



# Building Act 1984

## 1984 CHAPTER 55

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

#### BUILDING REGULATIONS

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

- C1** Pt. I (ss. 1-46) excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), [Sch. 14 para. 8](#)
- C2** Pt. I (ss. 1-46) restricted by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 31(1), 45, [Sch. 7 Pt. VI para. 2](#)
- C3** Pt. I (ss. 1-46) modified (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 60(2), [Sch. 8 para. 18\(1\)](#)
- C4** Pt. I (ss. 1-46) modified (17.7.1992) by [S.I. 1992/1732](#), [art. 4\(1\)](#)
- C5** Pt. I (ss. 1-46) excluded (18. 12. 1996) by [1996 c. 61, s. 38](#), [Sch. 10 para.7P](#)
- Pt. I (ss. 1-46) excluded (26.3.2001) by [S.I. 2001/1149](#), [art. 4\(5\)](#) (subject to [art. 1\(3\)](#))

#### *Power to make building regulations*

### 1 **Power to make building regulations.** **E+W**

- (1) The Secretary of State may, for any of the purposes of—
- (a) securing the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings,
  - <sup>[F1]</sup>(b) furthering the conservation of fuel and power,
  - (c) preventing waste, undue consumption, misuse or contamination of water,
  - (d) furthering the protection or enhancement of the environment,
  - (e) facilitating sustainable development, or
  - (f) furthering the prevention or detection of crime,]

make regulations with respect to the <sup>[F2]</sup>matters mentioned in subsection (1A) below].

<sup>[F3]</sup>(1A) Those matters are—

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- (a) the design and construction of buildings;
  - (b) the demolition of buildings;
  - (c) services, fittings and equipment provided in or in connection with buildings.]
- (2) Regulations made under subsection (1) above are known as building regulations.
- (3) Schedule 1 to this Act has effect with respect to the matters as to which building regulations may provide.
- (4) The power to make building regulations is exercisable by statutory instrument, which is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F1** S. 1(1)(b)-(f) substituted for (1)(b)(c) (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#) , **ss. 1(1)** , 11(4)
- F2** Words in s. 1(1) substituted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#) , **ss. 1(2)** , 11(4)
- F3** S. 1(1A) inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#) , **ss. 1(3)** , 11(4)

#### [<sup>F4</sup>1A **Buildings of special historical or architectural interest** **E+W**

- (1) In making building regulations the Secretary of State shall have regard, in particular, to the desirability of preserving the character of protected buildings that are of special historical or architectural interest.
- (2) In this section “ protected buildings ” means—
- (a) listed buildings within the meaning of the Planning (Listed Buildings and Conservation Areas) Act 1990 (see section 1(5) of that Act); and
  - (b) buildings situated in areas designated as conservation areas under section 69 of that Act.]

#### Textual Amendments

- F4** S. 1A inserted (1.2.2006) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#) , **ss. 2** , 11(3); [S.I. 2006/224](#) , art. 2(a)

#### 2 **Continuing requirements.** **E+W**

- (1) Building regulations may impose on owners and occupiers of buildings to which building regulations are applicable such continuing requirements as the Secretary of State considers appropriate for securing, with respect to any provision of building regulations designated in the regulations as a provision to which those requirements relate, that the purposes of that provision are not frustrated; but a continuing requirement imposed by virtue of this subsection does not apply in relation to a building unless a provision of building regulations so designated as one to which the requirement relates applies to that building.
- (2) Building regulations may impose on owners and occupiers of buildings of a prescribed class (whenever erected, and whether or not any building regulations were applicable to them at the time of their erection) continuing requirements with respect to all or any of the following matters—

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- (a) the conditions subject to which any services, fittings or equipment provided in or in connection with a building of that class may be used,
  - (b) the inspection and maintenance of any services, fittings or equipment so provided,
  - (c) the making of reports to a prescribed authority on the condition of any services, fittings or equipment so provided,
- and so much of paragraph 8 of Schedule 1 to this Act as restricts the application of building regulations does not apply to regulations made by virtue of this subsection.
- (3) If a person contravenes a continuing requirement imposed by virtue of this section, the local authority, without prejudice to their right to take proceedings for a fine in respect of the contravention, may—
- (a) execute any work or take any other action required to remedy the contravention, and
  - (b) recover from that person the expenses reasonably incurred by them in so doing.
- (4) Where a local authority have power under subsection (3) above to execute any work or take any other action, they may, instead of exercising that power, by notice require the owner or the occupier of the building to which the contravention referred to in that subsection relates to execute that work or take that action.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (4) above, subject to the modification that references in those sections to the execution of works are references to the execution of works or the taking of other action, and references to works shall be construed accordingly.
- (6) Sections 8, 9, 10 and 39 below have effect in relation to continuing requirements imposed by virtue of this section subject to the modification that a direction under the said sections 8 and 9 below shall, if it so provides, cease to have effect at the end of such period as may be specified in the direction.

## **[<sup>F5</sup>2A Continuing requirements in relation to fuel, power and emissions** **E+W**

- (1) Building regulations may impose, on owners and occupiers of buildings, continuing requirements that fall within subsection (2) below.
- (2) A continuing requirement falls within this subsection if—
- (a) it requires the inspection and testing of a building—
    - (i) as respects the use of fuel and power in or in connection with the building; or
    - (ii) as respects its contribution to or effect on emissions (whether or not from the building) of smoke, gases, vapours or fumes;
  - (b) it requires the inspection and testing of any service, fitting or equipment provided in or in connection with a building—
    - (i) as respects the use of fuel and power in or in connection with the service, fitting or equipment; or
    - (ii) as respects its contribution to or effect on emissions (whether or not from it or the building) of smoke, gases, vapours or fumes;
  - (c) it requires the implementation, in relation to a building, or any service, fitting or equipment provided in or in connection with a building, of—
    - (i) measures for the purpose mentioned in section 1(1)(b) above; or

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- (ii) measures (otherwise than for that purpose) that are calculated to secure, or to contribute to, the prevention or reduction of emissions (whether or not from the building in question or a thing provided in or in connection with it) of smoke, gases, vapours or fumes;
  - (d) it requires the keeping of records in relation to matters within paragraph (a), (b) or (c); or
  - (e) it requires the making of reports in relation to any of those matters to a prescribed authority.
- (3) Those requirements may be imposed in the case of buildings, or in the case of services, fittings and equipment provided in or in connection with buildings, irrespective of both—
- (a) when the buildings were erected; and
  - (b) whether building regulations were applicable to them at the time of their erection.
- (4) Subsections (3) to (6) of section 2 above apply in relation to continuing requirements imposed by virtue of this section as they apply in relation to continuing requirements imposed by virtue of that section.
- (5) Paragraph 8(2) of Schedule 1 to this Act does not impose any restriction on the building regulations that may be made by virtue of this section.]

#### Textual Amendments

**F5** S. 2A inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), ss. **4(1)**, 11(4)

### *Exemption from building regulations*

#### **3 Exemption of particular classes of buildings etc. E+W**

- (1) Building regulations may exempt a prescribed class of buildings, services, fittings or equipment from all or any of the provisions of building regulations.
- (2) The Secretary of State may by direction exempt from all or any of the provisions of building regulations—
- (a) a particular building, or
  - (b) buildings of a particular class at a particular location,
- either unconditionally or subject to compliance with any conditions specified in the direction.
- (3) A person who contravenes a condition specified in a direction given under subsection (2) above, or permits such a condition to be contravened, is liable on summary conviction to a fine not exceeding level 5 on the standard scale, and to a further fine not exceeding £50 for each day on which the offence continues after he is convicted.

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#### 4 **Exemption of educational buildings and buildings of statutory undertakers.** **E** **+W**

(1) Nothing in this Part of this Act with respect to building regulations, and nothing in any building regulations, applies in relation to—

(a) a building required for the purposes of a school or other educational establishment erected or to be erected according to

<sup>F6</sup>(i) plans that have been approved by the Secretary of State,

<sup>F7</sup>(ii) particulars submitted and approved under regulations made under section 544 of the Education Act 1996.]

<sup>F8</sup>(iii) . . . . .

<sup>F9</sup>(iv) . . . . .]

