
Changes to legislation: There are currently no known outstanding effects for the High Speed Rail (West Midlands - Crewe) Act 2021, Cross Heading: Compulsory Purchase Act 1965 and compensation enactments. (See end of Document for details)

SCHEDULES

SCHEDULE 9

ACQUISITION OF RIGHTS IN LAND ETC: APPLICATION OF COMPULSORY PURCHASE LEGISLATION

Compulsory Purchase Act 1965 and compensation enactments

- 1 Part 1 of the Compulsory Purchase Act 1965 (referred to in this Schedule as “CPA 1965”), as applied by section 4(3) to the acquisition of land under section 4(1), and the enactments relating to compensation for the compulsory purchase of land, apply to a compulsory acquisition under section 4(1) by virtue of section 5—
- (a) with the modifications specified in paragraph 2, and
 - (b) with such other modifications as may be necessary.
- 2 (1) The modifications referred to in paragraph 1(a) are as follows.
- (2) References in CPA 1965 to land are, in appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—
- (a) the right acquired or to be acquired or (as the case may be) the restrictive covenant imposed or to be imposed, or
 - (b) the land over which the right is, or is to be, exercisable or (as the case may be) the land over which the restrictive covenant is, or is to be, enforceable.
- (3) For section 7 of CPA 1965 substitute—

“7 Measure of compensation in case of purchase of new right or imposition of new restrictive covenant

In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had, not only to the extent (if any) to which the value of the land over which the right is acquired or the restrictive covenant is imposed is depreciated by the acquisition of the right or the imposition of the covenant, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

- (4) The following provisions of CPA 1965 (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—
- section 9(4) (failure of owners to convey),
 - paragraph 10(3) of Schedule 1 (owners under incapacity),
 - paragraph 2(3) of Schedule 2 (absent and untraced owners), and
 - paragraphs 2(3) and 7(2) of Schedule 4 (common land),

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are so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be acquired compulsorily or the benefit of the covenant which is to be imposed is vested absolutely in the acquiring authority.

- (5) Section 11 of CPA 1965 (powers of entry) is modified so as to secure that, where the acquiring authority have served notice to treat in respect of any right or restrictive covenant as well as the notice required by subsection (1) of that section (as it applies to a compulsory acquisition under section 4(1)), they have power, exercisable in the same circumstances and subject to the same conditions, to enter for the purpose of exercising that right or enforcing that covenant; and sections 12 (penalty for unauthorised entry) and 13 (entry on enforcement officer's or sheriff's warrant in the event of obstruction) of that Act are modified accordingly.
- (6) Section 20 of CPA 1965 (compensation for short-term tenants) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the land, but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right or enforcement of the restrictive covenant in question.
- (7) Section 22 of CPA 1965 (protection of acquiring authority's possession of land where interest accidentally omitted from purchase) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.
- (8) For Schedule 2A to CPA 1965 substitute the version of that Schedule set out in Schedule 10 to this Act.
- (9) In section 5A of the Land Compensation Act 1961 (relevant valuation date)—
 - (a) for subsection (5A) substitute—
 - “(5A) If—
 - (a) the acquiring authority enters on land for the purpose of exercising a right or enforcing a restrictive covenant in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act 1965,
 - (b) the authority is subsequently required by a determination under paragraph 13 of Schedule 2A to that Act (as substituted by paragraph 2(8) of Schedule 9 to the High Speed Rail (West Midlands - Crewe) Act 2021) to acquire an interest in the land, and
 - (c) the authority enters on and takes possession of that land, the authority is deemed for the purposes of subsection (3)(a) to have entered on and taken possession of that land when it entered on it for the purpose of exercising the right or enforcing the covenant.”, and
 - (b) in subsection (5B), 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

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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.”.

(10) In the Land Compensation Act 1973, for section 44 substitute—

“44 Compensation for injurious affection

(1) Where—

- (a) a right over land is acquired from any person for the purpose of works which are to be situated partly on that land and partly elsewhere, or
- (b) a restrictive covenant over land is imposed on any person for the purpose of such works,

compensation for injurious affection of land retained by that person shall be assessed by reference to the whole of the works and not only the part situated on the land over which the right is exercisable or the covenant is enforceable.

- (2) In this section, “compensation for injurious affection” means compensation for injurious affection under section 7 or 20 of the Compulsory Purchase Act 1965 as applied by paragraph 1 of Schedule 9 to the High Speed Rail (West Midlands - Crewe) Act 2021.”

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