

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Compulsory Purchase (Vesting Declarations) Act 1981. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 8.

DIVIDED LAND

PART I

BUILDINGS AND GARDENS ETC.

Interpretation of Part I

- 1 In this Part of this Schedule—
- “notice of objection to severance” means a notice under paragraph 2(1) below,
 - “land proposed to be severed” means land in respect of which notice of objection to severance is served.

Objection to severance

- 2 (1) If a general vesting declaration comprises part only of—
- (a) any house, building or factory, or
 - (b) a park or garden belonging to a house,
- any person who is able to sell the whole of the house, building, factory, park or garden may by notice served on the acquiring authority require them to purchase his interest in the whole.
- (2) Except as provided by paragraph 10 below, a notice under this paragraph shall not have effect if it is served more than 28 days after the date on which notice under section 6 of this Act is served on the person giving notice under this paragraph.
- (3) Section 8(1) of the ^{M1}Compulsory Purchase Act 1965 (which makes other provision for objection to severance of buildings, gardens etc.) shall not apply to land in respect of which a general vesting declaration is made.

Marginal Citations

M1 1965 c. 56.

- 3 Where notice of objection to severance is served within the time allowed in accordance with paragraph 2(2) above then notwithstanding section 8 of this Act—
- (a) the interest in respect of which the notice is served shall not vest in the acquiring authority, and
 - (b) if he is entitled to possession of the land, the acquiring authority shall not be entitled to enter upon or take possession of it,

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until the notice has been disposed of in accordance with the following provisions of this Schedule.

Response by acquiring authority to objection to severance

- 4 (1) Within 3 months after a person has served on an acquiring authority a notice of objection to severance, the authority shall either—
- (a) serve notice on him withdrawing the notice to treat deemed to have been served on him in respect of his interest in the land proposed to be severed, or
 - (b) serve notice on him that the general vesting declaration shall have effect, in relation to his interest in the land proposed to be severed, as if the whole of that land had been comprised in the declaration (and in the compulsory purchase order, if part only of that land was comprised in that order), or
 - (c) refer the notice of objection to severance to the Lands Tribunal and notify him that it has been so referred.
- (2) Sub-paragraph (1)(a) above has effect notwithstanding section 7(3) of this Act.
- 5 If the acquiring authority do not take action in accordance with paragraph 4 above within the period allowed by that paragraph then at the end of that period they shall be deemed to have acted in accordance with sub-paragraph (1)(a) of that paragraph.
- 6 Where in accordance with paragraph 4 or paragraph 5 above the notice to treat deemed to have been served in respect of a person's interest in the land proposed to be severed is withdrawn, or is deemed to have been withdrawn—
- (a) that interest shall not vest in the acquiring authority by virtue of the general vesting declaration, and
 - (b) If he is entitled to possession of that land, the acquiring authority shall not be entitled by virtue of that declaration to enter upon or take possession of it.
- 7 Where an acquiring authority take action in accordance with paragraph 4(1)(b) above, the general vesting declaration (and, where applicable, the compulsory purchase order) shall have effect as mentioned in that sub-paragraph, whether apart from this Part of this Schedule the acquiring authority could have been authorised to acquire the interest in question in the whole of the land proposed to be severed or not.
- 8 (1) Where in accordance with paragraph 4(1)(c) above an acquiring authority refer a notice of objection to severance to the Lands Tribunal, and on that reference the Tribunal determines that the part of the land proposed to be severed which is comprised in the general vesting declaration can be taken—
- (a) in the case of a house, building or factory, without material detriment, or
 - (b) in the case of a park or garden, without seriously affecting the amenity or convenience of the house,
- paragraph 3 above shall thereupon cease to have effect in relation to that notice.
- (2) In making a determination under this paragraph in any of the cases in sub-paragraph (1)(a) or (b) above the Tribunal shall take into account not only the effect of the severance but also the use to be made of the part proposed to be acquired and, in a case where the part is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.