(b) a building belonging to statutory undertakers, the United Kingdom Atomic Energy Authority . . . <sup>F10</sup> or the Civil Aviation Authority and held or used by them for the purposes of their undertaking, unless it is—

(i) a house, . . . <sup>F11</sup> or

(ii) a building used as offices or showrooms, and not forming part of a railway station or in the case of . . . <sup>F12</sup> the Civil Aviation Authority not being on an aerodrome owned by the Authority . . . <sup>F12</sup>.

<sup>F13</sup>or

(c) a building belonging to a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) and held or used by the person for the purpose of carrying out activities authorised by the licence, unless it is—

(i) a house, or

(ii) a building used as offices or showrooms.]

(2) The words “the United Kingdom Atomic Energy Authority,” in subsection (1)(b) above (together with paragraph 4 of Schedule 6 to this Act) cease to have effect upon the coming into force of the repeal of section 5(5) of the <sup>M1</sup>Atomic Energy Authority Act 1954 contained in Schedule 7 to this Act.

#### Textual Amendments

**F6** S.4(1)(a)(i)-(iv) substituted (1.11.1996) by 1996 c. 56, s. 582(1), **Sch. 37 Pt. 1 para. 59** (with s. 1(4), **Sch. 39 paras. 30, 39**)

**F7** S. 4(1)(a)(ii) substituted (6.11.2006 for E., 2.1.2008 for W.) by **Education Act 2002 (c. 32)**, s. 216(4), **Sch. 21 para. 6** (with ss. 210(8), 214(4)); S.I. 2006/2895, art. 2; S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**

**F8** S. 4(1)(a)(iii) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1** (with art. 17)

**F9** S. 4(1)(a)(iv) repealed (1.4.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**

**F10** Words repealed by **Airports Act 1986 (c. 31, SIF 9)**, s. 83(5), **Sch. 6 Pt. 1**

**F11** Words repealed by **Airports Act 1986 (c. 31, SIF 9)**, s. 83(5), **Sch. 6 Pt. 1**

**F12** Words repealed by **Airports Act 1986 (c. 31, SIF 9)**, s. 83(5), **Sch. 6 Pt. 1**

**F13** S. 4(1)(c) and word “or” immediately preceding it inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. II para. 7(a)**

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

**C6** S. 4 excluded by **Channel Tunnel Act 1987 (c. 53, SIF 102)**, ss. 31(2), **Sch. 7 Pt. VI para. 2**

**C7** S. 4(1)(b) applied with modifications by **Airports Act 1986 (c. 31, SIF 9)**, s. 58, **Sch. 2 para. 6(a)**

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#### **Marginal Citations**

**M1** 1954 c. 32.

### **5 Exemption of public bodies from procedural requirements of building regulations. E+W**

- (1) Building regulations may exempt—
  - (a) a local authority,
  - (b) a county council, or
  - (c) any other body that acts under an enactment for public purposes and not for its own profit and is prescribed for the purposes of this section,
 from compliance with any requirements of those regulations that are not substantive requirements.
- (2) A local authority, county council or other body that is exempted as mentioned in subsection (1) above is in subsection (3) below referred to as an “exempt body”.
- (3) Without prejudice to the obligation of an exempt body to comply with substantive requirements of building regulations, the function of enforcing building regulations that is conferred on local authorities by section 91(2) below is not exercisable in relation to work carried out by an exempt body, and accordingly—
  - (a) nothing in section 36(1) to (5) below applies in relation to work so carried out, and
  - (b) a local authority may not institute proceedings under section 35 below for a contravention of building regulations by an exempt body.
- (4) In subsection (3) above, the reference to the carrying out of work includes a reference to the making of a material change of use as defined by and for the purposes of building regulations.

#### *Approved documents*

### **6 Approval of documents for purposes of building regulations. E+W**

- (1) For the purpose of providing practical guidance with respect to the requirements of any provision of building regulations, the Secretary of State or a body designated by him for the purposes of this section may—
  - (a) approve and issue any document (whether or not prepared by him or by the body concerned), or
  - (b) approve any document issued or proposed to be issued otherwise than by him or by the body concerned,
 if in the opinion of the Secretary of State or, as the case may be, the body concerned the document is suitable for that purpose.
- (2) References in this section and section 7 below to a document include references to a part of a document; and accordingly, in relation to a document of which part only is approved, a reference in the following provisions of this section or in section 7 below to the approved document is a reference only to the part of it that is approved.

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- (3) An approval given under subsection (1) above takes effect in accordance with a notice that is issued by the Secretary of State or, as the case may be, the body giving the approval and that—
  - (a) identifies the approved document in question,
  - (b) states the date on which the approval of it is to take effect, and
  - (c) specifies the provisions of building regulations for the purposes of which the document is approved.
- (4) The Secretary of State or, as the case may be, the body that gave the approval may—
  - (a) from time to time approve and issue a revision of the whole or any part of an approved document issued by him or it for the purposes of this section, and
  - (b) approve any revision or proposed revision of the whole or any part of an approved document,and subsection (3) above, with the necessary modifications, applies in relation to an approval that is given under this subsection to a revision as it applies in relation to an approval that is given under subsection (1) above to a document.
- (5) The Secretary of State or, as the case may be, the body that gave the approval may withdraw his or its approval of a document under this section; and such a withdrawal of approval takes effect in accordance with a notice that is issued by the Secretary of State or body concerned and that—
  - (a) identifies the approved document in question, and
  - (b) states the date on which the approval of it is to cease to have effect.
- (6) References in subsections (4) and (5) above and in section 7 below to an approved document are references to that document as it has effect for the time being, regard being had to any revision of the whole or any part of it that has been approved under subsection (4) above.
- (7) Where a body ceases to be a body designated by the Secretary of State for the purposes of this section, subsections (4) and (5) above have effect as if any approval given by that body had been given by the Secretary of State.
- (8) The power to designate a body for the purposes of this section is exercisable by order made by statutory instrument, which is subject to annulment in pursuance of a resolution of either House of Parliament.

## 7 **Compliance or non-compliance with approved documents.** E+W

- (1) A failure on the part of a person to comply with an approved document does not of itself render him liable to any civil or criminal proceedings; but if, in any proceedings whether civil or criminal, it is alleged that a person has at any time contravened a provision of building regulations—
  - (a) a failure to comply with a document that at that time was approved for the purposes of that provision may be relied upon as tending to establish liability, and
  - (b) proof of compliance with such a document may be relied on as tending to negative liability.
- (2) In any proceedings, whether civil or criminal—
  - (a) a document purporting to be a notice issued as mentioned in section 6(3) above shall be taken to be such a notice unless the contrary is proved, and



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- (b) a document that appears to the court to be the approved document to which such a notice refers shall be taken to be that approved document unless the contrary is proved.

### *Relaxation of building regulations*

## 8 Relaxation of building regulations. **E+W**

- (1) Subject to this section, the Secretary of State, if on an application for a direction under this section he considers that the operation of a requirement in building regulations would be unreasonable in relation to the particular case to which the application relates, may after consultation with the local authority, give a direction dispensing with or relaxing that requirement.
- (2) If building regulations so provide as regards a requirement contained in the regulations, the power to dispense with or relax that requirement under subsection (1) above is exercisable by the local authority (instead of by the Secretary of State after consultation with the local authority).
- (3) Building regulations made by virtue of subsection (2) above may except applications of any description.
- (4) If—
- (a) building regulations so provide as regards any requirement contained in the regulations, and
  - (b) a public body considers that the operation of any such requirement would be unreasonable in relation to any particular work carried out or proposed to be carried out by or on behalf of the public body,
- the public body may give a direction dispensing with or relaxing that requirement.
- (5) In subsection (4) above, “public body” means—
- (a) a local authority.
  - (b) a county council, or
  - (c) any other body that is prescribed for the purposes of section 5 above.
- (6) Building regulations may provide as regards a requirement contained in the regulations that subsections (1) to (5) above do not apply.

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

- C8** S. 8(1) modified (1.6.1992) by [S.I. 1991/2768](#), **reg. 10(1)**  
 S. 8(1) modified (1.1.2001) by [S.I. 2000/2531](#), **reg. 11(1)**
- C9** S. 8(1)-(5) excluded by [S.I. 2000/2531](#), reg. 11(3) (as added (6.4.2006) by [Building and Approved Inspectors \(Amendment\) Regulations 2006](#) (S.I. 2006/652), regs. 1(2), **9(2)**)

## 9 Application for relaxation. **E+W**

- (1) An application under section 8(1) or (2) above shall be in such form and shall contain such particulars as may be prescribed.
- (2) The application shall be made to the local authority, and, except where the power of giving the direction is exercisable by the local authority, the local authority shall at



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once transmit the application to the Secretary of State and give notice to the applicant that it has been so transmitted.

