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Acquisition of Land Act 1981

1981 CHAPTER 67

PART III

SPECIAL KINDS OF LAND

Orders subject to special parliamentary procedure

17 Local authority and statutory undertakers' land.

- (1) This section applies to land which—
- is the property of a local authority, or
 - has been acquired by statutory undertakers, who are not a local authority, for the purposes of their undertaking.

- (2) Subject to subsection (3) below, a compulsory purchase order shall, in so far as it authorises the compulsory purchase of land to which this section applies, be subject to special parliamentary procedure in any case where an objection to the order has been made by the local authority, or as the case may be the statutory undertakers, and has not been withdrawn.

[^{F1}(2A) Subsection (3) of section 16 above applies in relation to subsections (1) and (2) above as it applies in relation to the preceding provisions of that section.]

- (3) Subsection (2) above shall not apply to the compulsory acquisition of an interest in land where the person acquiring the interest is a local authority (as defined in subsection (4) below) [^{F2}a National Park authority], [^{F3}an urban development corporation]the Land Authority for Wales, the Peak Park Joint or Lake District Special Planning Board, [^{F4}a Welsh planning board,] any statutory undertakers or a Minister.

- (4) In subsection (3) above—

“local authority” means—

- in relation to England, the council of a county or district [^{F5}the Broads Authority], the council of a London borough, the Common Council of the City of London [^{F6}, a police authority established under [^{F7}section 3

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of the Police Act 1996]]^{F8} . . . ^{F9} and a joint authority established by Part IV of the Local Government Act 1985] . . . ^{F10},

- (b) in relation to Wales, the council of a county or [^{F11}county borough], [^{F12}or a police authority established under [^{F7}section 3 of the Police Act 1996]]

and this definition applies to the Isles of Scilly as if the Council of those Isles were the council of a county;

“statutory undertakers” includes—

- (a) ^{F13}
- (aa) [^{F14}a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990, and]
- (ab) [^{F15}the Funding Agency for Schools,
- (ac) the Schools Funding Council for Wales,]
- (b) any other authority, body or undertakers specified in an order made by the Secretary of State under this paragraph.

[^{F16}“a Welsh planning board” means a board constituted under—

- (a) section 2(1B) of the ^{M1}Town and Country Planning Act 1990; or
- (b) paragraph 3A of Schedule 17 to the ^{M2}Local Government Act 1972.]

- (5) An order under paragraph (b) of the definition of “statutory undertakers” in subsection (4) above shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F1** S. 17(2A) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), **Sch. 8 Pt. II para. 8(2)**
- F2** Words in s. 17(3) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 21(1)**(with Sch. 8 para. 7); S.I. 1995/2950, **art. 2**
- F3** Words in s. 17(3) inserted (25.09.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:1), s. 70, **Sch. 15, para. 11**; S.I. 1991/2067, **art. 3**.
- F4** Words in s. 17(3) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 17(1)(a)**(with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, **art. 3, Sch.**
- F5** Words inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), s. 21, **Sch. 6 para. 22**
- F6** S. 17(4): words in para. (a) in definition of “local authority” inserted (1.10.1994 for specified purposes, otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. II para. 55(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4, Sch.**
- F7** S. 17(4): words in paras. (a)(b) in definition of “local authority” substituted (1.4.1996) by 1996 c. 16, ss. 103, 104(1)(2), **Sch. 7 Pt. I para. 1(2)(q)**
- F8** Words inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 Pt. II para. 60**
- F9** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), s. 237(2), **Sch. 13 Pt. I**
- F10** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F11** S. 17(4): words in para. (b) in definition of “local authority” substituted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 64(1)**(with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, **art. 3, Sch.**
- F12** S. 17(4): words in para. (b) in definition of “local authority” inserted (1.10.1994 for specified purposes, otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. II para. 55(b)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4, Sch.**
- F13** S. 17(4): para. (a) in definition of “statutory undertaker” repealed (31.10.1994) by 1994 c. 21, s. 67, Sch. 9 para. 27(1), **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F14** Paragraph (aa) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 23**

