

2004 No.2594

ACQUISITION OF LAND, ENGLAND AND WALES

The Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004

<i>Made</i> - - - -	<i>4th October 2004</i>
<i>Laid before Parliament</i>	<i>8th October 2004</i>
<i>Coming into force</i> - -	<i>31st October 2004</i>

The First Secretary of State, in exercise of the powers conferred upon him by sections 7(2), 13A(2) and (6) and 13B(7) of, and paragraph 4A(2), (7) and (8) of Schedule 1 to, the Acquisition of Land Act 1981(a), and all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004 and shall come into force on 31st October 2004.

(2) These Regulations apply where—

- (a) a confirming authority(b), other than the National Assembly for Wales; or
- (b) an appropriate authority(c), other than the National Assembly for Wales,

considers the use of or proceeds under the written representations procedure(d).

Interpretation

2.—(1) References in these Regulations to sections are to sections of the Acquisition of Land Act 1981 and references to Schedule 1 are to Schedule 1 to that Act.

(2) In these Regulations—

“authorising authority” means the confirming authority or an appropriate authority;

(a) 1981 c.67; sections 13A(2) and (6) and 13B(7) and paragraph 4A(2), (7) and (8) were inserted by the Planning and Compulsory Purchase Act 2004 c.5. Some, but not all, of the functions of the Secretary of State in authorising compulsory purchase of land in Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 SI No.672.

(b) For the definition of “confirming authority”, see section 7(1) of the Acquisition of Land Act 1981.

(c) For the definition of “appropriate authority”, see paragraph 4(8) of Schedule 1 to the Acquisition of Land Act 1981 as inserted by section 101(4) of the Planning and Compulsory Purchase Act 2004.

(d) For the definition of “written representations procedure”, see section 13A(6) of, and paragraph 4A(7) of Schedule 1 to, the Acquisition of Land Act 1981 as inserted by sections 100(6) and 101(4) of the Planning and Compulsory Purchase Act 2004. See also sections 100(8) and 101(6) of the 2004 Act as to compulsory purchase orders to which these Regulations do not apply.

“the issue” means the submission seeking confirmation of a compulsory purchase order pursuant to section 2(2) or the issue whether or not to make a compulsory purchase order prepared in draft under Schedule 1 pursuant to section 2(3);

“remaining objector” means a person who has a remaining objection within the meaning of section 13A or, as the case may be, paragraph 4A of Schedule 1(a);

“representations” means written representations, statements and supporting documents;

“send” means send by pre-paid first class post addressed to the proper address(b), or such alternative address as the recipient may request;

“starting date” means the date of which notice is given in accordance with regulation 4(a);

“statement” includes a photograph, map or plan, but excludes any oral statement;

“working day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(c).

Consent to follow written representations procedure

3.—(1) Where—

- (a) the requirements of section 13A(2)(a) and, if applicable, of section 13A(2)(b) are satisfied; or
- (b) the requirements of paragraph 4A(2)(a) of Schedule 1 and, if applicable, of paragraph 4A(2)(b) of that Schedule are satisfied; and
- (c) in either case the authorising authority wishes to follow the written representations procedure prescribed for the purposes of that section or paragraph (as the case may be),

it shall send to each remaining objector a consent form in the form set out in the Schedule or in a form to the same effect.

(2) For the purposes of section 13A and paragraph 4A of Schedule 1, a remaining objector who wishes to consent to the written representations procedure shall—

- (a) complete the consent form sent to him in accordance with paragraph (1), and
- (b) return it to the address specified in the consent form by such means as will ensure that it is received at that address not later than the date specified in the consent form.

Notification of decision to follow the written representations procedure

4. Where the authorising authority decides to follow the written representations procedure, it shall inform each remaining objector and the acquiring authority, if not the authorising authority, in writing of—

- (a) the starting date;
- (b) the reference number allocated to the issue;
- (c) the address to which written communications to the authorising authority are to be sent; and
- (d) the title or description of every statement then in the possession of the authorising authority which it intends to consider in determining the issue.

