



Planning (Listed Buildings and Conservation Areas) Act 1990

1990 CHAPTER 9

PART I **E+W**

LISTED BUILDINGS

CHAPTER VI **E+W**

MISCELLANEOUS AND SUPPLEMENTAL

Exceptions for church buildings and ancient monuments

60 Exceptions for ecclesiastical buildings and redundant churches. **E+W**

- (1) The provisions mentioned in subsection (2) shall not apply to any ecclesiastical building which is for the time being used for ecclesiastical purposes.
- (2) Those provisions are sections 3, 4, 7 to 9, 47, 54 and 59.
- (3) For the purposes of subsection (1), a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.
- (4) For the purposes of sections 7 to 9 a building shall be taken to be used for the time being for ecclesiastical purposes if it would be so used but for the works in question.
- (5) The Secretary of State may by order provide for restricting or excluding the operation of subsections (1) to (3) in such cases as may be specified in the order.
- (6) An order under this section may—
 - (a) make provision for buildings generally, for descriptions of building or for particular buildings;

Status: Point in time view as at 01/02/1991.

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- (b) make different provision for buildings in different areas, for buildings of different religious faiths or denominations or according to the use made of the building;
 - (c) make such provision in relation to a part of a building (including, in particular, an object or structure falling to be treated as part of the building by virtue of section 1(5)) as may be made in relation to a building and make different provision for different parts of the same building;
 - (d) make different provision with respect to works of different descriptions or according to the extent of the works;
 - (e) make such consequential adaptations or modifications of the operation of any other provision of this Act or the principal Act, or of any instrument made under either of those Acts, as appear to the Secretary of State to be appropriate.
- (7) Sections 7 to 9 shall not apply to the execution of works for the demolition, in pursuance of a pastoral or redundancy scheme (within the meaning of the ^{M1}Pastoral Measure 1983), of a redundant building (within the meaning of that Measure) or a part of such a building.

Modifications etc. (not altering text)

- C1** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(b); S.I. 1993/2762, art.3.
- C2** S. 60(1)–(4) modified by S.I. 1990/1519, reg. 13(1)

Marginal Citations

- M1** 1983 No. 1.

61 Exceptions for ancient monuments etc. E+W

- (1) The provisions mentioned in subsection (2) shall not apply to any building for the time being included in the schedule of monuments compiled and maintained under section 1 of the ^{M2}Ancient Monuments and Archaeological Areas Act 1979.
- (2) Those provisions are sections 3, 4, 7 to 9, 47, 54 and 59.

Modifications etc. (not altering text)

- C3** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(b); S.I. 1993/2762, art.3.

Marginal Citations

- M2** 1979 c.46.

Validity of instruments, decisions and proceedings

62 Validity of certain orders and decisions. E+W

- (1) Except as provided by section 63, the validity of—
- (a) any order under section 23 or 26 (whether before or after it has been confirmed); or

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- (b) any such decision by the Secretary of State as is mentioned in subsection (2), shall not be questioned in any legal proceedings whatsoever.
- (2) Those decisions are—
- (a) any decision on an application referred to the Secretary of State under section 12 or on an appeal under section 20;
- (b) any decision to confirm or not to confirm a listed building purchase notice including—
- (i) any decision not to confirm such a notice in respect of part of the land to which it relates, and
- (ii) any decision to grant any consent, or give any direction, in lieu of confirming such a notice, either wholly or in part;
- (c) any decision to grant listed building consent under paragraph (a) of section 41(6) or to discharge a condition or limitation under paragraph (b) of that section.
- (3) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any such decision as is mentioned in subsection (2).

Modifications etc. (not altering text)

- C4 Ss. 62–65 modified by S.I. 1990/1519, reg. 13(1); applied (with modifications) by S.I. 1990/1519, reg. 12, Sch. 3

63 Proceedings for questioning validity of other orders, decisions and directions. E

+W

- (1) If any person is aggrieved by any such order or decision as is mentioned in section 62(1) and wishes to question its validity on the grounds—
- (a) that it is not within the powers of this Act, or
- (b) that any of the relevant requirements have not been complied with in relation to it,
- he may make an application to the High Court under this section.
- (2) Without prejudice to subsection (1), if the authority directly concerned with any such order or decision wish to question its validity on any of those grounds, the authority may make an application to the High Court under this section.
- (3) An application under this section must be made within six weeks from the date on which the order is confirmed (or, in the case of an order under section 23 which takes effect under section 25 without confirmation, the date on which it takes effect) or, as the case may be, the date on which the action is taken.
- (4) On any application under this section the High Court—
- (a) may by interim order suspend the operation of the order or decision, the validity of which is questioned by the application, until the final determination of the proceedings; and
- (b) if satisfied—
- (i) that the order or decision is not within the powers of this Act, or

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- (ii) that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to it,
may quash that order or decision.
- (5) References in this section to the confirmation of an order include the confirmation of an order subject to modifications.
- (6) In this section “the relevant requirements”, in relation to any order or decision, means any requirements of this Act or of the ^{M3}Tribunals and Inquiries Act 1971 or of any order, regulations or rules made under either of those Acts which are applicable to that order or decision.
- (7) For the purposes of subsection (2) the authority directly concerned with an order or decision is—
- (a) in relation to any such decision as is mentioned in section 62(2)(b)—
- (i) the council on whom the listed building purchase notice was served, and
- (ii) in a case where the Secretary of State has modified the notice wholly or in part by substituting another local authority or statutory undertakers for that council, also that authority or those statutory undertakers; and
- (b) otherwise, the authority who—
- (i) made the order or decision to which the proceedings in question relate, or
- (ii) referred the matter to the Secretary of State, or
- (iii) if the order was made by him, are the authority named in it.

