



# Planning (Listed Buildings and Conservation Areas) Act 1990

## 1990 CHAPTER 9

### PART I **E+W**

#### LISTED BUILDINGS

### CHAPTER V **E+W**

#### PREVENTION OF DETERIORATION AND DAMAGE

##### *Compulsory acquisition of listed building in need of repair*

#### **47 Compulsory acquisition of listed building in need of repair. **E+W****

- (1) If it appears to the Secretary of State that reasonable steps are not being taken for properly preserving a listed building he—
  - (a) may authorise the appropriate authority to acquire compulsorily under this section the building and any relevant land; or
  - (b) may himself compulsorily acquire them under this section.
- (2) The <sup>M1</sup>Acquisition of Land Act 1981 shall apply to compulsory acquisition under this section.
- (3) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless—
  - (a) in the case of the acquisition of a building situated in England otherwise than by the Commission, he has consulted with the Commission; and
  - (b) in any case, he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.

*Status: Point in time view as at 25/09/1991.*

**Changes to legislation:** *Planning (Listed Buildings and Conservation Areas) Act 1990, Cross Heading: Compulsory acquisition of listed building in need of repair is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within 28 days after the service of the notice required by section 12 of that Act of 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act, apply to a magistrates' court acting for the petty sessions area within which the building is situated for an order staying further proceedings on the compulsory purchase order.
- (5) If on an application under subsection (4) the court is satisfied that reasonable steps have been taken for properly preserving the building, the court shall make an order accordingly.
- (6) Any person aggrieved by the decision of a magistrates' court on an application under subsection (4) may appeal against the decision to the Crown Court.
- (7) In this section—
- “the appropriate authority” means—
- the council of the county or district in which the building is situated, or
  - in the case of a building situated in Greater London, the Commission or the council of the London borough in which the building is situated, or
  - in the case of a building situated outside Greater London, the joint planning board for the area in which the building is situated; or
  - in the case of a building situated within the Broads, the Broads Authority;

“relevant land”, in relation to any building, means the land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

**Modifications etc. (not altering text)**

C1 Ss. 47–50 modified by S.I. 1990/1519, reg. 13(1)

**Marginal Citations**

M1 1981 c.67.

**48 Repairs notice as preliminary to acquisition under s. 47. E+W**

- (1) The compulsory purchase of a building under section 47 shall not be started by the appropriate authority or by the Secretary of State unless at least two months previously the authority or, as the case may be, the Secretary of State has served on the owner of the building a notice under this section (in this section referred to as a “repairs notice”)—
- specifying the works which the appropriate authority or, as the case may be, the Secretary of State considers reasonably necessary for the proper preservation of the building; and
  - explaining the effect of sections 47 to 50, and the repairs notice has not been withdrawn.
- (2) Where—
- a building is demolished after a repairs notice has been served in respect of it by an appropriate authority or the Secretary of State, but

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- (b) the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished,  
the demolition of the building shall not prevent the authority or the Secretary of State from being authorised under section 47 to acquire compulsorily the site of the building.
- (3) An appropriate authority or the Secretary of State may at any time withdraw a repairs notice served by them on any person; and if they do so, they shall immediately give him notice of the withdrawal.
- (4) The Secretary of State shall consult with the Commission before he serves or withdraws a repairs notice in relation to a building situated in England.
- (5) Where a repairs notice has been served on a person in respect of a building, he shall not be entitled to serve a listed building purchase notice in respect of it—
- (a) until the expiration of three months beginning with the date of the service of the repairs notice; or
- (b) if during that period the compulsory acquisition of the building is begun under section 47, unless and until the compulsory acquisition is discontinued.
- (6) For the purposes of this section a compulsory acquisition—
- (a) is started when the notice required by section 12 of the <sup>M2</sup>Acquisition of Land Act 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act is served; and
- (b) is discontinued—
- (i) in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order; and
- (ii) in any other case, when the order is withdrawn or the Secretary of State decides not to confirm it.
- (7) In this section “appropriate authority” has the same meaning as in section 47.

**Modifications etc. (not altering text)**

- C2** Ss. 47–50 modified by S.I. 1990/1519, reg. 13(1)  
S. 48 amended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), Sch. 9 para. 13(1) (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C3** S. 48: functions of local authority not to be responsibility of an executive of the authority (E.)  
(16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1 Table A25

**Marginal Citations**

- M2** 1981 c.67.

