

**EXPLANATORY MEMORANDUM TO  
THE COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007**

**2007 No. 3617**

1. This explanatory memorandum has been prepared jointly by the Department for Communities and Local Government (“the Department”) and the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 These Rules prescribe the procedure to be followed in connection with public local inquiries which may be held when considering whether to authorise the compulsory purchase of land in England by confirming a compulsory purchase order (CPO). They replace the Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990 and the Compulsory Purchase by Ministers (Inquiries Procedure) Rules 1994. The new combined Rules relate to all public local inquiries where a Minister (other than the Welsh Ministers) is either the confirming authority for the purposes of subsection (3) (a) of Section 13A of the Acquisition of Land Act 1981, or the appropriate authority for the purposes of paragraph 4A of Schedule 1 to that Act where the compulsory purchase order is made in draft by a UK government Minister. An Act of Parliament will usually authorise a named authority or body to compulsorily purchase land for a given purpose and a typical acquiring authority is likely to be a local authority, statutory undertaker or urban regeneration agency.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Background**

4.1 These Rules are made by the Lord Chancellor under section 9 of the Tribunals and Inquiries Act 1992 which enables him, after consultation with the Council of Tribunals which took place on 13 August 2007 to make rules regulating the procedure to be followed in connection with statutory inquiries held by or on behalf of Ministers.

5. **Territorial Extent and Application**

5.1 This instrument applies to England and, to a limited extent, to Wales, i.e. where the land which is subject to the CPO relevant to the Inquiry is in Wales and that CPO falls to be made by a UK government Minister.

6. **European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The main reason for the new Rules is to take account of changes to the procedure and new terminology introduced by Part 8 of the Planning and Compulsory Purchase Act 2004. The introduction of a single set of unified Rules dealing with the procedures to be followed in relation to inquiries into the authorisation of CPOs where the Minister is either the confirming authority or the appropriate authority also reflects a commitment made by the Department to reflect current practice as adopted in procedure rules prepared more recently for other types of inquiries, such as the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (SI 2000 No. 1624 as amended).

7.2 Where the Minister is the appropriate authority, the CPO is published in draft by the relevant Secretary of State and if any objections have been received which are not withdrawn then, unless the matter can be dealt with by way of the written representation process, the appropriate authority must hold a public local inquiry. The Minister can proceed to “make” the Order himself once the report by the Inspector appointed by him has been considered. CPOs made by non-ministerial acquiring authorities are made by the relevant acquiring authority and then submitted to the appropriate Secretary of State for confirmation. The Minister will then consider any objections; decide whether or not to call an inquiry and appoint an inspector and make the final decision as to whether or not to confirm the Order. The procedures for inquiries into each type of CPO differ only in minor matters of detail.

7.3 The new Rules include minor changes both in terminology and procedure including the replacement of the reference to a “statutory objector” with “remaining objector”. New definitions have been imported in consequence of amendments made to the Acquisition of Land Act 1981 by the Planning and Compulsory Purchase Act 2004. The Rules now refer to “authorising authority” which is the confirming authority in the case of a non-ministerial order or appropriate authority in the case of a ministerial order. References to “confirming authority” and “appropriate authority” reflect the terms used in the 2004 Act. The deadline for serving notice of intention to hold an inquiry has been extended to five weeks from the end of the objection period reflecting a slight change in procedure to accommodate the possibility of the confirming authority deciding to offer the written representations procedure as an alternative to inquiry, in which case a period of three weeks needs to be built into the procedure for objector’s consent and, if necessary, reverting to the inquiry procedure. In order to reduce the potential for delay, the present requirement in the 1994 Rules for an objector to submit in advance any proof of evidence (“statement of evidence” in these Rules) he proposes to rely on at inquiry is being extended to apply to all inquiries.

7.4 A public consultation exercise took place between November 2005 and January 2006. The consultation paper can be viewed at:  
[www.communities.gov.uk/archived/publications/planningandbuilding/draftcompulsory](http://www.communities.gov.uk/archived/publications/planningandbuilding/draftcompulsory).

Seventeen responses were received and an analysis of responses can be viewed at <http://www.communities.gov.uk/publications/planningandbuilding/draftcompulsoryresponses>.

Some minor amendments have been incorporated into the Rules as a result of this exercise and although the substance is largely unchanged, the structure of the Rules has been changed for purposes of clarity. As part of the consultation process both The Council on Tribunals and the Welsh Assembly Government were specifically consulted.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it does not impact on business, charities or voluntary bodies.

8.2 The impact on the public sector will be minimal as the instrument largely combines two sets of Rules currently used by acquiring and confirming bodies.

## **9. Contact**

9.1 Robert Segall at the Department for Communities and Local Government: Telephone: 020 7944 3913 or e-mail: [robert.segall@communities.gsi.gov.uk](mailto:robert.segall@communities.gsi.gov.uk) can answer any queries regarding the instrument.