup>paragraphs (a) and (b)] of subsection (3) of the said section seventeen, and shall be accompanied by a statement specifying the date on which a copy of the application has been or will be served on each of the parties directly concerned; and, in relation to such an application, subsection (4) of that section shall have effect with the substitution, for the reference to the date specified in the statement mentioned in [<sup>F4</sup>paragraph (c)] of the said subsection (3), of a reference to the date specified in accordance with this subsection, or, where more than one date is so specified, the later of those dates.

**Textual Amendments**

**F3** Words in s. 19(1) substituted (25.9.1991, subject to the restrictions referred to in S.I. 1991/2067 , art. 4 , **Sch. 2 Pt. II para. 5(1)** ) by **Planning and Compensation Act 1991 (c. 34, SIF 28:1)** , s. 70(b) , **Sch. 15 Pt. II para.17** (with s. 84(5) ); S.I. 1991/2067 , **art.3**

**F4** Words substituted by **Community Land Act 1975 (c. 77)** , **Sch. 10 para. 4(3)(5)** ; continued by **Local Government, Planning and Land Act 1980 (c. 65)** , **Sch. 33 para. 5(1)(4)(5)** in relation to applications, or certificates issued in pursuance of applications, made after 12.12.1975

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**Modifications etc. (not altering text)**

**C1** S. 19(1) amended by **Compulsory Purchase Act 1965 (c. 56)** , **Sch. 7**

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**Marginal Citations**

**M1** 1845 c. 18 .

**20 Power to prescribe matters relevant to Part III.**

The provisions which may be made by a development order shall include provision for regulating the manner in which applications under section seventeen or nineteen of this Act <sup>F5</sup> ... are to be made and dealt with <sup>F6</sup> ..., and in particular—

- (a) for prescribing (subject to the provisions of subsection (4) of section seventeen of this Act) the time within which a certificate is required to be issued under that section;
- <sup>F7</sup>( b ) .....

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- (c) for requiring local planning authorities to furnish the Minister, and such other persons (if any) as may be prescribed by or under the order, with such information as may be so prescribed with respect to applications under the said section seventeen or the said section nineteen, including information whether any such application has been made in respect of any particular land and information as to the manner in which any such application has been dealt with, together, in such cases as may be so prescribed, with copies of certificates issued under the said section seventeen;

<sup>F8</sup>(d) .....

**Textual Amendments**

- F5** Words in s. 20 repealed (6.4.2012) by *Localism Act 2011 (c. 20)*, ss. 232(4)(a)(i), 240(2), **Sch. 25 Pt. 34** (with s. 232(8)); S.I. 2012/628, art. 8(d)(e) (with arts. 9,12,13,16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)
- F6** Word in s. 20 repealed (6.4.2012) by *Localism Act 2011 (c. 20)*, ss. 232(4)(a)(ii), 240(2), **Sch. 25 Pt. 34** (with s. 232(8)); S.I. 2012/628, art. 8(d)(e) (with arts. 9,12,13,16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)
- F7** S. 20(b) repealed (6.4.2012) by *Localism Act 2011 (c. 20)*, ss. 232(4)(b), 240(2), **Sch. 25 Pt. 34** (with s. 232(8)); S.I. 2012/628, art. 8(d)(e) (with arts. 9,12,13,16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)
- F8** S. 20(d) repealed (6.4.2012) by *Localism Act 2011 (c. 20)*, ss. 232(4)(c), 240(2), **Sch. 25 Pt. 34** (with s. 232(8)); S.I. 2012/628, art. 8(d)(e) (with arts. 9, 12,13,16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)

<sup>F9</sup>**21 Proceedings for challenging validity of decision on appeal under s. 18.**

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**Textual Amendments**

- F9** S. 21 repealed (6.4.2012) by *Localism Act 2011 (c. 20)*, ss. 232(5), 240(2), **Sch. 25 Pt. 34** (with s. 232(8)); S.I. 2012/628, art. 8(d)(e) (with arts. 9, 12,13,16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4)

**22 Interpretation of Part III.**

- (1) In this Part of this Act “ the parties directly concerned ”, in relation to an interest in land, means the person entitled to the interest and the [<sup>F10</sup>acquiring authority].
- ( 2 ) For the purposes of sections seventeen [<sup>F11</sup>to nineteen] of this Act, an interest in land shall be taken to be an interest proposed to be acquired by an authority possessing compulsory purchase powers in the following (but no other) circumstances, that is to say—
  - (a) where, for the purposes of a compulsory acquisition by that authority of land consisting of or including land in which that interest subsists, a notice required to be published or served in connection with that acquisition, either by an Act or by any Standing Order of either House of Parliament relating to petitions for private bills, has been published or served in accordance with that Act or Order; or

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- (b) where a notice requiring the purchase of that interest has been served under any enactment, and in accordance with that enactment that authority are to be deemed to have served a notice to treat in respect of that interest; or
- (c) where an offer in writing has been made by or on behalf of that authority to negotiate for the purchase of that interest.

<sup>F12</sup>( 3 ) . . . . .

#### Textual Amendments

- F10** Words in s. 22(1) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 232\(6\)\(a\)](#), 240(2) (with s. 232(8)); [S.I. 2012/628](#), [art. 8\(d\)](#) (with arts. 9,12,13,16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F11** Words in s. 22(2) substituted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 232\(6\)\(b\)](#), 240(2) (with s. 232(8)); [S.I. 2012/628](#), [art. 8\(d\)](#) (with arts. 9,12,13,16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)
- F12** S. 22(3) repealed (25.9.1991, subject to the restrictions referred to in [S.I. 1991/2067](#) , [art. 4](#) , [Sch. 2 Pt. II paras. 5\(1\)](#) , [7\(2\)](#) ) by [Planning and Compensation 1991 \(c. 34, SIF 28:1\)](#) , [ss. 70\(b\)](#) , [84\(6\)](#) , [Sch. 15 Pt. II para. 18](#) , [Sch. 19 Pt.III](#) (with s. 84(5) ); [S.I. 1991/2067](#) , [art.3](#)

#### Modifications etc. (not altering text)

- C2** S. 22 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#) , [s. 141](#) , [Sch. 27 paras. 9](#) , [12](#)
- C3** S. 22(2) modified by [Housing Act 1988 \(c. 50, SIF 61\)](#) , [s. 76\(5\)\(6\)](#) , [Sch. 9 Pt. II para. 9\(a\)](#)  
 S. 22(2) modified (10.11.1993) by [1993 c. 28](#) , [s. 161\(4\)](#) , [Sch. 19 para.4](#) ; [S.I. 1993/2762](#) , [art.3](#)

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