- (3) An application by a local authority in connection with a building or proposed building in the area of that authority shall be made to the Secretary of State, except where the power of giving the direction is exercisable by that authority.
- (4) Schedule 2 to this Act has effect as regards as application for a direction that will affect the application of building regulations to work that has been carried out before the making of the application.

## **10 Advertisement of proposal for relaxation of building regulations. E+W**

- (1) Not less than 21 days before giving a direction under section 8(1), (2) or (4) above in respect of any particular work, the Secretary of State, the local authority or the public body, as the case may be shall publish in a local newspaper circulating in the area where the site of the work is situated a notice—
  - (a) indicating the situation and nature of the work and the requirement to be dispensed with or relaxed, and
  - (b) stating that representations with regard to the effect that the direction may have on public health or safety may be made by a date specified in the notice, being a date not less than 21 days from the date of the notice.

and, where the direction is proposed to be made on an application, the Secretary of State or the local authority may, as a condition of entertaining the application, require the applicant to pay or undertake to pay the cost of publication.

- (2) No notice need be published under the subsection (1) above where in appears to the Secretary of State, the local authority or the public body, as the case may be, that any effect that the direction may have on public health or safety will be limited to premises adjoining the site of the work, but in that case he, they or it shall give such a notice to the owner and occupier of those premises.
- (3) No notice need be published or given under subsection (1) or (2) above where the work affects only an internal part of a building.
- (4) The Secretary of State may, instead of himself publishing or giving a notice under subsection (1) or (2) above, require the local authority to give or publish the notice.
- (5) Before giving the direction, the Secretary of State, the local authority or the public body shall consider any representation duly made in pursuance of a notice published or given under subsection (1) or (2) above.
- (6) If, after a local authority have received representations under this section, they refuse the application to which the representations relate and an appeal is brought against their refusal the local authority shall transmit to the Secretary of State copies of those representations.

## **11 Type relaxation of building regulations. E+W**

- (1) If the Secretary of State considers that the operation of a requirement of building regulations would be unreasonable in relation to a particular type of building matter, he may, either on an application made to him or of his own accord, give a direction dispensing with or relaxing that requirement generally in relation to that type of building matter, either—

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- (a) unconditionally, or
  - (b) subject to compliance with any conditions specified in the direction, being conditions with respect to matters directly connected with the dispensation or relaxation.
- (2) A direction under subsection (1) above—
- (a) if it so provides, ceases to have effect at the end of such period as may be specified in the direction,
  - (b) may be varied or revoked by a subsequent direction of the Secretary of State.
- (3) Building regulations may require a person making an application under subsection (1) above to pay the Secretary of State the prescribed fee, and—
- (a) without prejudice to paragraph 10 of Schedule 1 to this Act, regulations made by virtue of this subsection may prescribe different fees for different cases, and
  - (b) the Secretary of State may in a particular case remit the whole or part of a fee payable by virtue of this subsection.
- (4) Before giving a direction under subsection (1) above, the Secretary of State shall consult such bodies as appear to him to be representative of the interests concerned.
- (5) Where the Secretary of State gives a direction under subsection (1) above, he shall publish notice of that fact in such manner as he thinks fit.
- (6) A person who contravenes a condition specified in a direction given under subsection (1) above, or permits such a condition to be contravened, is liable on summary conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £50 for each day on which the offence continues after he is convicted.
- (7) If at any time a direction under subsection (1) above dispensing with or relaxing a requirement of building regulations ceases to have effect by virtue of subsection (2) (a) above, or is varied or revoked under subsection (2)(b) above, that fact does not affect the continued operation of the direction (with any conditions specified in it) in a case in which before that time—
- (a) plans of the proposed work were, in accordance with building regulations, deposited with a local authority<sup>F14</sup>...
  - <sup>F14</sup>(b) .....
- (8) In this section, “building matter” means any building or other matter whatsoever to which building regulations are in any circumstances applicable.

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**Textual Amendments**

**F14** S. 11(7)(b) and word preceding it repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 13](#)

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### *Type approval of building matter*

## **12 Power of Secretary of State to approve type of building matter. E+W**

- (1) This section has effect with a view to enabling the Secretary of State, either on an application made to him or of his own accord, to approve a particular type of building matter as complying, either generally or in a class of case, with particular requirements of building regulations.
- (2) An application for the approval under subsection (1) above of a type of building matter shall comply with any requirements of building regulations as to the form of such applications and the particulars to be included in them.
- (3) Where under subsection (1) above the Secretary of State approves a type of building matter as complying with particular requirements of building regulations either generally or in a class of case, he may issue a certificate to that effect specifying—
  - (a) the type of building matter to which the certificate relates,
  - (b) the requirements of building regulations to which the certificate relates, and
  - (c) where applicable, the class or classes of case to which the certificate applies.
- (4) A certificate under subsection (3) above, if it so provides, ceases to have effect at the end of such period as may be specified in the certificate.
- (5) If, while a certificate under subsection (3) above is in force, it is found, in a particular case involving building matter of the type to which the certificate relates, that—
  - (a) the building matter in question is of that type, and
  - (b) the case is one to which the certificate applies,that building matter shall in that particular case be deemed to comply with the requirements of building regulations to which the certificate relates.
- (6) The Secretary of State may vary a certificate under subsection (3) above, either on an application made to him or of his own accord; but, in the case of a certificate issued on an application made by a person Under subsection (1) above, the Secretary of State, except where he varies it on the application of that person, shall before varying it give that person reasonable notice that he proposes to do so.
- (7) Building regulations may require a person making an application under subsection (1) or (6) above to pay the Secretary of State the prescribed fee, and—
  - (a) without prejudice to paragraph 10 of Schedule 1 to this Act, regulations made by virtue of this subsection may prescribe different fees for different cases, and
  - (b) the Secretary of State may in a particular case remit the whole or part of a fee payable by virtue of this subsection.
- (8) The Secretary of State may revoke a certificate issued under subsection (3) above, but, before doing so in the case of a certificate issued on an application under subsection (1) above, he shall give the person on whose application the certificate was issued reasonable notice that he proposes to do so.
- (9) Where the Secretary of State issues a certificate under subsection (3) above or varies or revokes a certificate so issued, he shall publish notice of that fact in such manner as he thinks fit

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- (10) If at any time a certificate under subsection (3) above ceases to have effect by virtue of subsection (4) above, or is varied or revoked under subsection (6) or (8) above, that fact does not affect the continued operation of subsection (5) above by virtue of that certificate in a case in which before that time—
  - (a) plans of the proposed work were, in accordance with building regulations, deposited with a local authority,<sup>F15</sup> ...
  - <sup>F15</sup>(b) .....
- (11) For the purposes of subsection (3) above, or of any variation of a certificate under subsection (6) above, a class of case may be framed in any way that the Secretary of State thinks fit.
- (12) In this section, " building matter " has the same meaning as in section 11 above.

**Textual Amendments**

**F15** S. 12(10)(b) and word repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), Sch. 1 Pt. 13](#)

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**Commencement Information**

**I1** S. 12 in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

**13 Delegation of power to approve. E+W**

- (1) The Secretary of State may by building regulations delegate to a person or body, to such extent and subject to such conditions as the Secretary of State may think fit, the powers of approval conferred on him by section 12 above.
- (2) So far as those powers are for the time being so delegated to a person or body, section 12 above, except subsection (7) as far as the end of paragraph (a), and any building regulations made by virtue of subsection (7) shall (subject to any prescribed conditions) have effect in relation to that person or body with the substitution of references to that person or body for references to the Secretary of State.

**Commencement Information**

**I2** S. 13 in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

*Consultation*

**14 Consultation with Building Regulations Advisory Committee and other bodies. E+W**

- (1) The Secretary of State for the time being charged with the exercise of the power to make building regulations and the Secretary of State for Wales acting jointly shall appoint a committee, to be known as the Building Regulations Advisory Committee, for the purpose of advising the Secretary of State on the exercise of his power to make building regulations, and on other subjects connected with building regulations.
- (2) The Secretary of State may pay such expenses incurred by members of the Building Regulations Advisory Committee as he may, with the approval of the Treasury, determine.

