

1967 No. 542

ACQUISITION OF LAND

The Compulsory Purchase of Land (Amendment)
Regulations 1967

<i>Made</i>	- - -	<i>4th April 1967</i>
<i>Coming into Operation</i>		<i>6th April 1967</i>

The Minister of Housing and Local Government, in exercise of the powers conferred on him by paragraph 18 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946(a) and section 7(5) of the Land Commission Act 1967(b), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

1. These regulations may be cited as the Compulsory Purchase of Land (Amendment) Regulations 1967 and shall come into operation on 6th April 1967.

2.—(1) In these regulations “the Regulations of 1949” means the Compulsory Purchase of Land Regulations 1949(c).

(2) The Interpretation Act 1889(d) applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. The Regulations of 1949 are hereby amended by the addition to Form No. 5 in the Schedule thereto, and to the Notes to that form, of the paragraphs and notes set out in the Schedule hereto.

(a) 1946 c. 49.
(c) S.I. 1949/507 (1949 I, p. 2379).

(b) 1967 c. 1.
(d) 1889 c. 63.

SCHEDULE

1. *Paragraph to be added to Form No. 5 prescribed by the Regulations of 1949.*

(f) The following sub-paragraphs contain a statement of the effect of sections 9 and 10 of the Land Commission Act 1967 and an invitation to give information as mentioned in sub-paragraph (ix) below:—

- (i) The Land Commission may acquire any of the land described in the [first]-schedule hereto by making a general vesting declaration under section 9 of the Land Commission Act 1967, which has the effect, subject as mentioned in sub-paragraph (iv) below, of vesting the land in the Commission at the end of the period mentioned in sub-paragraph (ii) below. Generally a declaration may not be made before the end of the period of two months from the order becoming operative. The order may however prescribe a longer period; but, whether the period is two months or a longer period, the Commission may make a declaration before the end of the period with the consent of every occupier of the land affected.
- (ii) If the Commission make a general vesting declaration, they must serve notice of it on every occupier of any of the land affected (except land where there is one of the short tenancies described in sub-paragraph (iii) below) and on every person who gives them information relating to the land in pursuance of the invitation contained in this or any similar notice. When the service of notices of the general vesting declaration is completed, an intermediate period before vesting begins to run. This period, which must not be less than 28 days, will be specified in the declaration. At the end of this period the land described in the declaration will, subject as mentioned in sub-paragraph (iv) below, vest in the Commission, together with the right to enter on the land and take possession of it. At the same time every person on whom the Commission could have served a notice to treat in respect of his interest in the land (other than a tenant under one of the short tenancies described in sub-paragraph (iii) below), as well as any person who has actually been served with a notice to treat, will be entitled to compensation for the acquisition of his interest in the land together with interest on the compensation from the date of vesting at a rate prescribed by the Treasury.
- (iii) Where a person's interest arises under a tenancy which has only a short time to run, the position stated above is subject to modifications. For the modifications to apply the tenancy must be either a "minor tenancy", i.e. a tenancy for a year or a yearly tenancy or a tenancy for a lesser interest, or "a long tenancy which is about to expire". The latter expression means a tenancy granted for an interest greater than a minor tenancy but having at the date of the general vesting declaration a period still to run which is not more than the period specified in the declaration for this purpose. The latter period must be more than a year. In calculating how long a tenancy has to run where any option to renew or to terminate it is available to either party, it is assumed that the landlord will take every opportunity open to him to terminate the tenancy while the tenant will use every opportunity to retain or extend his interest.
- (iv) The Commission may not exercise the right of entry referred to in sub-paragraph (ii) above in respect of land subject to one of the short tenancies described in sub-paragraph (iii) above unless they first serve notice to treat in respect of the tenancy and then serve every occupier of the land with a notice of their intention to enter and take possession after the period (not less than 14 days) specified in the notice. The right of entry will be exercisable at the end of that period. The vesting of the land in the Commission referred to in sub-paragraph (ii) above will be subject to the tenancy until it comes to an end.
- (v) If the effect of the general vesting declaration will be to sever a house, building or factory, or a park or garden belonging to a house, by vesting part of it in the Commission and leaving part of it with the person who is entitled to, and is in a position to sell, the whole, that person may serve

on the Commission a notice of objection to severance. A notice of objection to severance, in order to be effective, must be served by that person within 28 days of the service on him by the Commission of the notice of the general vesting declaration referred to in sub-paragraph (ii) above (save in the exceptional cases referred to in paragraph 13 of Schedule 3 to the Land Commission Act 1967). This (save in those exceptional cases) stops the objector's interest vesting in the Commission until his rights in the matter have been settled. The Commission have (save in those exceptional cases) three courses open to them. First, they may serve the objector with a notice which in effect excludes the objector's land from the scope of the declaration (and, if he receives no notice from the Commission under one of the other two alternatives within three months after he has served them with his notice of objection to severance, they will be treated as having done this); secondly, they may serve him with notice that the declaration shall have effect in relation to the whole of his land (in which case the declaration will take effect in accordance with the notice); or thirdly, they may refer the objection to the Lands Tribunal and give him notice that they have done so.