(a) For the definition of “remaining objection”, see section 13A(1) of or, as the case may be, paragraph 4A(1) of Schedule 1 to, the Acquisition of Land Act 1981 as inserted by sections 100(6) and 101(4) of the Planning and Compulsory Purchase Act 2004.

(b) For the definition of “proper address”, see section 6(3) of the Acquisition of Land Act 1981.

(c) 1971 c.80

Representations

5.—(1) Any statement provided by the acquiring authority, when it served notice under section 12(1) or paragraph 3(1) of Schedule 1, to a person who, for the purposes of the written representations procedure, is a remaining objector (“an initial statement”), shall be treated, for those purposes, as part of the acquiring authority’s representations.

(2) If an acquiring authority which is not the authorising authority has not previously supplied the authorising authority with a copy of the initial statement, it shall do so within five working days of the starting date, or such longer period as the authorising authority may in the particular case allow; and the authorising authority may disregard any initial statement (other than one previously supplied) that is not supplied within that period.

(3) The remaining objection of a remaining objector shall be treated for the purposes of the written representations procedure as part of his representations; and, if it has not previously supplied the acquiring authority with a copy of the objection, the authorising authority (if not the acquiring authority) shall send a copy of the objection to the acquiring authority not later than five working days after the starting date.

(4) Subject to paragraph (10) and regulation 6(4), if the acquiring authority wishes—

- (a) to make further representations in support of the issue, it may do so provided that such representations are received by the authorising authority not later than 14 working days after the starting date, or such longer period as the authorising authority may in the particular case allow; or
- (b) to treat its initial statement as its only representations in relation to the issue, it shall notify the authorising authority and each remaining objector accordingly.

(5) The authorising authority may disregard further representations made under paragraph (4) if they are received by the authorising authority after the relevant period.

(6) The authorising authority shall send as soon as practicable to each remaining objector a copy of further representations made by the acquiring authority or notification that no such representations are to be taken into account.

(7) A remaining objector may—

- (a) make further representations, which must be received by the authorising authority not later than 15 working days after the authorising authority sends a copy of further representations or notification under paragraph (6), or such longer period as the authorising authority may in the particular case allow; or
- (b) notify the authorising authority and the acquiring authority that he does not wish to make further representations.

(8) The authorising authority may disregard representations made under paragraph (7) received by the authorising authority after the relevant period.

(9) The authorising authority (if not the acquiring authority) shall send as soon as practicable to the acquiring authority a copy of further representations made by a remaining objector or notification that no such representations are to be taken into account.

(10) The acquiring authority may make representations to the authorising authority in relation to a remaining objector’s further representations which must be received by the authorising authority not later than ten working days after the authorising authority sends a copy of the representations, or such longer period as the authorising authority may in the particular case allow.

(11) The authorising authority may disregard representations made under paragraph (10) if they are received by the authorising authority after the relevant period.

(12) The authorising authority shall send as soon as practicable to each remaining objector any representations made by the acquiring authority under paragraph (10) or notification that no such representations are to be taken into account.

(13) The authorising authority may request the acquiring authority and each remaining objector to provide the authorising authority with additional copies of representations within such reasonable time scale as the authorising authority may specify.

Third party representations

6.—(1) The authorising authority may permit representations to be made by any person who is not an acquiring authority or remaining objector to be received by the authorising authority not later than 14 working days after the starting date, or such longer period as the authorising authority may in the particular case allow.

(2) The authorising authority may disregard representations made under paragraph (1) if they are received by the authorising authority after the relevant period.

(3) The authorising authority shall send as soon as practicable to each remaining objector and the acquiring authority, if not the authorising authority, a copy of any representations made under paragraph (1), or notification that no representations under paragraph (1) are to be taken into account.

(4) The acquiring authority may make representations to the authorising authority in relation to any representations made under paragraph (1) to be received not later than ten working days after the authorising authority sends a copy of the representations under paragraph (1) to the acquiring authority, or such longer period as the authorising authority may in the particular case allow.

(5) The authorising authority may disregard representations made under paragraph (4) if they are received by the authorising authority after the relevant period.

