STATUTORY INSTRUMENTS

2024 No. 915

ACQUISITION OF LAND, ENGLAND

COMPENSATION

The Land Compensation (Additional Compensation) (England) Regulations 2024

Made - - - -	*6th September 2024*
Laid before Parliament	*9th September 2024*
Coming into force - -	*1st October 2024*

The Secretary of State makes these Regulations in exercise of the powers conferred by paragraphs 6(1) and (4), 7 and 8 of Schedule 2A to the Land Compensation Act 1961(**a**).

PART 1
INTRODUCTORY

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Land Compensation (Additional Compensation) (England) Regulations 2024 and come into force on 1st October 2024.

(2) These Regulations extend to England and Wales and apply in relation to England.

Interpretation

2. In these Regulations—

"the 1981 Act" means the Acquisition of Land Act 1981(**b**);

"the Act" means the Land Compensation Act 1961;

"agricultural land" has the meaning given in section 109 of the Agriculture Act 1947(**c**);

"Bank of England base rate" means—

(a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is

(**a**) 1961 c. 33; Schedule 2A was inserted by section 190(2)(c) of the Levelling-up and Regeneration Act 2023 (c. 55).
(**b**) 1981 c. 67.
(**c**) 1947 c. 48. Section 109 was amended by S.I. 1978/446.

willing to enter into transactions for providing short term liquidity in the money markets, or

(b) where an order under section 19 of the Bank of England Act 1998(**a**) (reserve powers) is in force, any equivalent rate determined by the Treasury under that section;

"compulsory purchase order" means an order conferring authorisation of a compulsory purchase;

"ecclesiastical property" has the same meaning as in section 12(3) of the 1981 Act(**b**);

"electronic communication" has the meaning given in section 15(1) of the Electronic Communications Act 2000(**c**);

"electronic copy" means a copy of a document or information sent using electronic communication;

"Estates Gazette" means EG magazine, a magazine formerly known as the Estates Gazette, published weekly by Lexis Nexis Risk Solutions featuring news and data about the UK commercial property market;

"Farmers Weekly" means the magazine of this name published weekly by the Mark Allen Group featuring news and information for and about the British farming industry;

"postal address" includes, in the case of an incorporated company or body, the address of the registered or principal office of that company or body;

"working day" means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday in England under the Banking and Financial Dealings Act 1971(**d**).

PART 2

DIRECTIONS FOR ADDITIONAL COMPENSATION

Applications for directions for additional compensation

3.—(1) An application by an eligible person(**e**) for a direction for additional compensation under paragraph 1(2) of Schedule 2A to the Act must—

(a) contain a completed version of the application form set out in the Schedule;

(b) be accompanied by a statement setting out the basis on which the eligible person considers the conditions in paragraph 1(3) of Schedule 2A to the Act to have been met.

(2) The application may be accompanied by any other information that the applicant considers necessary in support of the statement.

(3) The confirming authority(**f**) may disregard any information provided to it by the applicant after receipt by the confirming authority of the applicant's application, other than further representations provided in accordance with regulation 6(2)(a).

(**a**) 1998 c. 11.
(**b**) 1981 c. 67. Section 12(3) was amended by paragraph 24(1) of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1).
(**c**) 2000 c. 7. Section 15(1) was amended by section 406(1) of, and paragraph 158 of Schedule 17 to, the Communications Act 2003 (c. 21).
(**d**) 1971 c. 80.
(**e**) See paragraphs 1(6), 4(1) and 5 of Schedule 2A to the Act for the meaning of "eligible person".
(**f**) See paragraph 9(1)(a) of Schedule 2A to the Act for the meaning of "confirming authority".

Notification of rejection of invalid application

4.—(1) The confirming authority must reject any application for a direction for additional compensation that it considers does not comply with the requirements of regulation 3(1).

(2) As soon as reasonably practicable after rejecting an application under paragraph (1), the confirming authority must notify the applicant of that rejection in writing.

(3) A notification under paragraph (2) must set out the confirming authority's reasons for rejecting the application.