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- (3) Before making any building regulations containing substantive requirements, the Secretary of State shall consult the Building Regulations Advisory Committee and such other bodies as appear to him to be representative of the interests concerned.
- <sup>F16</sup>[(4) Before making any building regulations containing provision of the kind authorised by paragraph 11(1)(c) of Schedule 1 to this Act, the Secretary of State shall consult—
- (a) the Building Regulations Advisory Committee,
  - (b) such persons or bodies as appear to him to be representative of local authorities, and
  - (c) such other bodies as appear to him to be representative of the interests concerned.]

#### Textual Amendments

**F16** S. 14(4) inserted (3.11.1994) by 1994 c. 40, s. 32(2)

### 15 Consultation with fire authority. **E+W**

- (1) Where, in the case of a requirement as to—
- (a) structural fire precautions,
  - (b) the provision of means of escape from buildings in case of fire, or
  - (c) the provision of means for securing that such means of escape can be safely and effectively used at all material times,

contained in building regulations, the power to dispense with or relax that requirement conferred by section 8(1) above is by virtue of section 8(2) above exercisable by a local authority, or a public body proposes to exercise the power conferred on it by section 8(4) above, the local authority or public body, if they are not the [<sup>F17</sup>fire and rescue authority], shall before exercising the power in relation to any premises or proposed premises consult the [<sup>F17</sup>fire and rescue authority].

- (2) In subsection (1) above, “public body” has the meaning given by section 8(5) above.

#### Textual Amendments

**F17** Words in s. 15(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, Sch. 1 para. 57(2)(3)(a); [S.I. 2004/2304](#), art. 2; [S.I. 2004/2917](#), art. 2

### *Passing of plans*

### 16 Passing or rejection of plans. **E+W**

- (1) Where plans of any proposed work are, in accordance with building regulations, deposited with a local authority, it is the duty of the local authority, subject to any other section of this Act that expressly requires or authorises them in certain cases to reject plans, to pass the plans unless—
- (a) they are defective, or
  - (b) they show that the proposed work would contravene any of the building regulations.

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- (2) If the plans—
- (a) are defective, or
  - (b) show that the proposed work would contravene any of the building regulations,
- the local authority may—
- (i) reject the plans, or
  - (ii) subject to subsection (4) below, pass them subject to either or both of the conditions set out in subsection (3) below.
- (3) The conditions mentioned in subsection (2) above are—
- (a) that such modifications as the local authority may specify shall be made in the deposited plans, and
  - (b) that such further plans as they may specify shall be deposited.
- (4) A local authority may only pass plans subject to a condition such as is specified in subsection (3) above if the person by whom or on whose behalf they were deposited—
- (a) has requested them to do so, or
  - (b) has consented to their doing so.
- (5) A request or consent under subsection (4) above shall be in writing.
- (6) The authority shall within the relevant period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether they have been passed or rejected.
- (7) A notice that plans have been rejected shall specify the defects on account of which, or the regulation or section of this Act for non-conformity with which, or under the authority of which, they have been rejected.
- (8) A notice that plans have been passed shall—
- (a) specify any condition subject to which they have been passed, and
  - (b) state that the passing of the plans operates as an approval of them only for the purposes of the requirements of—
    - (i) the building regulations, and
    - (ii) any section of this Act (other than this section) that expressly requires or authorises the local authority in certain cases to reject plans.
- (9) Where the deposited plans are accompanied by—
- (a) a certificate given by a person approved for the purposes of this subsection to the effect that the proposed work, if carried out in accordance with the deposited plans, will comply with such provisions of the regulations prescribed for the purposes of this subsection as may be specified in the certificate, and
  - (b) such evidence as may be prescribed that an approved scheme applies, or the prescribed insurance cover has been or will be provided, in relation to the certificate,
- the local authority may not, except in prescribed circumstances, reject the plans on the ground that—
- (i) they are defective with respect to any provisions of the building regulations that are so specified, or
  - (ii) they show that the proposed work would contravene any of those provisions.

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- (10) In any case where a question arises under this section between a local authority and a person who proposes to carry out any work—
- (a) whether plans of the proposed work are in conformity with building regulations, or
  - (b) whether the local authority are prohibited from rejecting plans of the proposed work by virtue of subsection (9) above,
- that person may refer the question to the Secretary of State for his determination; and an application for a reference under this subsection shall be accompanied by such fee as may be prescribed.
- (11) Where—
- (a) deposited plans accompanied by such a certificate and such evidence as are mentioned in subsection (9) above are passed by the local authority, or
  - (b) notice of the rejection of deposited plans so accompanied is not given within the relevant period from the deposit of the plans,
- the authority may not institute proceedings under section 35 below for a contravention of building regulations that—
- (i) arises out of the carrying out of the proposed work in accordance with the plans, and
  - (ii) is a contravention of any of the provisions of the regulations specified in the certificate.
- (12) For the purposes of this Part of this Act, “the relevant period”, in relation to the passing or rejection of plans, means five weeks or such extended period (expiring not later than two months from the deposit of the plans) as may before the expiration of the five weeks be agreed in writing between the person depositing the plans and the local authority.

<sup>F18</sup>(13) . . . . .

**Textual Amendments**

**F18** S. 16(13) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Group 1.

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

**C10** S. 16 excluded (21.7.1994) by 1994 c.xv, s. 58(9)

**C11** S. 16(6)-(8) applied (with modifications) (21.7.1994) by 1994 c. xv, s. 58(10)

**C12** S. 16(6)-(8) amended by **Midland Metro Act 1989 (c.xv)**, s. 45(10); and s. 16(6)-(8) extended (27.7.1993) by 1993 c. xv, s. 55(10)

**17 Approval of persons to give certificates etc. E+W**

- (1) Building regulations may make provision for the approval of persons for the purposes of section 16(9) above—
- (a) by the Secretary of State, or
  - (b) by a body (corporate or unincorporated) that, in accordance with the regulations is designated by the Secretary of State for the purpose,
- and any such approval may limit the description of work, or the provisions of the regulations, in relation to which the person concerned is so approved.



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- (2) Any such designation as is referred to in paragraph (b) of subsection (1) above may limit the cases in which and the terms on which the body designated may approve a person and, in particular, may provide that any approval given by the body shall be limited as mentioned in that subsection.
- (3) There shall be paid on an application for any such approval as is referred to in subsection (1) above—
- (a) where the application is made to the Secretary of State, such fee as may be prescribed,
  - (b) where the application is made to a body designated by him as mentioned in that subsection, such fee as that body may determine.
- (4) The Secretary of State may approve for the purposes of section 16(9)
- above any scheme that appears to him to secure the provision of adequate insurance cover in relation to any certificate that is given under paragraph (a) of that subsection and is a certificate to which the scheme applies.
- (5) Building regulations may prescribe, for the purposes of section 16(9)
- above the insurance cover that is to be provided in relation to any certificate that is given under paragraph (a) of that subsection and is not a certificate to which an approved scheme applies and may, in particular, prescribe the form and content of policies of insurance.
- (6) Building regulations may—
- (a) contain provision prescribing the period for which, subject to any provision made by virtue of paragraph (b) or (c) below, any such approval as is referred to in subsection (1) above continues in force,
  - (b) contain provision precluding the giving of, or requiring the withdrawal of, any such approval as is referred to in subsection (1) above in such circumstances as may be prescribed,
  - (c) contain provision authorising the withdrawal of any such approval or designation as is referred to in subsection (1) above,
  - (d) provide for the maintenance by the Secretary of State of a list of bodies that are for the time being designated by him as mentioned in subsection (1) above and for the maintenance by the Secretary of State and by each designated body of a list of persons for the being time approved by him or them as mentioned in that subsection,
  - (e) make provision for the supply to local authorities of copies of any list of approved persons maintained by virtue of paragraph (d) above and for such copy lists to be made available for inspection, and
  - (f) make provision for the supply, on payment of a prescribed fee, of a certified copy of any entry in a list maintained by virtue of paragraph (d) above or in a copy list held by a local authority by virtue of paragraph (e) above.
- (7) Unless the contrary is proved, in any proceedings (whether civil or criminal) a document that appears to the court to be a certified copy of an entry either in a list maintained as mentioned in subsection (6)(d) above or in a copy of such a list supplied as mentioned in subsection (6)(e) above—
- (a) is presumed to be a true copy if an entry in the current list is maintained, and
  - (b) is evidence of the matters stated in it.