(6) The authorising authority may request any person making representations under paragraph (1) or the acquiring authority to provide the authorising authority with additional copies of representations within such reasonable time scale as the authorising authority may specify.

Appointment of an inspector

7. The authorising authority may appoint an inspector—

- (a) to consider the statements under regulation 4(d) and the representations provided in accordance with regulations 5 and 6;
- (b) to undertake a site inspection, if appropriate; and
- (c) to report in writing to the authorising authority with a recommendation in respect of the issue.

Site inspections

8.—(1) The inspector may, at any time, make—

- (a) an unaccompanied inspection without giving prior notice to the acquiring authority or the remaining objectors; or
- (b) an inspection in the company of a representative of the acquiring authority and each remaining objector,

of land which is the subject of the compulsory purchase order and of the surrounding area.

(2) In the case of an inspection under paragraph (1)(b), the authorising authority shall send notification of the date and time of the inspection to the acquiring authority if it is not the authorising authority and the remaining objectors not later than five working days before that date.

(3) The inspector shall not be bound to defer an inspection under paragraph (1)(b) at the time appointed.

(4) If a request for an inspection under paragraph (1)(b) is made by the acquiring authority or a remaining objector and is received by the authorising authority not later than ten working days after the starting date, the authorising authority must arrange for such an inspection to take place.

Decision

9.—(1) Subject to paragraph (2), where the authorising authority considers that it has sufficient material to make a decision on the issue, it may do so notwithstanding that—

- (a) the acquiring authority or a remaining objector gave notice that it or he wished to make further representations; and
 - (b) no further representations have been provided within the period specified in regulation 5 or 6 or such longer period as has been allowed in the particular case.
- (2) Where paragraph (1) applies, a decision shall not be made unless—
- (a) the authorising authority has given to the acquiring authority and to each remaining objector notice of its intention to make a decision; and
 - (b) at least ten working days have elapsed since that notice was given.

Notification of decision

10.—(1) The authorising authority shall send written notice of its decision and of the reasons for it to—

- (a) the acquiring authority;
- (b) each remaining objector; and
- (c) any other person permitted to make representations under regulation 6.

(2) Where an inspector was appointed under regulation 7, a person of a description specified in paragraph (1) above may, within 28 days of the date of the notice sent to it or him under that paragraph, apply to the authorising authority in writing for a copy of the inspector's report.

(3) Where the authorising authority receives an application under paragraph (2) it shall send a copy of the report to the applicant not later than ten working days after receipt of the application.

(4) A person of a description specified in paragraph (1) may apply to the authorising authority in writing for the opportunity to inspect any document appended to the inspector's report or otherwise taken into account by the authorising authority in reaching its decision.

(5) An application under paragraph (4) shall be made before the expiry of six weeks beginning with the date of first publication of the confirmation notice^(a) (pursuant to section 15(3)) or, as the case may be, the making notice^(b) (pursuant to paragraph 6(3) of Schedule 1).

(6) The authorising authority shall, as soon as reasonably practicable after receipt of an application under paragraph (4), make arrangements for enabling the inspection to take place; but it shall not be required to make available for inspection any document that has previously been supplied to the person by whom the application is made.

Signed by authority of the First Secretary of State

4th October 2004

Keith Hill
Minister of State
Office of the Deputy Prime Minister

^(a) For the definition of "confirmation notice", see section 15(4) of the Acquisition of Land Act 1981 as inserted by section 100(7) of the Planning and Compulsory Purchase Act 2004.

^(b) For the definition of "making notice", see paragraph 6(4) of Schedule 1 to the Acquisition of Land Act 1981 as inserted by section 101(5) of the Planning and Compulsory Purchase Act 2004.

SCHEDULE

Regulation 3(1)

[(a)]

FORM OF CONSENT TO THE WRITTEN REPRESENTATIONS PROCEDURE

(under the Compulsory Purchase of Land (Written Representations Procedure)(Ministers)
Regulations 2004)

The [(b)] acknowledges receipt of your objection to the [confirmation][making](c) of the above order. [He][She](c) is considering whether objections should be dealt with by a written representations procedure.