Notification of valid application

5.—(1) Within the period of 15 working days beginning with the first working day after it receives an application that it considers complies with the requirements of regulation 3(1), the confirming authority must—

(a) notify each of the acquiring authority(**a**) and the applicant in writing that it has received and accepted the application;

(b) provide a written copy of the application, together with any accompanying documents and information received from the applicant apart from any it has disregarded under regulation 3(3), to the acquiring authority;

(c) notify the acquiring authority that—

(i) it may make written representations about—

(aa) the application's compliance with regulation 3(1), and

(bb) whether the conditions in paragraph 1(3) of Schedule 2A to the Act have been met in respect of the compulsory purchase order referred to in the application;

(ii) the confirming authority may disregard any written representations which it receives after the expiry of—

(aa) the period of 15 working days beginning with the first working day after the date it sent the notification, or

(bb) such longer period as the confirming authority notifies the acquiring authority of in writing within the period referred to in sub-paragraph (aa).

(2) At the same time, the confirming authority must also send to the local planning authority an electronic copy of—

(a) the application,

(b) the notification to the acquiring authority under paragraph (1)(a), and

(c) any accompanying documents and information received from the applicant, apart from any it has disregarded under regulation 3(3),

and may send the same information to any other person it considers appropriate.

(3) Where the confirming authority sends copies and information in accordance with paragraph (2) to any person it must provide notification that—

(a) the person may make written representations as to the matters referred to in paragraph (1)(c)(i);

(b) the confirming authority may disregard any written representations which it receives after the expiry of—

(**a**) See section 39(1) of the Act for the meaning of "acquiring authority".

(i) the period of 15 working days beginning with the first working day after the date it sent the notification, or

(ii) such longer period as the confirming authority notifies the person of in writing within the period referred to in paragraph (3)(b)(i).

(4) As soon as reasonably practicable following receipt of the notification under paragraph (1)(a) the acquiring authority must—

(a) send the confirming authority electronic copies of—

(i) the compulsory purchase order referred to in the application,

(ii) the statement of commitments(**a**) it made in respect of that compulsory purchase order, and

(iii) its notice of the confirmation or making of that compulsory purchase order as was served in compliance with—

(aa) section 15(1)(a) of the 1981 Act(**b**),

(bb) paragraph 6(1)(a) of Schedule 1 to the 1981 Act(**c**),

(cc) paragraph 5 of Schedule 4 to the New Towns Act 1981(**d**), or

(dd) paragraph 5 of Schedule 5 to the New Towns Act 1981(**e**), or

(b) where any of that information is no longer in its possession or control, send written notification of this to the confirming authority.

(5) Where the acquiring authority notifies the confirming authority that any of the information referred to in paragraph (4) is no longer in its possession or under its control the confirming authority must take reasonable steps to obtain such information.

Further representations

6.—(1) As soon as reasonably practicable after receiving any written representations, the confirming authority must send a copy of those representations to the applicant.

(2) The confirming authority must notify the applicant that—

(a) the applicant may make further representations in writing to the confirming authority in response to those written representations;

(b) the confirming authority may disregard any further representations which it receives from the applicant after expiry of—

(i) the period of 15 working days beginning with the first working day after the confirming authority sent the particular written representations to which the further representations respond, or

(ii) such longer period as the confirming authority notifies the applicant of in writing within the period referred to in sub-paragraph (b)(i).

Notice of decision

7.—(1) The confirming authority must provide written notice of its decision as to whether to make a direction for additional compensation and the date it was made, together with written reasons, to—

(**a**) See paragraph 1(4) of Schedule 2A to the Act for the meaning of the "statement of commitments".
(**b**) Section 15 was substituted by section 100(7) of the Planning and Compulsory Purchase Act 2004 (c. 5).
(**c**) Paragraph 6 was substituted by section 101(5) of the Planning and Compulsory Purchase Act 2004 (c. 5).
(**d**) 1981 c. 64; paragraph 5 was amended by S.I. 2017/16.
(**e**) Paragraph 5 was substituted by S.I. 2017/16.

(a) the applicant,

(b) the acquiring authority, and

(c) any person whom it notified under regulation 5(2).

