
WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Levelling-up and Regeneration Bill – Compulsory Purchase Provisions**

DATE **28 September 2022**

BY **Julie James MS, Minister for Climate Change**

This written statement is laid under Standing Order 30 – Notification in relation to UK Parliament Bills. It relates to the specific provisions in the Levelling-up and Regeneration Bill (“the Bill”) which will modify the Welsh Ministers’ functions but do not require a Legislative Consent Motion under Standing Order 29, as the Senedd does not have legislative competence in respect of those provisions. The Bill was introduced in the UK Parliament, the House of Commons, on 11 May 2022.

Other provisions in the Bill regarding land use planning; environmental outcome reports for certain consents; information and records relating to land, the environment or heritage; governance of the Royal Institution of Chartered Surveyors; and vagrancy and begging require the legislative consent of the Senedd. I have today laid a Legislative Consent Memorandum (<https://senedd.wales/media/5qdfx1u1/lcm-ld15356-e.pdf>) and will consider tabling a Legislative Consent Motion in due course.

The Senedd has limited competence in respect of compulsory purchase in devolved areas, including housing and land use planning. In practice, this means any proposed modifications to the law of compulsory purchase, via primary legislation, must clearly be in the context of specified changes to land use planning law or another non-reserved matter. The Senedd is therefore unable to modify the law of compulsory purchase generally, or for its own sake or to achieve reserved ends. This prevents the Senedd from modifying the general rules on compulsory purchase in legislation such as the Acquisitions of Land Act 1981 in respect of all compulsory acquisitions in Wales, as is proposed by the Bill. The proposals in the Bill relating to compulsory purchase will, however, impact the Welsh Ministers’ functions in their capacity as both a confirming authority and as an acquiring authority.

Policy Objective

The UK Government’s stated policy objective is to reverse geographical disparities between different parts of the UK by spreading opportunity more equally. Under this, the Bill has four overarching objectives:

- i. To place a duty on the UK Government to set, and report annually on progress towards achieving, levelling up missions to reduce geographical disparities across the United Kingdom;
- ii. To create a modern framework to support the most radical devolution of powers in modern times through the creation of a new model of combined county authorities to support delivery of the UK Government's levelling up mission that 'by 2030, every part of England that wants one will have a devolution deal with powers at or approaching the highest level of devolution and a simplified, long-term funding settlement';
- iii. To deliver a new suite of powers for local authorities to regenerate their towns through high street rental auctions and reforms to compulsory purchase to support delivery of the UK Government's levelling up mission that 'by 2030, pride in place, such as people's satisfaction with their town centre and engagement in local culture and community, will have risen in every area of the UK, with the gap between top performing and other areas closing'; and
- iv. To create a planning system which delivers more beautiful and greener homes, with the associated infrastructure and democratic support that neighbourhoods want and deserve.

Relevant provisions in the Bill

Clause 140 (Acquisition by local authorities for purposes of regeneration)

Clause 140 of the Bill amends section 226 of the Town and Country Planning Act 1990 by introducing the wording "regeneration" to clarify local authorities can use their power under section 226 to compulsorily acquire land for regeneration purposes. However, this clause is for the purpose of England only and will not apply to Wales.

The Bill makes the following provisions which modify the existing functions of the Welsh Ministers:

Clause 141 (Online publicity)

Clause 141 amends sections 7, 11, 12, 15 and 22 and paragraph 9 of Schedule 3 to the Acquisition of Land Act 1981 ("the 1981 Act") which set out the publicity requirements for certain documents and notices issued as part of the compulsory purchase order (CPO) process. It also inserts a new section 12A into the 1981 Act. The clause will require certain documents and notices to be made available online whilst ensuring those who do not have internet access are able to find the information they need in local newspapers or in physical locations. Clause 144 (Corresponding provisions for purchases by Ministers) and paragraph 1 of Schedule 14 amend Schedule 1 to the 1981 Act the effect of which is to make the same provision as Clause 141 for Welsh Ministers acting in their capacity as an acquiring authority.

Clause 141 adds an additional requirement to acquiring authorities' existing functions requiring them to publish a notice on a website the public could reasonably expect to find on searching for information about a scheme. There is also a new requirement introduced by the Bill for acquiring authorities to publish a notice on an appropriate website post-order making.

Clause 141 also adds an additional requirement to the Welsh Ministers' existing functions as a confirming authority (or appropriate authority where the acquiring authority is one of the Welsh Ministers) through a new discretionary power which allows them to direct that the existing requirement for a notice to name a place where a CPO and map may be viewed can be disapplied.

Clause 142 (Confirmation proceedings)

Clause 142 amends sections 13A and 13B of the 1981 Act which set out the procedure the Welsh Ministers (in their role as confirming authority) should follow when considering objections to a CPO. The amendments mean the consideration of a CPO by the Welsh Ministers will now either be through a public inquiry or the representations procedure. The terminology for the latter has changed from "written representations" to "representations" as the procedure will allow for an informal oral hearing where an objector requests one. The current procedure is "written representations" and Wales currently has its own Written Representation Regulations.