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- 9 (1) If on such a reference the Lands Tribunal does not make a determination in accordance with paragraph 8 above, the Tribunal shall determine the area of that land (being the whole of it or a part of it which includes the part comprised in the general vesting declaration) which the acquiring authority ought to be required to take; and the general vesting declaration shall have effect, in relation to the interest in that area of the person who served the notice of objection to severance, as if the whole of that area had been comprised in the general vesting declaration, whether apart from this Part of this Schedule the acquiring authority could have been authorised to acquire that interest in the whole of that area or not.
- (2) Where sub-paragraph (1) above applies, and part of the area determined by the Lands Tribunal was not comprised in the compulsory purchase order, the general vesting declaration shall have effect as mentioned in that sub-paragraph as if the whole of that area had been comprised in the compulsory purchase order as well as in the declaration.

Late service of notice of objection to severance

- 10 (1) Where in accordance with paragraph 2(1) above a person is entitled to serve a notice of objection to severance, and it is proved—
- (a) that he never received the notice required by section 6 of this Act to be served on him, or received that notice less than 28 days before, or on or after, the date on which the period specified in the general vesting declaration expired, and
 - (b) that a notice of objection to severance served by him was served not more than 28 days after the date on which he first had knowledge of the execution of the general vesting declaration,
- that notice shall have effect notwithstanding that it is served after the time allowed in accordance with paragraph 2(2) above has expired.
- (2) Where in the circumstances specified in sub-paragraph (1) above, a person serves a notice of objection to severance after the end of the period specified in the general vesting declaration,—
- (a) paragraphs 3 and 6 above shall not have effect in relation to that notice.
 - (b) paragraph 4 above shall have effect in relation to that notice as if sub-paragraph (1)(a) of that paragraph were omitted,
 - (c) paragraph 5 above shall have effect in relation to that notice with the substitution, for the words “sub-paragraph (1)(a)”, of the words “sub-paragraph (1)(b)”, and
 - (d) paragraph 8 above shall not have effect in relation to that notice, but without prejudice to the making by the Tribunal of any such determination as is mentioned in that paragraph.

PART II

RENTCHARGES AND TENANCIES

- 11 (1) Where land specified in a general vesting declaration is, together with other land not so specified, charged with a rentcharge, such proportion of the rentcharge as may be apportioned under section 18 of the ^{M2}Compulsory Purchase Act 1965 to the first-mentioned land shall, subject to sub-paragraph (3) below, be treated as having been extinguished by virtue of Part III of this Act on the vesting of that land in an acquiring authority under that Part.

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- (2) Where by virtue of sub-paragraph (1) above a portion of the rentcharge is treated as having been extinguished, the provisions of section 18 of the ^{M3}Compulsory Purchase Act 1965 shall have effect as if the extinguishment had taken place under that section.
- (3) If, in the circumstances described in sub-paragraph (1) above, the person entitled to the rent charge and the owner of the land subject thereto enter into an agreement to that effect, the said section 18 shall have effect as if, at the time of the vesting of the land in the acquiring authority under Part III of this Act, the person entitled to the rentcharge had released that land from the rentcharge on the condition mentioned in subsection (2) of that section; and in that case no part of the rentcharge shall be treated as having been extinguished as regards the remaining part of the land charged therewith.
- (4) In this paragraph “rentcharge” has the same meaning as in section 18 of the ^{M4}Compulsory Purchase Act 1965.

Marginal Citations

M2 1965 c. 56

M3 1965 c. 56.

M4 1965 c. 56.

- 12 Where land specified in a general vesting declaration is, together with other land not so specified, comprised in a tenancy for a term of years unexpired, section 19 of the ^{M5}Compulsory Purchase Act 1965 shall have effect in relation thereto as if for references to the time of the apportionment of rent therein mentioned there were substituted references to the time of vesting of the tenancy in the acquiring authority.

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M5 1965 c. 56.

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