(2) Where the confirming authority's decision is to make a direction for additional compensation, written notice of its decision must include notification that a claim for additional compensation may be made to the acquiring authority in accordance with regulations 9 and 10.

(3) A notification made under both paragraphs (1)(a) and (2) must contain contact details for the acquiring authority to which any claim for additional compensation should be made.

Publication of decision

8.—(1) Where the confirming authority decides to make a direction for addition compensation, by the end of the period of 6 weeks beginning with the first working day after receiving notice of the confirming authority's decision, or such longer period as the confirming authority and acquiring authority may agree in writing, the acquiring authority must—

(a) publish on a website maintained by the acquiring authority for a period of not less than one year a notice containing—

(i) a copy of the confirming authority's notice of decision together with written reasons;

(ii) the title of the compulsory purchase order to which the direction for additional compensation relates ("the original compulsory purchase order") and a description of the scheme or project underlying the original compulsory purchase order;

(iii) a map showing the land comprised in the original compulsory purchase order ("the original compulsory purchase order land");

(iv) a statement inviting any person who would be eligible to claim additional compensation to submit a claim to the acquiring authority in accordance with regulations 9 and 10, as applicable;

(v) the date by which any question of dispute concerning a claim for additional compensation may be referred for determination by the Upper Tribunal (Lands Chamber), which is to be calculated as the day before the expiration of a period of six years beginning with the decision date in regulation 7(1);

(b) affix a public notice containing a statement that the confirming authority has made a direction for additional compensation in accordance with paragraph 1(2) of Schedule 2A to the Act and the same information as set out in paragraph (1)(a)(ii) to (v) ("the relevant information") in at least one place—

(i) on or near the original compulsory purchase order land, and

(ii) in the locality in which that land is situated where public notices are usually posted,

and take reasonable steps to protect and maintain the notice in place and in good condition for at least 1 month, repairing any damage or replacing damaged notices with another copy;

(c) publish a notice for two successive weeks in each of the London Gazette, the Estates Gazette and a local newspaper that circulates in the locality in which the original compulsory purchase order land is situated containing a statement that the confirming authority has made a direction for additional compensation in accordance with paragraph 1(2) of Schedule 2A to the Act and the relevant information;

(d) where the original compulsory purchase order land included land that was agricultural land immediately before it was acquired by the acquiring authority, publish a notice for two successive weeks in Farmers Weekly containing a statement that the confirming

authority has made a direction for additional compensation in accordance with paragraph 1(2) of Schedule 2A to the Act and the relevant information.

(2) Where the current postal address or address for electronic communication of a person who was entitled to compensation in respect of the acquisition of the original compulsory purchase order land is known to the acquiring authority, it must send copies of the decision and written reasons under paragraph (1)(a) and the relevant information to that person—

(a) by recorded delivery to the person at that postal address, or

(b) by electronic communication to the person at that address for electronic communication.

(3) Where the original compulsory purchase order land included ecclesiastical property, the acquiring authority must send copies of the decision and written reasons under paragraph (1)(a) and the relevant information to the Diocesan Board of Finance for the diocese in which the land is situated.

(4) Where the current postal address and address for electronic communication of a person who was entitled to compensation in respect of the acquisition are not known to the acquiring authority, it must take reasonable steps to ascertain this information, including by contacting any agent or solicitor known by the acquiring authority to have acted for that person in respect of the original compulsory purchase order.

PART 3
CLAIMS FOR ADDITIONAL COMPENSATION

Procedure for making a claim for additional compensation

9. A claim for additional compensation must—

(a) be made to the acquiring authority;

(b) be made in writing;

(c) set out the title of the original compulsory purchase order;

(d) provide a statement of the extent, description and situation of the land interest comprised in the original compulsory purchase order in respect of which the claimant or, where applicable, the claimant's predecessor in title was entitled to compensation ("the claimant's land"), including a postal address with postcode or Ordnance Survey National grid reference point;

(e) set out the original amount(**a**) that was awarded or agreed to be paid to the claimant or, where applicable, to the claimant's predecessor in title;

(f) set out details of the compensation claimed, distinguishing the amounts of additional compensation(**b**), qualifying losses(**c**), costs and interest under separate heads and showing how the amount claimed under each is calculated, with supporting evidence;

(g) set out the basis on which the claimant is eligible for additional compensation.