Clause 144 and paragraph 2 of Schedule 14 amend Schedule 1 to the 1981 Act the effect of which is to make the same provision as Clause 142 for Welsh Ministers acting in their capacity as appropriate authority.

Clause 143 (Conditional confirmation)

Clause 143 inserts a new provision (section 13BA) into the 1981 Act and makes consequential amendments to section 15 of that Act. It also makes consequential amendments to paragraph 3 of Schedule 5A to the Housing Act 1985. The clause will give the Welsh Ministers (acting in their role as confirming authority) an additional option of confirming a CPO subject to conditions before the compulsory purchase powers under it can be exercised by the relevant acquiring authority.

Clause 144 and paragraph 3 of Schedule 14 amend Schedule 1 to the 1981 Act the effect of which is to make the same provision as Clause 143 for the Welsh Ministers (acting in their capacity as an acquiring authority) to make a CPO conditionally. The effect of making a CPO conditionally is that the order:

- a) does not become operative until the Welsh Ministers have decided, following consideration by the appropriate authority, that certain conditions have been met, and
- b) expires if the Welsh Ministers have not decided that certain conditions have been met by a certain time.

Clause 145 (Consequential amendments relating to date of operation)

Clause 145 amends section 26 of the 1981 Act which sets out the date on which a CPO becomes operative is the date on which notice of the confirmation or making of the CPO is first published. This clause amends section 26 to make provision for CPOs which are confirmed conditionally under clause 143 or paragraph 3 of Schedule 14.

Clause 146 (Time limits for implementation)

Clause 146 amends section 4 of the Compulsory Purchase Act 1965 and section 5A of the Compulsory Purchase (Vesting Declarations) Act 1981 which set out the timeframe in which compulsory purchase powers under a CPO must be implemented after it has been confirmed. In both cases the current time period is 3 years.

This clause amends these sections and inserts a new section 13D into the 1981 Act to give the Welsh Ministers (acting in their role as confirming authority) the flexibility to allow a longer implementation period for a CPO where appropriate. The clause also inserts a new paragraph 3A in Schedule 1 to the 1981 Act which allows the Welsh Ministers (acting in their role as acquiring authority) to include provision in a CPO specifying a period of longer than 3 years for its implementation.

Clause 147 (Agreement to vary vesting date)

Clause 147 amends the Compulsory Purchase (Vesting Declarations) Act 1981 by introducing a new section 8A into that Act to allow for the postponement of the date on which an acquiring authority will take ownership of an interest in the land, subject to the agreement of the owner. This will modify the Welsh Ministers' function as an acquiring authority. The clause also makes consequential amendments to reflect new section 8A.

Currently, the Welsh Ministers (acting in their capacity as acquiring authority) must give at least three months' advance notice of the date on which they intend to take ownership of land included in a CPO and once that date is set it cannot be varied. The purpose of this clause is to give greater flexibility to acquiring authorities and the owner of an interest in land should circumstances change after notice has been given.

Clause 148 (Common standards for compulsory purchase)

Clause 148 introduces a new provision giving the Secretary of State the power to set by regulations data standards in relation to CPO information which all acquiring authorities will have to comply with. This will modify the Welsh Ministers' function as an acquiring authority. No equivalent power is given to the Welsh Ministers to set their own data standards for CPO data by regulations.

The aim of the measure is to facilitate the development of a compulsory purchase system that makes better use of digital technology to improve access to important compulsory purchase information, drive efficiencies in applications for confirmation and decision making, and facilitate better public engagement.

Clause 149 ('No-scheme' principle: minor amendments)

Clause 149 amends sections 6D and 6E of the Land Compensation Act 1961 to ensure that, for the purposes of assessing the compensation for an interest in land acquired by compulsion, the definition of 'the scheme' which is the subject of the CPO also includes improvement of land in addition to re-development and regeneration.

The Welsh Ministers do not have competence in relation to land compensation by virtue of paragraph 185 of Schedule 7A of the Government of Wales Act 2006 and, as such, this provision does not affect any existing Welsh Ministers' functions.

Reasons for making these provisions

The Welsh Government supports the use of compulsory purchase powers by local authorities to facilitate the economic recovery from the Covid-19 pandemic and promote placemaking principles to deliver beneficial environmental, social and economic change in our communities. The Welsh Government believes the use of compulsory purchase powers should be considered by local authorities to increase the supply of housing as well as bring vacant and empty properties back into use.

Used appropriately, compulsory purchase powers can contribute towards effective and efficient regeneration, the revitalisation of communities, placemaking, and the promotion of business, leading to improvements in quality of life.

As a government, we are committed to improving the compulsory purchase process to make it fairer, more efficient and intelligible. Our priority is to remove barriers to, and encourage greater use of, compulsory purchase powers by local authorities through streamlining and modernising the compulsory purchase process.

Notably, the Bill seeks to introduce online publicity requirements for certain documents and notices relating to the making and confirmation of CPOs. The Bill also aims to make the confirmation process more efficient by ensuring the most appropriate and proportionate procedure for considering objections to a CPO is used. These provisions will increase engagement and awareness of the CPO process together with making the process more streamlined.

I consider that it is appropriate for these provisions to apply in relation to Wales and for them to be included in this Bill.