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**F19** 18 ..... **E+W**

**Textual Amendments**

**F19** S. 18 repealed (1.4.2002) by S.I. 2001/3335, reg. 3(1) (with reg. 4)

**19 Use of short-lived materials. E+W**

- (1) Where plans of a building are, in accordance with building regulations, deposited with a local authority, and the plans show that it is proposed to construct a building of materials to which this section applies, or to place or assemble on the site a building constructed of such materials, the authority may, notwithstanding that the plans conform with the regulations—
  - (a) reject the plans, or
  - (b) in passing the plans—
    - (i) fix a period on the expiration of which the building must be removed, and
    - (ii) impose with respect to the use of the building such reasonable conditions, if any, as having regard to the nature of the materials used in its construction they deem appropriate,but no condition shall be imposed that conflicts with any condition imposed on the grant of planning permission for that building under Part III of <sup>F20</sup>the Town and Country Planning Act 1990].
- (2) If a building in respect of which plans ought under the building regulations to have been deposited, but have not been deposited, appears to the authority to be constructed of such materials as aforesaid, the authority, without prejudice to their right to take proceedings in respect of any contravention of the regulations, may—
  - (a) fix a period on the expiration of which the building must be removed, and
  - (b) if they think fit, impose such conditions with respect to the use of the building as might have been imposed under subsection (1) above upon the passing of plans for the building.and where they fix such a period they shall forthwith give notice thereof, and of any conditions imposed, to the owner of the building.
- (3) A local authority may from time to time extend any period fixed, or vary any conditions imposed, under this section; but, unless an application in that behalf is made to them by the owner of the building in question, they shall not exercise their power of varying conditions except when granting an extension, or further extension, of the period fixed with respect to the building.
- (4) A person aggrieved by the action of a local authority under this section in rejecting plans, or in fixing or refusing to extend any period, or in imposing or refusing to vary any conditions, may appeal to a magistrates' court.
- (5) The owner of a building in respect of which a period has been fixed under this section shall, on the expiration of that period, or, as the case may be, of that period as extended, remove the building, and, if he fails to do so—
  - (a) the local authority shall remove it and may recover from him the expenses reasonably incurred by them in so doing, and

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- (b) without prejudice to the right of the authority to exercise that power, he is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £5 for each day during which the building is allowed to remain after he is convicted.
- (6) A person who uses a building in contravention of a condition imposed under this section, or who permits a building to be so used, is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £5 for each day on which the offence continues after he is convicted.
- (7) Building regulations may provide that this section applies to any materials specified in the regulations as being materials that are, in the absence of special care, liable to rapid deterioration, or are otherwise unsuitable for use in the construction of permanent buildings.
- (8) This section applies in relation to an extension of an existing building as it applies in relation to a new building.
- (9) This section ceases to have effect upon the coming into force of section 20 below (which supersedes it).

#### Textual Amendments

**F20** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 67\(1\)](#)

PROSPECTIVE

## 20 Use of materials unsuitable for permanent building. **E+W**

- (1) <sup>[F21]</sup>Where plans of any proposed work are, in accordance with building regulations, deposited with a local authority, and the plans show <sup>[F21]</sup>Where an application for building control approval in respect of any proposed work is made to a building control authority, and it appears] that the proposed work would include or consist of work to which this section applies, the authority may, notwithstanding that the <sup>[F22]</sup>plans conform <sup>[F22]</sup>application conforms] with the regulations—
- (a) reject <sup>[F23]</sup>the plans <sup>[F23]</sup>the application], or
  - (b) in <sup>[F24]</sup>passing the plans <sup>[F24]</sup>granting the application] —
    - (i) fix a period on the expiration of which the work to which this section applies or the relevant building (as the authority may in <sup>[F24]</sup>passing the plans <sup>[F24]</sup>granting the application] direct) must be removed, and
    - (ii) if they think fit, impose with respect to the use of the relevant building or with respect to the work to which this section applies such reasonable conditions, if any, as they consider appropriate,
- but no condition as to the use of the relevant building shall be imposed that conflicts with any condition imposed or having effect as if imposed under <sup>[F25]</sup>Part III or Part VIII of the Town and Country Planning Act 1990 or under the Planning (Listed Buildings and Conservation Areas) Act 1990 or the Planning (Hazardous Substances) Act 1990].

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(2) If, in the case of any work in respect of which [<sup>F26</sup>plans ought by virtue of building regulations to have been deposited with a local authority but have not been so deposited][<sup>F26</sup>an application for building control approval ought to have been made but was not made], the work appears to the authority to include or consist of work to which this section applies, the authority, without prejudice to their right to take proceedings in respect of any contravention of the regulations, may—

- (a) fix a period on the expiration of which the work to which this section applies or the relevant building (as the authority may in fixing the period direct) must be removed, and
- (b) if they think fit, impose any conditions that might have been imposed under subsection (1) above in [<sup>F27</sup>passing plans][<sup>F27</sup>granting the application] for the first-mentioned work,

and where they fix such a period they shall forthwith give notice thereof, and of any conditions imposed, to the owner of the relevant building.

(3) If, in the case of any work appearing to the [<sup>F28</sup>building control authority] to fall within subsection (9)(b) below, [<sup>F29</sup>plans of the work were not required by building regulations to be deposited with the authority, and were not so deposited][<sup>F29</sup>an application for building control approval was not required by building regulations to be made and was not made], the authority may at any time within 12 months from the date of completion of the work—

- (a) fix a period on the expiration of which the work must be removed, and
- (b) if they think fit, impose any conditions that, [<sup>F30</sup>if plans of the work had been required to be, and had been, so deposited, might have been imposed under subsection (1) above in passing the plans,][<sup>F30</sup>if an application for building control approval in respect of the work had been required to be made and had been made, might have been imposed under subsection (1) in granting the application,]

and where they fix such a period they shall forthwith give notice thereof, and of any conditions imposed, to the owner of the relevant building.

(4) A [<sup>F28</sup>building control authority] may from time to time extend any period fixed, or vary any conditions imposed, under this section, but, unless an application in that behalf is made to them by the owner of the relevant building, they shall not exercise their power of varying conditions so imposed except when granting an extension or further extension of the period fixed with respect to the work or building, as the case may be.

(5) A person aggrieved by the action of a [<sup>F28</sup>building control authority] under this section—

- (a) in rejecting [<sup>F31</sup>plans][<sup>F31</sup>an application],
- (b) in fixing or refusing to extend any period, or
- (c) in imposing or refusing to vary any conditions,

may appeal <sup>F32</sup>....

[<sup>F33</sup>(5A) The appeal is to be made to—

- (a) the regulator, in the case of action by a local authority for an area in England;
- (b) the tribunal, in the case of action by the regulator;
- (c) the Welsh Ministers, in the case of action by a local authority for an area in Wales.]

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- (6) Where a period has been fixed under this section with respect to any work to which this section applies or with respect to the relevant building—
- (a) the owner of that building shall on the expiration of that period, or, as the case may be, of that period as extended, remove the work or building with respect to which the period was fixed, and
  - (b) if he fails to do so, the [<sup>F28</sup>building control authority] may remove that work or building, as the case may be, and may recover from him the expenses reasonably incurred by them in doing so.
- (7) A person who—
- (a) contravenes a condition imposed under this section or permits such a condition to be contravened, or
  - (b) contravenes subsection (6) above,
- is liable on summary conviction to a fine <sup>F34</sup>... and to a further fine not exceeding [<sup>F35</sup>level 1 on the standard scale] for each day on which the offence continues or, as the case may be, on which the work or building is allowed to remain after he is convicted; but this subsection does not prejudice a local authority's rights under subsection (6) above.
- (8) In this section, “the relevant building” means, in any particular case, the building mentioned in paragraph (a) or, as the case may be, paragraph (b) of subsection (9) below.
- (9) This section applies to—
- (a) any work consisting of a part of a building, being a part in the construction of which there is used any material or component of a type that, in relation to a part of that description, is prescribed for the purposes of this paragraph under subsection (10) below, and
  - (b) any work provided in or in connection with a building, being work consisting of a service, fitting or item of equipment of a type so prescribed for the purposes of this paragraph.
- (10) The [<sup>F36</sup>appropriate national authority] may by building regulations—
- (a) prescribe a type of material or component for the purposes of subsection (9) (a) above if in [<sup>F37</sup>its] opinion materials or components of that type are likely to be unsuitable for use in the construction of a particular part of a permanent building in the absence of conditions with respect to the use of the building or with respect to any material or component of that type used in the construction of a part of that description,
  - (b) prescribe a type of service, fitting or equipment for the purposes of subsection (9)(b) above if in [<sup>F37</sup>its] opinion services, fittings or equipment of that type are likely to be unsuitable for provision in or in connection with a permanent building in the absence of conditions with respect to the use of the building or with respect to a service, fitting or equipment of that type so provided.
- (11) Upon section 19 above ceasing to have effect—
- (a) any building regulations made, period fixed, condition imposed or other thing done by virtue of the said section 19 shall be deemed to have been made, fixed, imposed or done by virtue of this section, and
  - (b) anything begun under the said section 19 may be continued under this Act as if begun under this section, but any appeal under section 19(4) that is pending

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at the time when the said section 19 ceases to have effect, and any proceedings arising out of such an appeal, shall proceed as if that section were still in force.