Additional procedure relating to mortgaged land

10.—(1) Where the conditions in paragraph (3) apply the claim for additional compensation must also include—

(**a**) See paragraph 2(3) of Schedule 2A to the Act for the meaning of "original amount".
(**b**) See paragraph 2(2) of Schedule 2A to the Act for the calculation of the amount of additional compensation.
(**c**) See paragraph 6(2) of Schedule 2A to the Act and regulation 13 of these Regulations for the meaning of "qualifying losses".

(a) the name and address of the mortgagee,

(b) where the claimant is the mortgagee, a statement to this effect,

(c) the mortgagee's reference or roll number, and

(d) a statement of the approximate amount of the mortgage debt remaining to be paid to the mortgagee as at the date the claim is sent to the acquiring authority.

(2) If there is more than one mortgage, the requirements in paragraph (1) must be set out separately for each mortgage to the extent that they apply.

(3) The conditions referred to in paragraph (1) are that—

(a) the claimant's land was subject to a mortgage directly before it was acquired by the acquiring authority through the original compulsory purchase order, and

(b) any amount of the mortgage debt remains to be paid as at the date the claim is sent to the acquiring authority ("the unpaid amount").

Procedure on receipt of a claim

11.—(1) On receipt of a valid claim for additional compensation the acquiring authority must determine whether it has enough information to assess the amount of additional compensation payable to the claimant including any amounts for qualifying losses, interest and costs, and must write to notify the claimant that it has received the claim and either—

(a) that it requires no further information, or

(b) of the further information it requires.

(2) The acquiring authority must notify the claimant where it considers a claim to be invalid together with its reasons.

(3) A valid claim for additional compensation is one that complies with the requirements of regulation 9 and, where applicable, regulation 10.

(4) If the claimant and acquiring authority cannot agree the amount of additional compensation due to be paid following receipt of a valid claim, the acquiring authority must inform the claimant that questions of disputed compensation may be referred for determination by the Upper Tribunal(**a**).

(5) The additional compensation due must be paid to the claimant unless the conditions described in regulation 10(3) apply in which case—

(a) where the unpaid amount is the same as or less than the additional compensation due, an amount equal to the unpaid amount is to be paid to the mortgagee, or

(b) where the unpaid amount exceeds the additional compensation due, the additional compensation due is to be paid to the mortgagee.

(6) Where there is more than one mortgage, payment is to be made in order of priority of those mortgage debts.

Qualifying losses

12.—(1) A claim for additional compensation may include an amount in respect of qualifying losses provided that—

(a) those losses were reasonably foreseeable at the time the original compulsory purchase order was confirmed,

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(**a**) See section 1 of the Act.

(b) the claimant has taken all reasonable steps to mitigate those losses, applying the same rule concerning the duty of a person to mitigate loss as applies to damages recoverable under the common law of England and Wales, and

(c) those losses do not include sums claimed by the claimant under other heads of claim so as to amount to double recovery by the claimant, such as in respect of costs or interest.

(2) Where the original amount(**a**) included a sum in respect of compensation under section 5(6) of the Act for disturbance or any other matter not directly based on the value of land, that sum is to be deducted from the additional compensation payable if it would not have been paid had the original compensation amount been assessed without the application of section 14A of the Act.

Costs

13.—(1) A claim for additional compensation may include compensation in respect of the claimant's expenses reasonably incurred in—

(a) making an application for a direction for additional compensation under paragraph 1(2) of Schedule 2A to the Act, provided that such a direction was made, and

(b) making a claim for additional compensation under paragraph 1(5) of Schedule 2A to the Act, other than any expenses incurred in connection with an application under section 17 or appeal under section 18 of the Act.