**49 Compensation on compulsory acquisition of listed building. E+W**

Subject to section 50, for the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which immediately before the date of the compulsory purchase order was listed, it shall be assumed that listed building consent would be granted for any works—

- (a) for the alteration or extension of the building; or

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- (b) for the demolition of the building for the purpose of development of any class specified in Schedule 3 to the principal Act (development not constituting new development),

F1 . . . . .

#### Textual Amendments

F1 Words in s. 49 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 31(4), 84(6), Schs. 6 para. 45, 19 Pt.II; S.I. 1991/2067, art.3 sch. 1

#### Modifications etc. (not altering text)

C4 Ss. 47–50 modified by S.I. 1990/1519, reg. 13(1)  
S. 49 amended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), Sch. 9 paras. 13(1) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

## 50 **Minimum compensation in case of listed building deliberately left derelict.** E

+W

- (1) Where the appropriate authority within the meaning of section 47—
- (a) propose to acquire a building compulsorily under that section; and
  - (b) are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or redevelopment of the site or any adjoining site,
- they may include in the compulsory purchase order as submitted to the Secretary of State for confirmation a direction for minimum compensation.
- (2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under section 47, he may, if he is satisfied as mentioned in subsection (1)(b), include a direction for minimum compensation in the compulsory purchase order.
- (3) Without prejudice to so much of section 12 of the <sup>M3</sup>Acquisition of Land Act 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act (notices stating effect of compulsory purchase order or, as the case may be, draft order) as requires the notice to state the effect of the order, the notice required to be served in accordance with that provision shall—
- (a) include a statement that a direction for minimum compensation has been included in the order or, as the case may be, in the draft order prepared by the Secretary of State in accordance with Schedule 1 to that Act; and
  - (b) explain the meaning of the expression “direction for minimum compensation”.
- (4) A direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the contrary in the <sup>M4</sup>Land Compensation Act 1961, the principal Act, or this Act—
- (a) that planning permission would not be granted for any development or redevelopment of the site of the building; and
  - (b) that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to and maintaining it in a proper state of repair.

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- (5) If a compulsory purchase order is confirmed or made with the inclusion of a direction for minimum compensation, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.
- (6) Where such a direction is included in a compulsory purchase order or, as the case may be, in a draft order prepared by the Secretary of State, any person having an interest in the building may, within 28 days after the service of the notice mentioned in subsection (3), apply to a magistrates' court acting for the petty sessions area in which the building is situated for an order that no such direction be included in the compulsory purchase order as confirmed or made by the Secretary of State.
- (7) If the court to which an application is made under subsection (6) is satisfied that the building in respect of which the application is made has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1)(b) the court shall make the order applied for.
- (8) A person aggrieved by the decision of a magistrates' court on an application under subsection (6) may appeal against the decision to the Crown Court.
- (9) The rights conferred by subsections (6) and (8) shall not prejudice those conferred by section 47(4) and (6).

**Modifications etc. (not altering text)**

- C5** Ss. 47–50 modified by S.I. 1990/1519, reg. 13(1)  
S. 50 amended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), Sch. 9 para. 13(1) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

**Marginal Citations**

- M3** 1981 c.67.  
**M4** 1961 c.33.

**51** **Ending of rights over land compulsorily acquired.** **E+W**

- (1) Subject to the provisions of this section, upon the completion of a compulsory acquisition of land under section 47—
  - (a) all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished, and
  - (b) any such apparatus shall vest in the acquiring authority.
- (2) Subsection (1) shall not apply—
  - (a) to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking, or
  - (b) to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system, or
  - (c) to any telecommunication apparatus kept installed for the purposes of any such system.
- (3) In respect of any right or apparatus not falling within subsection (2), subsection (1) shall have effect subject—

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- (a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) shall not apply to any right or apparatus specified in the direction; and
  - (b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.
- (4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.
- (5) Any compensation payable under this section shall be determined in accordance with the <sup>M5</sup>Land Compensation Act 1961.

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**Modifications etc. (not altering text)**

**C6** S. 51 amended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 13(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

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**Marginal Citations**

**M5** 1961 c.33.

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