

Acquisition of Land Act 1981 - Section 19

19. – (1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common, open space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied –

- (a) that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or
- (aa) that the land is being purchased in order to secure its preservation or improve its management, or
- (b) that the land does not exceed 209 square metres (250 square yards) in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.

(2) Where it is proposed to give a certificate under this section, the Secretary of State shall direct the acquiring authority to give public notice of his intention so to do, and –

- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
- (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,

the Secretary of State may, after considering any representations and objections made, and, if an inquiry has been held, the report of the person who held the inquiry, give the certificate.

(2A) Notice under subsection (2) above shall be given in such form and manner as the Secretary of State may direct.

(3) A compulsory purchase order may provide for –

- (a) vesting land given in exchange as mentioned in subsection (1) above in the persons, and subject to the rights, trusts and incidents, therein mentioned, and
- (b) discharging the land purchased from all rights, trusts and incidents to which it was previously subject, except where the Secretary of State has given a certificate under subsection (1)(aa) above.

Specimen Form of Order where Authority seeks
Certificate in Terms of Section 19(1)(a) of the 1981 Act

The Town and Country Planning Act 1990
The Acquisition of Land Act 1981

[Title of Order]

WHEREAS –

[insert name] (“the Council”) is the owner of the fee simple absolute in possession of the land described in Schedule 1 hereto (“the order land”);
and the order land [is] [forms part of] [a common] [a fuel or field garden allotment] within the meaning of section 229 and as defined in section 336(1) of the Town and Country Planning Act 1990;
and the Council proposes to appropriate the order land for the purpose of [specify purpose] (being a purpose for which the Council can be authorised to acquire land under [specify section and Act]);
and the Council proposes to provide in exchange for the order land the land described in Schedule 2 (“the exchange land”) which is not less in area than the order land.

NOW THEREFORE the Council, in exercise of the power conferred by section 229 of the Town and Country Planning Act 1990 and of all other powers enabling it in that behalf hereby makes the following Order -

1. This Order may be cited as [insert title of Order].
2. The Council is authorised to appropriate the order land for the purpose of [specify purpose].
3. As from the date on which the order land is appropriated, or as from the date on which the exchange land, or any of it, is vested in the Council (whichever is the later), the exchange land shall vest in the Council subject to the same rights, trusts and incidents as attached to the order land; and the order land shall thereupon be discharged from the rights, trusts and incidents to which it was previously subject.

SCHEDULE 1
THE ORDER LAND

[Insert description of the order land] and shown [indicate how shown e.g. [coloured pink]] on the map sealed with the Common Seal of the Council and marked “Map referred to in the [insert title of Order]”.

SCHEDULE 2
THE EXCHANGE LAND

[Insert description of the exchange land] and shown [indicate how shown e.g. [coloured green]] on the map referred to in Schedule 1.

[Seal and authentication including date]

Specimen Form of Order where Authority seeks
Certificate in Terms of Section 19(1)(b) of the 1981 Act

The Town and Country Planning Act 1990
The Acquisition of Land Act 1981

[Title of Order]

WHEREAS -

[insert name] ("the Council") is the owner of the fee simple absolute in possession of the land described in the Schedule hereto ("the order land"); and

the order land [is] [forms part of] [a common] [a fuel or field garden allotment] within the meaning of section 229 and as defined in section 336(1) of the Town and Country Planning Act 1990; and

the Council proposes to appropriate the order land for the purpose of [specify purpose] (being a purpose for which the Council can be authorised to acquire land under [specify section and Act])

NOW THEREFORE the Council, in exercise of the power conferred by section 229 of the Town and Country Planning Act 1990 and of all other powers enabling it in that behalf hereby makes the following Order -

1. This Order may be cited as [insert title of Order].
2. The Council is authorised to appropriate the order land for the purpose of [specify purpose]

SCHEDULE

THE ORDER LAND

[Insert description of the order land] and shown [indicate how shown e.g. [coloured pink]] on the map sealed with the Common Seal of the Council and marked "Map referred to in the [insert title of Order]".

[Seal and authentication including date]

NB. Consider also section 19(3)(b) of the 1981 Act under which the order land may be discharged from all rights, trusts and incidents to which it was previously subject.