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F15 S. 17(4): paras. (ab)(ac) in definition of “statutory undertakers” inserted (1.11.1996) by 1995 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 51(2)**(with s. 1(4), Sch. 39)

F16 S. 17(4): definition of “a Welsh planning board” added (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 17(1)(b)**(with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 22(3)); S.I. 1996/396, art. 3, **Sch.**

Modifications etc. (not altering text)

C1 S. 17(3) modified by **Housing Act 1988 (c. 50, SIF 61)**, s. 78(1), **Sch. 10 Pt. I para. 3**

S. 17(3) modified (10.11.1993) by 1993 c. 28, s. 169, **Sch. 20 Pt. I para. 3**; S.I. 1993/2762, **art. 3**.

C2 S. 17(4) extended by S.I. 1985/1884, **art. 4(t)**

Marginal Citations

M1 1990 c. 8.

M2 1972 c. 70.

18 National Trust land.

- (1) This section applies to land belonging to the National Trust which is held by the Trust inalienably.
- (2) A compulsory purchase order shall, in so far as it authorises the compulsory purchase of land to which this section applies, be subject to special parliamentary procedure in any case where an objection to the order has been duly made by the National Trust and has not been withdrawn.
- (3) In this section “held inalienably”, in relation to land belonging to the National Trust, means that the land is inalienable under section 21 of the ^{M3}National Trust Act 1907 or section 8 of the ^{M4}National Trust Act 1939.

Marginal Citations

M3 1907 c. cxxxvi.

M4 1939 c. lxxxvi.

19 Commons, open spaces etc.

- (1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a 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 purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or
 - [^{F17}(aa) that the land is being purchased in order to secure its preservation or improve its management]
 - (b) that the land does not exceed 250 square yards in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a 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,

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and certifies accordingly.

- (2) Where it is proposed to give a certificate under this section, the Secretary of State shall [^{F18}direct the acquiring authority to] give public notice of his intention so to do, and—
 - (a) after affording 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 held the inquiry, give the certificate.

[^{F19}(2A) Notice under subsection (2) above shall be given in such form and manner as the Secretary of State may direct.]

- (3) A compulsory purchase order may provide for—
 - (a) vesting land given in exchange as mentioned in subsection (1) above in the persons, and subject to the rights, trusts and incidents, therein mentioned, and
 - (b) discharging the land purchased from all rights, trusts and incidents to which it was previously subject [^{F20}except where the Secretary of State has given a certificate under subsection (1)(aa) above.].

(4) In this section—

“common” includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green,

“fuel or field garden allotment” means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act,

“open space” means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground.

Textual Amendments

F17 S. 19(1)(aa) inserted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70, [Sch. 15](#), para. 12(1)(a); S.I. 1991/2067, [art.3](#).

F18 Words in s. 19(2) inserted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70, [Sch. 15](#), para. 12(1)(b); S.I. 1991/2067, [art. 3](#)

F19 S. 19(2A) inserted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70, [Sch. 15 para. 12\(1\)\(c\)](#); S.I. 1991/2067, [art.3](#).

F20 Words in s. 19(3) added (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), s. 70, [Sch. 15](#), para. 12(1)(d); S.I. 1991/2067, [art.3](#).

Modifications etc. (not altering text)

C3 S. 19 applied by [Town and Country Planning Act 1990 \(c. 8, SIF 123:1\)](#), [s. 229\(3\)](#)

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Textual Amendments

F21 S. 20 repealed (24.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\)](#), ss. 70, 84(6), [Sch. 15, para. 28](#), [Sch. 19](#), PartIII; S.I. 1991/2067, [art.3](#).

21 Land within more than one provision in Part III.

In the case of land falling within more than one of sections 17 to 20 above a compulsory purchase order shall be subject to special parliamentary procedure if required to be subject thereto by any of those sections.

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