EXPLANATORY MEMORANDUM TO

THE COMPULSORY PURCHASE OF LAND (CONDITIONAL CONFIRMATION) REGULATIONS 2026

2026 No. 308

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Matthew Pennycook MP, Minister of State for Housing and Planning at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Lucy Hargreaves, Deputy Director for Development Management, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Andrew Ward at the Ministry of Housing, Communities and Local Government Telephone: 0303 444 4224 or email: PDMCorrespondence@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 Section 183 of, and paragraph 3 in Schedule 19 to, the Levelling Up and Regeneration Act 2023 ("the 2023 Act") inserted section 13BA and paragraph 4AA in Schedule 1 into the Acquisition of Land Act 1981 ("the 1981 Act") which introduced a power for decision makers to grant compulsory purchase orders (CPOs) subject to conditions. Where a CPO is granted subject to conditions, before the compulsory purchase power can be exercised by the relevant authority ('acquiring authority'), the conditions must be discharged by the decision maker either on an application made by the acquiring authority, or, where the acquiring authority is a Minister, after that Minister has proceeded through a separate decision-making procedure.

4.2 The 1981 Act requires the government to make regulations which prescribe the procedure to be followed where the acquiring authority considers the conditions specified by the decision maker when it granted the CPO have been met. Also, to allow objectors to the CPO to make representations on the application.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 The 2023 Act contains a package of reforms to improve and make the compulsory acquisition process more flexible. One of those reforms is the introduction of a power to enable decision makers to grant CPOs subject to conditions which must be met before the relevant compulsory purchase power can be used. This statutory instrument sets out the procedure to be followed for the:

(a) submission of applications by the acquiring authority (who is not a Minister) to the decision maker for the discharge of conditions;

(b) giving notices to objectors that an application for the discharge of conditions has been submitted to the decision maker;

(c) allowing written representations to be made on applications for the discharge of conditions; and

(d) giving notice of the decision maker's decision on whether conditions have been met.

5.2 It also sets out the procedure to be followed where the acquiring authority is a Minister and they consider the conditions have been met. This includes:

(a) giving notices to objectors that the Minister considers the conditions imposed on the CPO have been met;

(b) allowing written representations to be made on whether the conditions imposed on the CPO have been met; and

(c) giving notice of the decision on whether conditions have been met.

What was the previous policy, how is this different?

5.3 Previously, CPOs could only be granted, rejected or withdrawn. Where a CPO is rejected, for example on the basis the landowner had alternative proposals for the land subject to the CPO, if the landowner did not progress their scheme, the acquiring authority would have to re-establish the compelling case for use of a CPO and the CPO process would have to be re-commenced from the beginning. This can cause delays to the progress of schemes, delivery of benefits in the public interest, and increase financial implications for acquiring authorities.

5.4 To support use of CPOs in bringing forward development in the public interest, the 2023 Act introduced a power to enable decision makers to grant CPOs subject to conditions. Use of the power will allow the compelling case for use of a CPO, which must always be demonstrated, to be established earlier in the land assembly process. This will be particularly useful on sites where alternative proposals to the scheme underpinning the CPO have been put forward by landowners.

6. Legislative and Legal Context

How has the law changed?

6.1 The 1981 Act sets out the process for the consideration of objections and the determination of CPOs. The 1981 Act (as amended by the 2023 Act) provides a power for the decision maker on a CPO to grant it, grant it with conditions, or to refuse it. Where a CPO is granted subject to conditions, before the CPO power can be used by

the acquiring authority, it must satisfy procedural requirements to confirm the conditions have been met.

6.2 This instrument is required by the 1981 Act (as amended by the 2023 Act) to establish the procedure requirements for the determination of whether the conditions on CPOs have been met. The procedure also ensures objectors are notified of those applications, provides an opportunity for relevant objectors to make representations, and ensures objectors are notified of the decision maker's decision on the discharge of conditions on CPOs.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes required by the 1981 Act (as amended by the 2023 Act).

7. Consultation

Summary of consultation outcome and methodology

7.1 There has been no public consultation on the changes being introduced through this statutory instrument which reflect the 2023 Act. They are technical, procedural changes in nature which are necessary to give full effect to reforms introduced by section 183 of, and paragraph 3 in Schedule 19 to, the 2023 Act. Key stakeholders were engaged in the development of those reforms and they were subject to detailed Parliamentary scrutiny during the passage of the Acts through Parliament.

8. Applicable Guidance

8.1 Guidance relating to the procedure for the granting of CPOs subject to conditions will be included in the updated Government's Guidance on Compulsory Purchase Process and The Crichel Down Rules when it is published in 2026[1].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the changes being made will not have a significant cost impact on any party.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because although compulsory purchase which can be initiated by any public sector acquiring authority, use of compulsory purchase powers is rare as they are only available where negotiations to acquire land by agreement have failed and there is a compelling case for use of the powers.

Where they are used to deliver a major regeneration scheme or transport project, it is usually a one-off event. The instrument provides the procedure to allow objectors to a CPO (which could be a business, charity or voluntary body) to submit written representations on an acquiring authority's application to discharge conditions on a CPO. The costs of submitting written representations will not be recoverable unless the application to discharge conditions is refused.

[1] https://www.gov.uk/government/publications/compulsory-purchase-process-guidance

As the change associated with this instrument, i.e. the power to conditionally grant CPOs, will be used in narrow, specific situations, businesses, charities or voluntary bodies will be impacted in rare instances and only where they object to the relevant CPO. The Ministry estimates the time taken by objectors (which could be a business, charity or voluntary body), and costs to prepare and submit written representations to applications for the discharge conditions on CPOs by consultants on their behalf, will vary depending on the nature of the application i.e. the quantity and complexity of the conditions which they are making writing representations on:

- 3.5 hours for low complexity applications with approximate costs of £122.92
- 7 hours for medium complexity applications with approximate costs of £245.84
- 14 hours for high complexity applications with approximate costs of £491.68

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is on public sector acquiring authorities and the Planning Inspectorate. The Ministry estimates the costs to public sector acquiring authorities of preparing and submitting applications for the discharge of conditions on CPOs will vary depending on the nature of the application i.e. the quantity and complexity of the conditions subject to the application:

- for low complexity applications, the costs are likely to range between £520.92 and £3,124.49,
- for medium complexity applications, the costs are likely to range between £3,125.53 and £15,626.62, and
- for high complexity applications, the costs are likely to range between £15,627.67 and £41,672.73.

As the estimated economic impact of this instrument will not be greater than the ± £10m Equivalent Annual Net Direct Cost to Business threshold, and therefore below the de minimis threshold, an Impact Assessments appraisal of the economic impact is not required. There will be familiarisation costs for public sector acquiring authorities and the Planning Inspectorate to adjust to the procedure for the discharge of conditions on CPOs.

9.5 Giving the limiting factors outlined in paragraphs 9.4 above, it is considered the financial impact on the public sector as a result of this instrument will not be significant.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Ministry of Housing, Communities and Local Government will continue to keep the CPO process under review. The approach to monitoring this legislation is through routine engagement with the sector and key stakeholders.

10.2 This instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Matthew Pennycook MP, Parliamentary Under Secretary of State for Housing and Planning at the Ministry of Housing, Communities and Local Government has made the following statement:

The government considers that a statutory review provision is not an appropriate way of keeping these regulations under review because the regulations have no significant regulatory impact on businesses, in terms of the Statutory Guidance under section 31 of the Small Business, Enterprise and Employment Act: Determining whether it is appropriate to make provision for review (Post-Implementation Review Guidance) (September 2023) ("the Guidance").

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").