

SCHEDULES

SCHEDULE 14

AMENDMENTS CONSEQUENTIAL ON THE HOUSING AND PLANNING ACT 2016

8 (1) Paragraph 2 of Schedule 9 (acquisition of rights in land: application of Compulsory Purchase Act 1965) is amended as follows.

(2) Omit sub-paragraph (4).

(3) After sub-paragraph (8) insert—

“(8A) For Schedule 2A to CPA 1965 substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

- 1 This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory.
- 2 In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

- 3 A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.
- 4 A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

- 5 On receiving a counter-notice, the acquiring authority must decide whether to—
 - (a) withdraw the notice to treat,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.
- 6 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”).

Status: This is the original version (as it was originally enacted).

- 7 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 8 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.
- 9 If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

- 10 On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant 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.
- 11 In making its determination, the Upper Tribunal must take into account—
- (a) the effect of the acquisition of the right or the imposition of the covenant,
 - (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
 - (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 12 If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.
- 13 If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.
- 14 (1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

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

(2) 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.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.””

(4) After sub-paragraph (8A) (inserted by sub-paragraph (3) above) insert—

“(8B) In section 5A(5B) of the Land Compensation Act 1961 (relevant valuation date), for paragraphs (a) and (b) substitute—

- “(a) a right over, or restrictive covenant affecting, land is the subject of a general vesting declaration,
- (b) by virtue of paragraph 11(2) or 16(2) of Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981, the declaration has effect as if it included an interest in the land, and
- (c) the vesting date for the right or covenant is different from the vesting date for the interest in the land.””

(5) Omit sub-paragraph (10).