- (vi) If the Lands Tribunal determines that the part of the objector's property comprised in the declaration can be taken without material detriment (where the objection concerns the taking of part of a house, building or factory) or (where the objection concerns the taking of part of a park or garden) can be taken without seriously affecting the amenity or convenience of the house, the notice of objection ceases to have effect, so that the land affected, i.e. the part of the property in question, will vest in the Commission. If the Lands Tribunal do not decide in that way, they must decide what part (if any) of the objector's land the Commission ought to be required to take in addition to the part comprised in the declaration. The declaration will then take effect as if both these parts had been comprised in the declaration.
- (vii) If any of the land described in the [first] schedule hereto forms part of property subject to a rentcharge, and the rentcharge is apportioned between the land so described and the remainder of the property by agreement or by award of the Lands Tribunal under section 18 of the Compulsory Purchase Act 1965, the part apportioned to the land so described will be treated as extinguished on the vesting of that land in the Commission, and the owner of the land will thenceforth only be liable to pay the part apportioned to the remainder of the property. Compensation for the extinguishment will be payable to the person entitled to the rentcharge and may be settled by agreement between him and the Commission or determined by the Lands Tribunal. Alternatively the owner of the land and the person entitled to the rentcharge may agree that the part of the property which is comprised in the land described in the [first] schedule shall be released from the rentcharge and that the whole rentcharge shall be charged on the remainder of the property. This will operate to release the land so described from the rentcharge and to charge the whole rentcharge on the remainder of the property.
- (viii) Where any of the land described in the [first] schedule hereto forms part of property subject to a tenancy, the rent will be apportioned between the land so described and the remainder of the property on the vesting in the Commission of the tenancy of the land so described. The tenant will thenceforth only be liable for that part of the rent which is apportioned to the remainder of the property. Any compensation to which he may be entitled for severance of his property will be assessed with reference to the severance caused by that vesting.
- (ix) **EVERY PERSON WHO IF A GENERAL VESTING DECLARATION WERE MADE IN RESPECT OF ALL THE LAND COMPRISED IN THE ORDER WOULD BE ENTITLED TO CLAIM COMPENSATION IN RESPECT OF ANY OF THE LAND OR ANY INTEREST IN THE LAND IS INVITED TO GIVE INFORMATION OF HIS INTEREST TO THE LAND COMMISSION AT (g).....IN THE FOLLOWING FORM.**

NAME AND ADDRESS OF CLAIMANT.....
 (OR CLAIMANTS, IN THE CASE OF A
 JOINT INTEREST)

LAND IN WHICH AN INTEREST IS.....
 HELD BY CLAIMANT(S)
 (DESCRIBING IT AS CONCISELY AS
 POSSIBLE)

NATURE OF INTEREST

(INCLUDING, IF LEASEHOLD, DATE
 OF COMMENCEMENT AND LENGTH
 OF TERM)

2. Notes to be added to Form No. 5 prescribed by the Regulations of 1949.

(f) This paragraph is to be inserted only in the case of an order made by the Land Commission under section 6 of the Land Commission Act 1967.

(g) Insert particulars of the office of the Land Commission to which the information is to be sent.

Given under the official seal of the Minister of Housing and Local Government on 4th April 1967.

(L.S.)

Anthony Greenwood,
 Minister of Housing and Local Government.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Compulsory Purchase of Land Regulations 1949 (which apply to England and Wales) to deal with the procedure in relation to compulsory purchases by the Land Commission. They are made by the Minister of Housing and Local Government by virtue of the Transfer of Functions (Miscellaneous) Order 1967 (S.I. 1967/ 486) which came into operation on 1st April 1967.

Paragraph 6 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946, as applied by section 7(1) of the Land Commission Act 1967, requires the Commission to publish and serve notices of the making of a compulsory purchase order made by them, the notice to be in the form prescribed by regulations made under the Act of 1946. The prescribed form is Form No. 5 to the Compulsory Purchase of Land Regulations 1949 or a form substantially to the like effect. Section 7(5)(a) of the Land Commission Act 1967 requires any such notice to contain a statement of the effect of sections 9 and 10 of that Act, which relate to general vesting declarations.

Section 7(5)(b) of the Act of 1967 requires the notice to contain, in addition, an invitation to any person who will be entitled to compensation if a general vesting declaration is made, to inform the Commission of his name and address and his interest in any land affected by the declaration: the giving of this information then entitles the informant under section 9(3) of the Act to receive notice of the making of any general vesting declaration so that he can make his claim to compensation.

Regulation 3, with the Schedule, prescribes the content of the statement and provides for the inclusion of the invitation and the prescription of the form in which this information is to be given.