

Recent changes to the confirmation and execution of CPOs

James Neill

Legislative framework governing confirmation and implementation of CPOs



- Procedure for making and confirming CPOs governed by Acquisition of Land Act 1981
- Implementation by CPO governed by notice to treat (“NTT”) and notice of entry
- Implementation of CPO by General Vesting Declaration (“GVD”) governed Compulsory Purchase (Vesting Declarations) Act 1981
- NTT procedure preferable if Acquiring Authority wishes to develop CPO land itself and needs to commence work on site immediately
- GVD preferable for land assembly and development by 3rd party

No radical changes introduced by the Housing and Planning Act 2016 and the Neighbourhood and Planning Act 2017



- Main changes are aimed at trying to speed up the process of confirmation and implementation of CPOs
- **Confirmation:** can now be by an Inspector, High Court can quash confirmation decision rather than forcing authority to make CPO again, and timetables for confirmation of CPOs will now be set.
- **Implementation:** Harmonisation of the NTT and GVDs methods of implementation, at least in terms of time limits to exercise CP powers under a CPO

Timetables for confirmation by CPOs now mandatory...but no consequences if not adhered to



- Section 180 HPA 2017 inserted new section 14B and 14C ALA 1981 (NB not yet in force).
- Section 14B requires the SofS to publish one or more timetables setting out the steps to be taken by confirming authorities in confirming a compulsory purchase order
- Subsection 4 states that *“the validity of an order is not affected by any failure to comply with a timetable published under this section”*

Direct confirmation of CPOs by an inspector



- Section 14D enables a confirming authority (in most cases the SofS) to act instead of it in relation to the confirmation of a compulsory purchaser order
- Appointment may be revoked at any time, but authority must give reasons

High court's power to quash the decision to confirm the CPO



- Section 201 HPA 2016 amends section 24 ALA 1981. Subsection 3 now states:

“If the court has power under subsection 22 to quash a compulsory purchase order it may instead quash the decision to confirm the order generally or in so far as it affects any property of the applicant”

- Section 201 inserts provisions into ALA 1981 which provide for an automatic extension of time to the service of an NTT or GVD during any High Court challenge

New 6 week time limit to serve a confirmation notice...but SoS can step in and remedy



- Section 34 NPA 2017 inserts new subsection 3A into section 15 ALA 1981, which states:

(3A) The acquiring authority must comply with subsections (1) and (3) before the end of—

(a) the period of 6 weeks beginning with the day on which the order is confirmed, or

(b) such longer period beginning with that day as may be agreed in writing between the acquiring authority and the confirming authority.

(3B) If the acquiring authority fails to comply with subsections (1) and (3) in accordance with subsection (3A), the confirming authority may—

(a) take any steps that the acquiring authority was required but has failed to take to comply with those subsections, and

(b) recover the reasonable costs of doing so from the acquiring authority

Clarification of time limits for service of NTTs and $\frac{L}{C}$ execution of GVDs

- New section 4 CPA states:

“A notice to treat may not be served by the acquiring authority after the end of the period of 3 years beginning with the day on which the compulsory purchase order becomes operative”
- Similar provision for GVDs inserted as section 5A CP(CD)A 1981.
- Ends uncertainty under previous section 4 CPA as to what the exercise of compulsory purchase powers meant (and whether it could be achieved by service of a section 3 notice under the CP(VD)A 1981

Vesting declarations: removal of preliminary notice of intention and extension to minimum vesting date



- Section 183 introduces new Schedule 15, which changes the notice requirements for GVDs
- Section 3 and section 5(1) CP(VD)A repealed: no longer any need to serve a preliminary notice of intention before a GVD can be executed.
- Prescribed statement about the effect of Part 2 and 3 CP(VD)A must now be included in the confirmation notice itself
- Section 184 amends section 4 CP(VD)A 1981: minimum period after which land may vest after service of the execution notices extended from 28 days to 3 months
- Parallel extension for notice of entry following an NTT – 3 months notice (formerly 14 days)

Counter-notices to notices of entry

- Section 187 NPA provides for service of counter-notices requiring possession to be taken on a specified date
- Date specified in the counter-notice must be not later than 28 after the date of the counter-notice and not before the end of the period specified in the notice of entry
- Directed towards the removal uncertainty and prejudice to an occupier when an acquiring authority does not enter and take possession on the date specified in a notice of entry

Procedures for objecting to division of land



- New Schedule 2A CPA 1965, setting out process for serving counter-notices requiring the purchase of land not specified in the NTT
- Part 3 of Schedule 2A deals with the determination of counter-notices referred to the Lands Tribunal by the acquiring authority, including factors that must be taken into account in the determination. These include whether they would cause material detriment to the house, building or factory.