[He][She](c) accepts that you are a remaining objector for the purposes of the Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004. This means that you have a right to have your representations objecting to the [confirmation][making](c) of the order heard at an inquiry or hearing.

More specifically such a right means that you or your representative has the right at such a public local inquiry—

- to explain orally why you object to the [confirmation][making](c) of the order;
- to cross-examine any witness called by the acquiring authority; and
- to give oral evidence yourself and to call any witnesses in support of your objection.

The written representations procedure will enable you and any other remaining objectors to make written representations as to whether the order should be [confirmed][made](c) if you and all the other remaining objectors consent to this. The written representations procedure is set out in the Compulsory Purchase of Land (Written Representations Procedure)(Ministers) Regulations 2004. A summary of the procedure is set out in the Annex to this form.

If you and all the other remaining objectors consent and the [(b)] decides that it is appropriate to use the written representations procedure, it will not be possible for you to withdraw your consent and be heard orally at an inquiry, but the [(b)] may decide that there are extenuating circumstances justifying the holding of an inquiry. If you consent but it is nonetheless decided to hold an inquiry, you would still have a right to appear at the inquiry.

You may wish to seek legal or other advice before deciding whether or not to consent to the written representations procedure. The [(b)] and [his][her](c) staff are not able to give you any advice as to whether or not you should consent.

If you do not consent, arrangements will be made for the holding of an inquiry at which you will have the opportunity to make representations. The procedure at such an inquiry is set out in the [Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990 (S.I. 1990/512)][Compulsory Purchase by Ministers (Inquiries Procedure) Rules 1994 (S.I. 1994/3264)](c).

Please complete the statement at the end of this form including your name and address to indicate whether you consent to the use of the written representations procedure, sign and date in the spaces given and return the form to [(d)] by [(e)].

I, [], have read the above which I understand. I consent/do not consent to the use of the written representations procedure.

Signed.....

Name.....

(in block capitals)

Address.....

Dated.....

ANNEX

Summary of the written representations procedure

(1) If the [(b)] decides that the use of the written representations procedure is appropriate, a consent form will be sent to all those with remaining objections to seek their consent to the use of the procedure. Only if all such objectors consent, may the [(b)] decide that the procedure should apply.

(2) If it is determined to apply the procedure, the [(b)] will set a starting date for its commencement and will indicate what existing documents are to be taken into account in addition to the subsequent representations.

(3) Unless the acquiring authority elects not to do so, it must provide representations (which may be disregarded if received more than 14 working days after the starting date) which must be copied to each remaining objector.

(4) Each remaining objector has a right to provide representations as to whether the compulsory purchase order should be [confirmed][made](c), which may be disregarded if received more than 15 working days after the [(b)] sends the remaining objector a copy of the acquiring authority's representations.

(5) The acquiring authority may then provide representations in response, which may be disregarded if received more than ten working days after the [(b)] sends a copy of the remaining objectors' representations.

The [(b)] may extend these time limits. Oral representations are not permitted. Written representations sent by third parties in response to the earlier notice of the [making][preparation in draft](c) of the compulsory purchase order may also be allowed.

NOTES FOR THE CONFIRMING AUTHORITY OR MINISTER ON THE DRAFTING OF THE CONSENT FORM

- (a) Insert full title of the order.
- (b) Insert the name of the confirming authority or Minister.
- (c) Delete material which is inapplicable.
- (d) Insert address to which the form is to be returned.
- (e) Insert date by which the form is to be returned.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the written representations procedure that may be used for deciding whether to authorise the compulsory purchase of land in England and Wales. They apply only when the acquiring or confirming authority is a Minister of the Crown. The procedure may only be used for compulsory purchase orders that are subject to the Acquisition of Land Act 1981 and not subject to special parliamentary procedure.

When there are objections to authorising compulsory purchase, the written representations procedure may be used as an alternative to holding an inquiry or hearing. It is necessary for all objectors whose objections have not been disregarded or withdrawn to consent in the prescribed manner. If land acquired by a statutory undertaker for the purposes of their undertaking is to be compulsorily acquired, the procedure is not to be used where representations are made as to the continuing need for the use of the land and no certificate has been issued by the appropriate Minister under section 16(2) of the Act.