### Textual Amendments

- F21** Words in s. 20(1) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(3)(a)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F22** Words in s. 20(1) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(3)(b)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F23** Words in s. 20(1)(a) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(3)(c)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F24** Words in s. 20(1)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(3)(d)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F25** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 67(2)**
- F26** Words in s. 20(2) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(4)(a)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F27** Words in s. 20(2)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(4)(b)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F28** Words in s. 20 substituted in part (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(2)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 4)
- F29** Words in s. 20(3) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(5)(a)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F30** Words in s. 20(3)(b) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(5)(b)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F31** Words in s. 20(5)(a) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(6)**; S.I. 2023/993, reg. 2(n)(x) (with reg. 3)
- F32** Words in s. 20(5) omitted (1.10.2023 except in relation to W., 6.4.2024 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 3(2)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6); S.I. 2024/207, reg. 2(d)(xii) (with regs. 3, 4, 8-12)
- F33** S. 20(5A) inserted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 6 para. 3(3)**; S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F34** Words in s. 20(7) omitted (1.10.2023 except in relation to W.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(7)(a)**; S.I. 2023/993, reg. 2(n)(x)
- F35** Words in s. 20(7) substituted (1.10.2023 except in relation to W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(7)(b)**; S.I. 2023/993, reg. 2(n)(x)
- F36** Words in s. 20(10) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(8)(a)**; S.I. 2022/561, reg. 3(f), Sch. para. 23; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 15
- F37** Word in s. 20(10) substituted (28.6.2022 for E., 5.9.2023 for W.) by Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), **Sch. 5 para. 22(8)(b)**; S.I. 2022/561, reg. 3(f), Sch. para. 23; S.I. 2023/914, reg. 2(b)(xiii), Sch. para. 15

## 21 Provision of drainage. **E+W**

**F38**(1) .....

**F38**(2) .....

(3) Any question arising under subsection [**F39**(4) below]between a local authority and the person by whom, or on whose behalf, plans are deposited as to [**F40** whether a proposed



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drain shall be required to connect with a sewer] may on the application of that person be determined by a magistrates' court.

- (4) [<sup>F41</sup>Where plans of a building or of an extension of a building are, in accordance with building regulations, deposited with a local authority, the local authority, or on appeal a magistrates' court, may require a proposed drain to connect with a sewer where]—
- (a) that sewer is within one hundred feet of the site of the building or, in the case of an extension, the site either of the extension or of the original building, and is at a level that makes it reasonably practicable to construct a drain to communicate with it, and, if it is not a public sewer, is a sewer that the person constructing the drain is entitled to use, and
  - (b) the intervening land is land through which that person is entitled to construct a drain.
- (5) Notwithstanding paragraph (a) of subsection (4) above, a drain may be required to be made to connect with a sewer that is not within the distance mentioned in that paragraph, but is otherwise such a sewer as is therein mentioned, if the authority undertake to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing, the drain as may be attributable to the fact that the distance of the sewer exceeds the distance so mentioned.
- (6) If any question arises as to the amount of a payment to be made to a person under subsection (5) above, that question may on his application be determined by a magistrates' court, or he may require it to be referred to arbitration.

#### Textual Amendments

- F38** S. 21(1)(2) repealed (1.4.2002) by S.I. 2001/3335, **reg. 3(1)** (with **reg. 4**)  
**F39** Words in s. 21(3) substituted (1.4.2002) by S.I. 2001/3335, **reg. 3(2)(a)** (with **reg. 4**)  
**F40** S. 21(3)(a)(b) substituted for words (1.4.2002) by S.I. 2001/3335, **reg. 3(2)(b)** (with **reg. 4**)  
**F41** Words in s. 21(4) substituted (1.4.2002) by S.I. 2001/3335, **reg. 3(3)** (with **reg. 4**)

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

- C13** Ss. 21, 22, 23 extended by S.I. 1987/798, **regs. 2(1), 4**

## 22 Drainage of buildings in combination. **E+W**

- (1) Where—
- (a) a local authority might under section 21 above require each of two or more buildings to be drained separately into an existing sewer, but
  - (b) it appears to the authority that those buildings may be drained more economically or advantageously in combination,
- the authority may, when the drains of the buildings are first laid, require that the buildings be drained in combination into the existing sewer by means of a private sewer to be constructed either by the owners of the buildings in such manner as the authority may direct or, if the authority so elect, by the authority on behalf of the owners.
- (2) A local authority shall not, except by agreement with the owners concerned, exercise the power conferred by subsection (1) above in respect of any building for whose drainage plans have been previously passed by them.



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- (3) A local authority who make such a requirement as aforesaid shall fix—
- (a) the proportions in which the expenses of constructing, and of maintaining and repairing, the private sewer are to be borne by the owners concerned, or
  - (b) in a case in which the distance of the existing sewer from the site of any of the buildings in question is or exceeds one hundred feet, the proportions in which those expenses are to be borne by the owners concerned and the local authority,
- and shall forthwith give notice of their decision to each owner affected.
- (4) An owner aggrieved by the decision of a local authority under subsection (3) above may appeal to a magistrates' court.
- (5) Subject to any such appeal—
- (a) any expenses reasonably incurred in constructing, or in maintaining or repairing, the private sewer shall be borne in the proportions so fixed, and
  - (b) those expenses, or, as the case may be, contributions to them, may be recovered accordingly by the persons, whether the local authority or the owners, by whom they were incurred in the first instance.
- (6) A sewer constructed by a local authority under this section is not deemed a public sewer by reason of the fact that the expenses of its construction are in the first instance defrayed by the authority, or that some part of those expenses is borne by them.

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

C14 Ss. 21, 22, 23 extended by [S.I. 1987/798](#), [regs. 2\(1\), 4](#)

**23 Provision of facilities for refuse. E+W**

<sup>F42</sup>(1) .....

<sup>F42</sup>(2) .....

- (3) It is unlawful for any person except with the consent of the local authority to close or obstruct the means of access by which refuse or faecal matter is removed from a building, and the local authority in giving their consent may impose such conditions as they think fit with respect to the improvement of an alternative means of access or the substitution of other means of access.
- (4) A person who contravenes subsection (3) above is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Textual Amendments**

F42 S. 23(1)(2) repealed by [S.I. 1985/1065](#), [reg. 18](#)

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

C15 Ss. 21, 22, 23 extended by [S.I. 1987/798](#), [regs. 2\(1\), 4](#)

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## 24 Provision of exits etc. E+W

(1) Where—

- (a) plans of a building or of an extension of a building are, in accordance with building regulations, deposited with a local authority, and
- (b) the building or, as the case may be, the building as extended will be a building to which this section applies,

the authority shall reject the plans unless they show that the building, or, as the case may be, the building as extended, will be provided with such means of ingress and egress and passages or gangways as the authority, after consultation with the [<sup>F43</sup>fire and rescue authority], deem satisfactory, regard being had to the purposes for which the building is intended to be, or is, used and the number of persons likely to resort to it at any one time.

(2) Any question arising under subsection (1) above between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether the means of ingress or egress or passages or gangways already existing, or proposed to be provided, ought to be accepted by the authority as satisfactory may on the application of that person be determined by a magistrates' court.

