

Status: Point in time view as at 03/02/2017.

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SCHEDULES

[^{F1}SCHEDULE A1

Section 12

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN GENERAL VESTING DECLARATION

Textual Amendments

- F1** Sch. A1 inserted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 18 para. 6](#); [S.I. 2017/75](#), reg. 3(k) (with reg. 5)

PART 1

COUNTER-NOTICE REQUIRING PURCHASE OF ADDITIONAL LAND

- 1 (1) This Schedule applies where an acquiring authority have executed a general vesting declaration in respect of part only of a house, building or factory.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 2 A person able to sell the whole of the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the whole.
- 3 A counter-notice under paragraph 2 must be served before the end of the period of 28 days beginning with the day the owner first had knowledge of the general vesting declaration.
- 4 In a case where this Schedule applies by virtue of a general vesting declaration executed after a counter-notice has been served under paragraph 4 or 17 of Schedule 2A to the Compulsory Purchase Act 1965, that counter-notice is to have effect as a counter-notice served under this Schedule.
- 5 In this Schedule—
- “additional land” means the part of the house, building or factory not specified in the general vesting declaration;
 - “house” includes any park or garden belonging to a house;
 - “land proposed to be acquired” means the part of the house, building or factory specified in the general vesting declaration;
 - “notice to treat” means a notice to treat deemed to have been served under section 7(1);
 - “original vesting date” is the first day after the end of the period specified in the general vesting declaration in accordance with section 4(1).

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PART 2

CONSEQUENCES OF COUNTER-NOTICE

Acquiring authority must respond to counter-notice within three months

- 6 (1) On receiving a counter-notice the acquiring authority must decide whether to—
- (a) withdraw the notice to treat in relation to the land proposed to be acquired,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.
- (2) But the acquiring authority may not decide to withdraw the notice to treat if the counter-notice was served on or after the original vesting date.
- 7 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 8 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 9 (1) This paragraph applies if the acquiring authority do not serve notice of a decision within the decision period.
- (2) If the counter-notice was served before the original vesting date, the authority are to be treated as if they had served notice of a decision to withdraw the notice to treat in relation to the land proposed to be acquired.
 - (3) If the counter-notice was served on or after the original vesting date, they are to be treated as if they had served notice of a decision to accept it.

No vesting if notice to treat withdrawn

- 10 If the acquiring authority serve notice of a decision to withdraw the notice to treat in relation to the land proposed to be acquired the general vesting declaration is to have effect as if it did not include that land.

Effects of accepting counter-notice

- 11 (1) This paragraph applies where the acquiring authority serve notice of a decision to accept the counter-notice.
- (2) The general vesting declaration and the notice to treat (and, where applicable, the compulsory purchase order) are to have effect as if they included the owner's interest in the additional land as well as in the land proposed to be acquired.
 - (3) The authority must serve on the owner a notice specifying the vesting date or dates for—
 - (a) the land proposed to be acquired (if the counter-notice was served before the original vesting date), and
 - (b) the additional land.
 - (4) The new vesting date for the land proposed to be acquired must not be before the original vesting date.

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- (5) The vesting date for the additional land must be after the period of 3 months beginning with the day on which the notice under sub-paragraph (3) is served.

Effects of referring counter-notice to the Upper Tribunal

- 12 (1) This paragraph applies where—
- (a) the acquiring authority refer the counter-notice to the Upper Tribunal, and
 - (b) the counter-notice was served before the original vesting date.
- (2) At any time before the Upper Tribunal make a determination under paragraph 14, the acquiring authority may serve notice on the owner specifying a new vesting date for the land proposed to be acquired.
- (3) The new vesting date for the land proposed to be acquired must not be before the original vesting date.

PART 3

DETERMINATION BY THE UPPER TRIBUNAL

Introduction

- 13 This Part applies where, in accordance with paragraph 8, the acquiring authority refer a counter-notice to the Upper Tribunal.

Role of the Upper Tribunal

- 14 (1) The Upper Tribunal must determine whether the severance of the land proposed to be acquired would—
- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
 - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- (2) In making its determination, the Upper Tribunal must take into account—
- (a) the effect of the severance,
 - (b) the proposed use of the land proposed to be acquired, and
 - (c) if that land 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 of the other land.
- 15 If the Upper Tribunal determines that the severance of the land proposed to be acquired would have either of the consequences described in paragraph 14(1) it must determine how much of the additional land the acquiring authority ought to be required to take in addition to the land proposed to be acquired.

Effect of determination that more land should be acquired

- 16 (1) This paragraph applies where the Upper Tribunal specifies in its determination that the acquiring authority ought to be required to take the whole or part of the additional land (“the specified land”).

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- (2) The general vesting declaration and any notice to treat (and, where applicable, the compulsory purchase order) are to have effect as if they included the owner's interest in the specified land.
- (3) The Upper Tribunal must order a vesting date for—
 - (a) the specified land, and
 - (b) any land proposed to be acquired which has not vested in the authority and for which no vesting date has been specified under paragraph 12.

Withdrawal of notice to treat following determination

- 17
- (1) This paragraph applies where—
 - (a) the Upper Tribunal has specified in its determination that the acquiring authority ought to be required to take the whole or part of the additional land (“the specified land”), and
 - (b) the vesting date in relation to the land proposed to be acquired has not passed, and
 - (c) the vesting date in relation to the specified land has not passed.
 - (2) The acquiring authority may, within the period of 6 weeks beginning with the day on which the Upper Tribunal made its determination, withdraw the notice to treat in relation to the land proposed to be acquired together with the specified land.
 - (3) If the acquiring authority withdraws the notice to treat, the general vesting declaration is to have effect as if it did not include that land.
 - (4) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
 - (5) Any dispute as to the compensation is to be determined by the Upper Tribunal.]

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