The main steps in the procedure are –

- (a) If the confirming authority or the Minister acquiring land determines that the use of a written representations procedure is appropriate, a consent form in the form set out in the Schedule to these Regulations will be sent to all those with remaining objections, seeking their written consent to the use of the procedure (regulation 3).
- (b) Only if all such objectors so consent, may the confirming authority or Minister determine that the procedure should apply, and set a starting date for the procedure to commence (regulation 4).
- (c) Any documents served by the acquiring authority on the remaining objectors at the time of the making or preparation in draft of the compulsory purchase order, and any letters and other documents provided to the confirming authority or Minister as objections to, or in support of, confirmation or making, are to form part of the representations to be considered (regulation 5(1) and (3)).
- (d) Unless the acquiring authority elects not to do so, it may make representations in support of its application which may be disregarded if received later than 14 working days after the starting date. Such representations will be copied to each remaining objector (regulation 5(4) and (5)).
- (e) Any remaining objector may make representations on authorising the proposed compulsory purchase, which may be disregarded if received later than 15 working days after the confirming authority or Minister sends a copy of the acquiring authority's representations or notification that no further representations have been made (regulation 5(7) and (8)).
- (f) In response to a remaining objector's representations, the acquiring authority may make representations, which may be disregarded if received later than 10 working days after the confirming authority or Minister sends a copy of the remaining objectors' representations (regulation 5(10) and (11)).
- (g) The confirming authority or Minister may permit representations to be made by any other person, which may be disregarded if received later than 14 working days after the starting date set for the procedure. In response to any such representations, the acquiring authority may make representations, which may be disregarded if received later than 10 working days after the confirming authority or Minister sends a copy of that other person's representations to the acquiring authority (regulation 6).
- (h) The confirming authority or Minister may extend the time limits in any particular case.
- (i) The confirming authority or Minister may appoint an inspector to consider the representations, to undertake a site inspection, if appropriate, and to report in writing to the confirming authority or Minister with a recommendation (regulation 7).

- (j) The inspector may at any time make a site inspection of the land the subject of the compulsory purchase order and the surrounding area. The inspector may make the inspection either unaccompanied without giving prior notice to the acquiring authority and the remaining objectors, or in the company of a representative of the acquiring authority and the remaining objectors. (regulation 8(1)). Notification of the date and time of an accompanied inspection must be sent to the acquiring authority and the remaining objectors by the confirming authority or Minister not later than 5 working days before the inspection (regulation 8(2)). The inspector need not defer an accompanied inspection where the acquiring authority's representative or a remaining objector is not present (regulation 8(3)).
- (k) The confirming authority or Minister must arrange a site inspection if within 10 working days of the starting date the acquiring authority or a remaining objector requests him to do so. (regulation 8(4)).
- (l) The confirming authority or Minister will then decide whether to confirm or make the compulsory purchase order. The regulations provide for the making of a decision where the acquiring authority or a remaining objector fails to make representations within the time permitted (regulation 9).
- (m) The Regulations also provide for notice to be given of the decision and the reasons for it, for the supply of copies of the inspector's report, and for the inspection of relevant documents (regulation 10).

A Regulatory Impact Assessment has been prepared in relation to these Regulations. It has been placed in the Library of each House of Parliament and copies may be obtained from the Compulsory Purchase and Compensation Branch, Planning Directorate, Office of the Deputy Prime Minister, Eland House, Bressenden Place, London SW1E 5DU (telephone 0207 944 3928) or email CPOCROWN@odpm.gsi.gov.uk

STATUTORY INSTRUMENTS

2004 No.2594

ACQUISITION OF LAND, ENGLAND AND WALES

The Compulsory Purchase of Land (Written Representations
Procedure) (Ministers) Regulations 2004

£3.00

© Crown copyright 2004

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1355 10/2004 141355T 19585

ISBN 0-11-049899-2



9 780110 498997