(2) Section 4 of the Act(**b**) applies to claims for additional compensation as if—

(a) in paragraph (1)—

(i) in sub-paragraph (a), for "unconditional offer in writing of any sum as compensation" there were substituted "offer of a sum for additional compensation on receipt of a valid claim for additional compensation";

(ii) sub-paragraph (b) were omitted;

(iii) in the words after sub-paragraph (b), the words "or, as the case may be, after the time when in the opinion of the Upper Tribunal the notice should have been delivered" were omitted;

(b) paragraph (2) were omitted;

(c) in paragraph (3)—

(i) the words from "has delivered a notice" to "this section and" were omitted;

(ii) for "made an unconditional offer in writing to accept any sum as compensation" there were substituted "sent a valid claim for additional compensation setting out a sum for additional compensation".

Interest

14.—(1) An additional compensation claim may include a sum in respect of accrued interest on any payment under paragraph 2(2) of Schedule 2A to the Act but not on any amounts in respect of qualifying losses or costs.

(2) Accrued interest is to be calculated in respect of the period beginning with the date on which the original amount was paid to the claimant or the claimant's predecessor in title and ending with the date the additional compensation claim is paid, at an annual rate of 0.5 percentage points below the Bank of England base rate.

(**a**) See paragraphs 2(3), 4(2) and (3) and 6(2) and (3) of Schedule 2A to the Act for the meaning of the "original amount".
(**b**) Section 4(1) and (3) was amended by S.I. 2009/1307.

(3) Where the original amount was paid in more than one installment the date of payment for the purposes of paragraph (2) is to be taken to be the date of the last payment.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Matthew Pennycook
Minister of State
6th September 2024 Ministry of Housing, Communities and Local Government

SCHEDULE

Regulation 3

Form of application for direction for additional compensation

FORM OF APPLICATION FOR DIRECTION FOR ADDITIONAL COMPENSATION

1. APPLICANT

Name:

Organisation name (trading name) (if applicable):

Address (including post code):

Telephone number:

E-mail address:

Preferred method of communication: E-mail/Post (*delete as applicable*)

2. AGENT/SOLICITOR/SURVEYOR/OTHER PROFESSIONAL INSTRUCTED FOR THE APPLICATION (IF ANY):

Contact name:

Organisation name (if applicable):

Address (including post code):

Telephone number:

E-mail address:

Preferred method of communication: E-mail/Post (*delete as applicable*)

3. TITLE OF THE COMPULSORY PURCHASE ORDER THIS APPLICATION RELATES TO:

4. NAME OF THE ACQUIRING AUTHORITY WHICH MADE THE COMPULSORY PURCHASE ORDER REFERRED TO IN QUESTION 3:

5. LOCATION OF THE LAND OR LAND INTEREST(S) THIS APPLICATION RELATES TO

Extent, description and situation of the land or land interest(s) which was/were compulsorily acquired from you, or your predecessor-in-title,

for which you or your predecessor-in-title were entitled to compensation ("the application land"). This should include the address (including postcode) or Ordnance Survey National grid reference point:

6. NATURE OF INTEREST IN THE APPLICATION LAND

Please confirm the nature of your interest in the application land by ticking the relevant box:

☐Freehold owner

☐Leasehold owner

☐Both

☐Mortgagee

☐Successor-in-title of former freehold owner

☐Successor-in-title of former leaseholder

☐Successor-in-title of mortgagee

☐Other - please provide further explanation:

7. THE DATE OF THE ACQUISTION OF THE APPLICATION LAND

Provide the date that your, or your predecessor-in-title's, interest in the application land was acquired by the acquiring authority:

8. RELEVANT LOCAL PLANNING AUTHORITY(IES)

Name of the local planning authority(ies) with responsibility for the area(s) which includes the application land:

9. ANY OTHER INFORMATION

Please provide any other information which you think is relevant to support your application, including a map or plan where available:

10. APPLICATION DECLARATION

I confirm all sections have been fully completed to the best of my knowledge: ☐

Name (in capitals):

On behalf of (if applicable):

Signed by or on behalf of the applicant:

If not signed by the applicant, please state the capacity in which signed:

Date:

