

Compulsory Temporary Possession of Land

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Existing law

- CPOs only allow permanent acq or acq of (permanent) new rights
- Exceptions:
 - Special/hybrid Acts (CTRLA 1996, CA 2008, HSR(L-WM)A 2017)
 - TWA orders
 - DCOs (IP(MP)(E&W)O 2009)



New law



- Neighbourhood Planning Act 2017 - RA 27 April 2017 - Pt2 Ch1 not in force (dtba) - E&W only
- Background: March 2015 consultation; Housing & Planning Act 2016; March 2016 consultation; government response Sept 2016; NPA 2017

The power: s.18

- All with power to CPO land (e.g. local authorities, certain agencies, statutory undertakers etc) given power to take temp poss of it (or a new right over land) by agreement or compulsorily
- This is only power by which temp poss may be obtained – subject to express provision in another Act (e.g. a hybrid Act for a major infrastructure project).

Procedure: s.19

- May be authorised in same way as a compulsory acquisition would have been authorised for the same purpose as the temp poss, for example through a CPO
- Authorising Instrument: to identify land, describe purposes & specify total period
- May include both compulsory acquisition & temp poss of other land; temp poss of land only; & both temp poss & compulsory acquisition of the same land.

Notice requirements: s.20

- AAs to give >3 months' notice of intended entry to those with an interest in or right to occupy the land & to specify the period for which temp poss to be taken.
- Power to be exercised within 3 years authorised by a CPO, or 5 years in any other case (e.g. a DCO).

Counter-Notice: s.21

- Owner (freeholder or leaseholder) may serve a C-N within 28 days, limiting period for which AA may take temp poss to either 12 m. (dwelling, or part) or 6 y
- AA may (also within 28 days) (i) accept C-N (limit the period as requested), (ii) withdraw its notice of entry, or (ii) CPO the land
- Leaseholder may instead opt to give C-N preventing AA from taking temp poss; AA then to either accept the C-N or CPO the land
- Mat. detriment provs. (CPA 1965 or CP(VD)A 1981) apply if part of house, building or factory purchased.

Compensation: s.23

- Claimant with an interest/right to occupy entitled to compensation for any loss or injury sustained as a result of the temp poss
- 'Beneficial Claimants' (land benefitting from a 'relevant right or interest' or a restrictive covenant) also entitled to compensation
- If C carrying on a trade or business, compensation incs any loss suffered because of disturbance due to having to quit the land (relevant matters set out)
- Disputes to Lands Chamber
- Provision for Advance Payments: s.24

AA's powers in relation to land: s.27

- Use land as if it had acquired all interests in it
- In particular, remove or erect buildings or other works and remove any vegetation
- Use even if this involves interfering with a “relevant right or interest” or a restrictive covenant (limited exceptions)
- But use limited to purposes for which temp poss required as set out in the AI (& subject to regs under s.29).

Supplementary: s.29



- SoS & WMs required to make regs about reinstatement & resolution of disputes about it
- SoS may exclude these provisions in relation to AA under Pipe-lines Act 1962, Gas Acts 1965 & 1986 or Electricity Act 1989
- SOS & WMs may make other regs which make different provision for different types of land (such as residential).