(3) Where building regulations imposing requirements as to the provision of means of escape in case of fire are applicable to a proposed building or proposed extension of a building, or would be so applicable but for a direction under section 8 above dispensing with such requirements—

- (a) this section, and
  - (b) any provision of a local Act that has effect in place of this section,
- does not apply in relation to the proposed building or extension.

(4) Subject to subsection (3) above, this section applies to—

- (a) a theatre, and a hall or other building that is used as a place of public resort,
- (b) a restaurant, shop, store or warehouse to which members of the public are admitted and in which more than twenty persons are employed,
- [<sup>F44</sup>(c) premises in respect of which a club premises certificate has effect under the Licensing Act 2003,]
- (d) a school not exempted from the operation of building regulations, and
- (e) a church, chapel or other place of public worship

but not—

- (i) a private house to which members of the public are admitted occasionally or exceptionally,
- (ii) a building that was used as a church, chapel or other place of public worship immediately before the date on which section 36 of the <sup>M2</sup>Public Health Acts Amendment Act 1890, or a corresponding provision in a local Act, came into operation in the district or rating district, or
- (iii) a building that was so used immediately before the 1st October 1937 (the date of commencement of the <sup>M3</sup>Public Health Act 1936) in a district or rating district where neither the said section 36 nor such a corresponding provision ever came into operation.

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#### Textual Amendments

- F43** Words in s. 24(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 57\(2\)\(3\)\(b\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art 2
- F44** S. 24(4)(c) substituted (24.11.2005) by [Licensing Act 2003 \(c. 17\)](#), s. 201(2), [Sch. 6 para. 91](#) (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2)

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

- C16** S. 24 excluded by [Fire Safety and Safety of Places of Sport Act 1987 \(c. 27, SIF 45A\)](#), [ss. 26\(1\)](#), 33(1)(d)

#### Marginal Citations

- M2** 1890 c. 59.  
**M3** 1936 c. 49.

## 25 Provision of water supply. **E+W**

- (1) Where plans of a house are, in accordance with building regulations, deposited with a local authority, the authority shall reject the plans unless a proposal is put before them that appears to them to be satisfactory for providing the occupants of the house with a supply of wholesome water sufficient for their domestic purposes—
- by connecting the house to a supply of water in pipes provided by . . . <sup>F45</sup> water undertakers,
  - if in all the circumstances it is not reasonable to require the house to be connected as aforesaid, by otherwise taking water into the house by means of a pipe, or
  - if in all the circumstances neither of the preceding alternatives can reasonably be required, by providing a supply of water within a reasonable distance of the house,
- and the authority are satisfied that the proposal can and will be carried into effect.
- (2) Any question arising under subsection (1) above between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether the local authority ought to pass the plans may on the application of that person be determined by a magistrates' court.
- (3) If, after any such plans as aforesaid have been passed, it appears to the local authority that the proposal for providing a supply of water—
- has not been carried into effect, or
  - has not resulted in a supply of wholesome water sufficient for the domestic purposes of the occupants,
- the authority shall give notice to the owner of the house prohibiting him from occupying it, or permitting it to be occupied, until the authority, being satisfied that such a supply has been provided, have granted him a certificate to that effect.
- (4) Until a certificate is granted under subsection (3) above, the owner shall not occupy the house or permit it to be occupied.
- (5) A person aggrieved by the refusal of the authority to grant such a certificate may apply to a magistrates' court for an order authorising the occupation of the house, and, if the

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court is of opinion that a certificate ought to have been granted, the court may make an order authorising the occupation of the house, and such an order shall have the like effect as a certificate of the local authority.

(6) A person who contravenes subsection (4) above is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £2 for each day on which the offence continues after he is convicted.

[<sup>F46</sup>(7) [<sup>F47</sup>Section 67 of the Water Industry Act 1991] (standards of wholesomeness of water) and any regulations made under that section shall apply for the purposes of subsection (1) above as they apply for the purposes of [<sup>F48</sup>Chapter III of Part III] of that Act.]

**Textual Amendments**

- F45** Word repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. I](#)
- F46** S. 25(7) inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 70\(1\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), **58**
- F47** Words in s. 25(7) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 39\(3\)\(a\)](#)
- F48** Words in s. 25(7) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 39\(3\)\(b\)](#).

**26–29** ..... <sup>F49</sup> **E+W**

**Textual Amendments**

- F49** Ss. 26–29 repealed by [S.I. 1985/1065](#), [reg. 18](#)

*Determination of questions*

**30** ..... <sup>F50</sup> **E+W**

**Textual Amendments**

- F50** S. 30 repealed by [S.I. 1985/1603](#), [art. 3](#)

*Proposed departure from plans*

**31** **Proposed departure from plans.** **E+W**

(1) Where plans of any proposed work have been passed under section 16 above by a local authority, the person by or on whose behalf the plans were in accordance with building regulations deposited with the authority may, and in such cases as may be prescribed shall, for the purpose of obtaining the approval of the authority to any proposed

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departure or deviation from the plans as passed, deposit plans of the departure or deviation.

- (2) Section 16 above applies in relation to plans deposited under subsection (1) above as it applies in relation to the plans originally deposited.

#### Commencement Information

**I3** S. 31 in force at 1.12.1984 for specified purposes, see s. 134(1)(a)

### *Lapse of deposit of plans*

#### **32 Lapse of deposit of plans. E+W**

- (1) Where plans of any proposed work have, in accordance with building regulations, been deposited with a local authority, and—
- (a) the plans have been passed by the authority, or
  - (b) notice of rejection of the plans has not been given within the relevant period from their deposit,

and the work to which the plans relate has not been commenced within three years from the deposit of the plans, the local authority may, at any time before the work is commenced, by notice to the person by whom or on whose behalf the plans were deposited, or other the owner for the time being of the land to which the plans relate, declare that the deposit of the plans is of no effect.

- (2) Where a notice has been given under subsection (1) above, this Act and the building regulations shall, as respects the proposed work, have effect as if no plans had been deposited.

VALID FROM 01/10/2023

### *Tests for conformity with building regulations*

#### **33 Tests for conformity with building regulations. E+W**

- (1) The following subsection has effect for the purpose of enabling a local authority to ascertain, as regards any work or proposed work to which building regulations for the enforcement of which they are responsible are applicable, whether any provision of building regulations is or would be contravened by, or by anything done or proposed to be done in connected with, that work.
- (2) The local authority have power for that purpose—
- (a) to require a person by whom or on whose behalf the work was, is being or is proposed to be done to carry out such reasonable tests of or in connection with the work as may be specified in the requirement, or
  - (b) themselves to carry out any reasonable tests of or in connection with the work, and to take any samples necessary to enable them to carry out such a test.

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- (3) Without prejudice to the generality of subsection (2) above, the matters with respect to which tests may be required or carried out under that subsection include—
- (a) tests of the soil or subsoil of the site of a building,
  - (b) tests of any material, component or combination of components that has been, is being or is proposed to be used in the construction of a building, and tests of any service, fitting or equipment that has been, is being or is proposed to be provided in or in connection with a building.
- (4) A local authority have power, for the purpose of ascertaining whether there is or has been, in the case of a building, a contravention of a continuing requirement that applies in relation to that building—
- (a) to require the owner or occupier of the building to carry out such reasonable tests as may be specified in the requirement under this paragraph, or
  - (b) themselves to carry out any tests that they have power to require under paragraph (a) above, and to take any samples necessary to enable them to carry out such a test;
- and in this subsection “continuing requirement” means a continuing requirement imposed by building regulations made by virtue of section 2(1) or (2) [<sup>F51</sup>or 2A] above.
- (5) The expense of carrying out any tests that a person is required to carry out under this section shall be met by that person, except that the local authority, on an application made to them, may, if they think it reasonable to do so, direct that the expense of carrying out any such tests, or such part of that expense as may be specified in the direction, shall be met by the local authority.
- (6) Any question arising under this section between a local authority and a person as to the reasonableness of—
- (a) a test specified in a requirement imposed on him by the authority under this section,
  - (b) a refusal by the authority to give a direction under subsection (5) above on an application made by him, or
  - (c) a direction under that subsection given on such an application,
- may on the application of that person be determined by a magistrates’ court; and in a case falling within paragraph (b) or (c) above the court may order the expense to which the application relates to be met by the local authority to such extent as the court thinks just.