Notes: The completed application should be submitted to the Secretary of State who confirmed the compulsory purchase order in respect of which the application is related to (or any successor in title to that person's function of confirming compulsory purchase orders of the type in question).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedure for applications for directions for additional compensation and claims for additional compensation under sub-paragraphs 1(2) and (5) respectively of Schedule 2A to the Land Compensation Act 1961 (c. 33) ("the Act"). They make provision about steps that must be taken for the purposes of publicising or giving notice of a direction for additional compensation; for interest to be applied to amounts of additional compensation that are payable; and about how or when additional compensation (and any interest) is to be paid. They also make provision for additional compensation to include costs and, where applicable, an additional amount to make good qualifying losses and set limits on what such losses may include.

Part 2 sets out the procedure for applications for directions for additional compensation. A direction for additional compensation is a direction that must be made by a confirming authority (the Secretary of State) in certain circumstances and as provided for by paragraph 1 of Schedule 2A to the Act where land has been compulsorily acquired and the relevant compulsory purchase order ("CPO") included a direction under section 14A of the Act (cases where prospects of planning permission are to be ignored). The circumstances are where the acquiring authority has not used the land materially in accordance with the statement of its intention that it provided on confirmation of the CPO, where either 10 years from the CPO's confirmation has expired or there is no longer any realistic prospect of the statement being fulfilled, and where the initial direction under section 14A would not have been confirmed if the statement of intentions had reflected what has in fact been done with the land since its acquisition.

Regulation 3 and the Schedule provide for what applications for a direction for additional compensation should contain.

Regulation 4 provides for steps as to notification that the confirming authority must take when it considers an application for a direction for additional compensation it has received is invalid.

Regulation 5 provides for steps as to notification that the confirming authority must take when it receives a valid application for a direction for additional compensation. Regulation 5(3) provides that a party which is notified about an application may make written representations about the application's validity and whether the conditions for making a direction for additional compensation have been met. It also sets out the time periods after which written representations may be disregarded by the confirming authority.

Regulation 6 provides for the applicant to make further representations in response to written representations and sets out time periods after which the confirming authority may disregard any written representations and when it must send written representations to the applicant.

Regulation 7 provides for the people that the confirming authority must notify about its decision and what the notification must contain.

Regulation 8 sets out steps that the acquiring authority must take to publicise that the confirming authority has made a direction for additional compensation.

Part 3 provides for claims for additional compensation. Where a direction for additional compensation is made, any person who was eligible for compensation in respect of the original compulsory acquisition may apply for additional compensation if the amount of the compensation they originally received ("the original amount") would have been greater if the section 14A

direction had not been made. Paragraph 2 of Schedule 2A to the Act provides that the amount of additional compensation payable is the difference between the amount that would have been assessed as due in compensation had no section 14A direction been made and the original amount.

Regulation 9 sets out the procedure for making a claim for additional compensation.

Regulation 10 provides for additional procedure where the land in question was subject to a mortgage and part of the mortgage debt remains unpaid.

Regulation 11 sets out the procedure that the acquiring authority must follow on receipt of a claim for additional compensation.

Regulation 12 provides for additional compensation to include an amount payable for "qualifying losses". "Qualifying losses" are defined in paragraph 6 of Schedule 2A to the Act as financial losses shown to have been suffered by an eligible person as a result of the compensation initially payable to the eligible person in respect of the acquisition being of the original amount rather than the alternative amount it would have been without a section 14A direction. This regulation sets limitations on qualifying losses.

Regulation 13(1) provides that certain costs may be included in a claim for additional compensation. Regulation 13(2) applies section 4 of the Act (costs) with modifications so that valid claims for additional compensation are to be treated for costs purposes like unconditional offers to accept any sum in compensation. The effect is that there may be costs consequences for claimants where the Upper Tribunal (Lands Chamber) awards any sum in respect of a dispute under section 1 of the Act that is no greater than any amount offered by the acquiring authority as additional compensation and for the acquiring authority where the Upper Tribunal (Lands Chamber) awards any sum that is greater than the amount set out in a valid claim for additional compensation.

Regulation 14 sets out the applicable rate of interest to be included in additional compensation claims and how it is to be calculated.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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