Modifications etc. (not altering text)

C5 Ss. 62–65 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**

Marginal Citations

M3 1971 c.62.

64 Validity of listed building enforcement notices. E+W

The validity of a listed building enforcement notice shall not, except by way of an appeal under section 39, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

Modifications etc. (not altering text)

C6 Ss. 62–65 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**

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65 Appeals to High Court relating to listed building enforcement notices. **E+W**

- (1) Where the Secretary of State gives a decision in proceedings on an appeal under section 39 against a listed building enforcement notice, the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.
- (2) At any stage of the proceedings on any such appeal, the Secretary of State may state any question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court.
- (3) A decision of the High Court on a case stated by virtue of subsection (2) shall be deemed to be a judgment of the court within the meaning of section 16 of the ^{M4}Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).
- (4) In relation to any proceedings in the High Court or the Court of Appeal brought by virtue of this section the power to make rules of court shall include power to make rules—
 - (a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the Secretary of State; and
 - (b) providing for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.
- (5) No appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.
- (6) In this section “decision” includes a direction or order, and references to the giving of a decision shall be construed accordingly.
- (7) In the case of a listed building enforcement notice issued by the Commission subsection (1) shall apply as if the reference to the local planning authority were a reference to the Commission.

Modifications etc. (not altering text)

C7 Ss. 62–65 modified by S.I. 1990/1519, reg. 13(1); applied (with modifications) by S.I. 1990/1519, reg. 12, Sch. 3

Marginal Citations

M4 1981 c.54.

Special considerations affecting planning functions

66 General duty as respects listed buildings in exercise of planning functions. **E+W**

- (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be,

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the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- (2) Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provisions of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings.
- (3) The reference in subsection (2) to a local authority includes a reference to a joint planning board and a board reconstituted in pursuance of Schedule 17 to the ^{M5}Local Government Act 1972.

Modifications etc. (not altering text)

- C8** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(b); S.I. 1993/2762, art.3.
- C9** S. 66(1) excluded by S.I. 1990/1519, reg. 12, Sch. 3
- C10** S. 66(2) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), Sch. 8 para. 2(4) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

Marginal Citations

- M5** 1972 c.70.

67 Publicity for applications affecting setting of listed buildings. **E+W**

- (1) This section applies where an application for planning permission for any development of land is made to a local planning authority and the development would, in the opinion of the authority, affect the setting of a listed building.
- (2) The local planning authority shall—
 - (a) publish in a local newspaper circulating in the locality in which the land is situated; and
 - (b) for not less than seven days display on or near the land, a notice indicating the nature of the development in question and naming a place within the locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice under paragraph (a).
- (3) In a case where the land is situated in England, the local planning authority shall send a copy of the notice to the Commission.
- (4) Where the Secretary of State, after consulting with the Commission, notifies a local planning authority in writing that subsection (3) shall not affect the authority as regards any notice relating to any kind of application specified in the notification, then that subsection shall not affect the authority as regards any such notice.
- (5) The Secretary of State shall send the Commission a copy of any notification made under subsection (4).
- (6) The application shall not be determined by the local planning authority before—

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- (a) the expiry of the period of 21 days referred to in subsection (2); or
 - (b) if later, the expiry of the period of 21 days beginning with the date on which the notice required by that subsection to be displayed was first displayed.
- (7) In determining any application for planning permission to which this section applies, the local planning authority shall take into account any representations relating to the application which are received by them before the periods mentioned in subsection (6) have elapsed.
- (8) Subsection (3) of section 63 of the principal Act (references to applications for planning permission to include applications for permission to retain existing works and uses) does not apply to the construction of this section.

Modifications etc. (not altering text)

C11 S. 67(2)(b), (6)(7), 73(1) modified by [S.I. 1990/1519](#), [reg. 13\(1\)](#)

68 Reference to Commission of planning applications involving listed buildings in Greater London. E+W

- (1) Without prejudice to his powers by virtue of section 74(1) of the principal Act, the Secretary of State may by regulations provide for any application for planning permission to which this section applies to be referred to the Commission before it is dealt with by the local planning authority.
- (2) This section applies to an application for planning permission for any development in Greater London which would, in the opinion of the local planning authority to which the application is made, involve the demolition, in whole or in part, or a material alteration, of a listed building.
- (3) Regulations under this section may—
- (a) provide for the Commission to give the referring authority directions as to the manner in which an application is to be dealt with; and
 - (b) provide that an application which satisfies such conditions as may be specified in the regulations need not be referred to the Commission.

Modifications etc. (not altering text)

C12 [Chs. I, II](#) (ss. 1-26) and [IV](#) (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by [1993 c. 28](#), [s. 171\(4\)\(b\)](#); [S.I. 1993/2762](#), [art.3](#).

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