#### Textual Amendments

- F51** Words in s. 33(4) inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), ss. [4\(2\)](#), [11\(4\)](#)

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### *Classification of buildings*

#### **34 Classification of buildings.** E+W

For the purposes of building regulations and of a direction given or instrument made with reference to building regulations, buildings may be classified by reference to size, description, design, purpose, location or any other characteristic whatsoever.

### *Breach of building regulations*

#### **35 Penalty for contravening building regulations.** E+W

If a person contravenes any provision contained in building regulations, other than a provision designated in the regulations as one to which this section does not apply, he is liable on summary conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £50 for each day on which the default continues after he is convicted.

#### **[<sup>F52</sup>35A Time limit for prosecution for contravention of <sup>F53</sup>... building regulations** E+W

- (1) Despite anything in section 127(1) of the Magistrates' Courts Act 1980 (c. 43), an information relating to [<sup>F54</sup>an offence under section 35 above] may be tried by a magistrates' court if it is laid at any time—
- (a) within the period of two years beginning with the day on which the offence was committed, and
  - (b) within the period of six months beginning with the relevant date.

<sup>F55</sup>(2) .....

<sup>F56</sup>(3) .....

- (4) In subsection (1)(b) above, “ the relevant date ” means the date on which evidence sufficient to justify the proceedings comes to the knowledge of the person commencing the proceedings.

- (5) In the case of proceedings commenced by a local authority—
- (a) evidence is to be regarded for the purposes of subsection (4) above as sufficient to justify the proceedings if in the opinion of the proper officer or an authorised officer it is sufficient to justify the proceedings, and
  - (b) a certificate of the proper officer or, as the case may be, that authorised officer as to the date on which evidence which, in his opinion, was sufficient to justify the proceedings came to the knowledge of the person commencing the proceedings is to be conclusive evidence of that fact.

<sup>F57</sup>(6) .....]

#### **Textual Amendments**

**F52** S. 35A inserted (21.8.2006) by [Climate Change and Sustainable Energy Act 2006 \(c. 19\)](#), **ss. 13(1), 28(1)**

**F53** Word in s. 35A repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 317(2)(5), 325(1), Sch. 16**; [S.I. 2008/2358](#), art. 4(a)



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- F54** Words in s. 35A(1) substituted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 317\(3\)\(5\), 325\(1\); S.I. 2008/2358, art. 4\(a\)](#)
- F55** S. 35A(2) repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 317\(4\)\(5\), 325\(1\), Sch. 16; S.I. 2008/2358, art. 4\(a\)](#)
- F56** S. 35A(3) repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 317\(4\)\(5\), 325\(1\), Sch. 16; S.I. 2008/2358, art. 4\(a\)](#)
- F57** S. 35A(6) repealed (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 317\(4\)\(5\), 325\(1\), Sch. 16; S.I. 2008/2358, art. 4\(a\)](#)

### 36 **Removal or alteration of offending work.** E+W

- (1) If any work to which building regulations are applicable contravenes any of those regulations, the local authority, without prejudice to their right to take proceedings for a fine in respect of the contravention, may by notice require the owner—
  - (a) to pull down or remove the work, or
  - (b) if he so elects, to effect such alterations in it as may be necessary to make it comply with the regulations.
  
- (2) If, in a case where the local authority are, by any section of this Part of this Act other than section 16, expressly required or authorised to reject plans, any work to which building regulations are applicable is executed—
  - (a) without plans having been deposited,
  - (b) notwithstanding the rejection of the plans, or
  - (c) otherwise than in accordance with any requirements subject to which the authority passed the plans,

the authority may by notice to the owner—

  - (i) require him to pull down or remove the work, or
  - (ii) require him either to pull down or remove the work or, if he so elects, to comply with any other requirements specified in the notice, being requirements that they might have made under the section in question as a condition of passing plans.
  
- (3) If a person to whom a notice has been given under subsection (1) or (2) above fails to comply with the notice before the expiration of 28 days, or such longer period as a magistrates' court may on his application allow, the local authority may—
  - (a) pull down or remove the work in question, or
  - (b) effect such alterations in it as they deem necessary,

and may recover from him the expenses reasonably incurred by them in doing so.
  
- (4) A notice under subsection (1) or (2) above (called a “section 36 notice”) shall not be given after the expiration of 12 months from the date of the completion of the work in question.
  
- (5) A section 36 notice shall not be given, in a case where plans were deposited and the work was shown on them, on the ground that the work contravenes any building regulations or, as the case may be, does not comply with the authority's requirements under any section of this Act other than section 16, if—
  - (a) the plans were passed by the authority, or
  - (b) notice of their rejection was not given within the relevant period from their deposit,

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and if the work has been executed in accordance with the plans and of any requirement made by the local authority as a condition of passing the plans.

- (6) This section does not affect the right of a local authority, the Attorney General or any other person to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any regulation or any provision of this Act; but if—
- (a) the work is one in respect of which plans were deposited,
  - (b) the plans were passed by the local authority, or notice of their rejection was not given within the relevant period from their deposit, and
  - (c) the work has been executed in accordance with the plans,

the court on granting an injunction has power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall in accordance with rules of court cause the local authority, if not a party to the proceedings, to be joined as a party to them.

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

C17 S. 36(2)–(6) amended by [Midland Metro Act 1989 \(c. xv\), s. 45\(10\)](#)s. 36(2)-(6) extended (27.7.1993) by 1993 c. xv, s. 55(10).S. 36(2)-(6) applied with modifications (21.7.1994) by 1994 c. XV, s. 58(10)

**37 Obtaining of report where section 36 notice given. E+W**

- (1) In a case where—
- (a) a person to whom a section 36 notice has been given gives to the local authority by whom the notice was given notice of his intention to obtain from a suitably qualified person a written report concerning work to which the section 36 notice relates, and
  - (b) such a report is obtained and submitted to the local authority and, as a result of their consideration of it, the local authority withdraw the section 36 notice,
- the local authority may pay to the person to whom the section 36 notice was given such amount as appears to them to represent the expenses reasonably incurred by him in consequence of their having given him that notice including, in particular, his expenses in obtaining the report.
- (2) Subject to subsection (3) below, if a person to whom a section 36 notice has been given gives notice under subsection (1)(a) above, then, so far as regards the matters to which the section 36 notice relates, the reference to 28 days in section 36(3) above shall be construed as a reference to 70 days.
- (3) Notice under subsection (1)(a) above shall be given before the expiry of the period of 28 days referred to in section 36(3) above, or, as the case may be, within such longer period as a court allows under section 36(3); and, where such a longer period has been so allowed before notice is given under subsection (1)(a) above, subsection (2) above does not apply.

**38 Civil liability. E+W**

- (1) Subject to this section—
- (a) breach of a duty imposed by building regulations, so far as it causes damage, is actionable, except in so far as the regulations provide otherwise, and

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- (b) as regards such a duty, building regulations may provide for a prescribed defence to be available in an action for breach of that duty brought by virtue of this subsection.
- (2) Subsection (1) above, and any defence provided for in regulations made by virtue of it, do not apply in the case of a breach of such a duty in connection with a building erected before the date on which that subsection comes into force unless the regulations imposing the duty apply to or in connection with the building by virtue of section 2(2) [<sup>F58</sup> or 2A] above or paragraph 8 of Schedule 1 to this Act.
- (3) This section does not affect the extent (if any) to which breach of—
- (a) a duty imposed by or arising in connection with this Part of this Act or any other enactment relating to building regulations, or
  - (b) a duty imposed by building regulations in a case to which subsection (1) above does not apply,
- is actionable, or prejudice a right of action that exists apart from the enactments relating to building regulations.
- (4) In this section, “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).

#### Textual Amendments

**F58** Words in s. 38(2) inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), **ss. 4(3), 11(4)**

#### Commencement Information

**I4** S. 38 in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

### *Appeals in certain cases*

#### **39 Appeal against refusal etc. to relax building regulations. E+W**

- (1) If a local authority refuse an application to dispense with or relax a requirement in building regulations that they have power to dispense with or relax, the applicant may by notice in writing appeal to the Secretary of State within one month from the date on which the local authority notify the applicant of their refusal.
- (2) If, within—
- (a) a period of two months beginning with the date of an application, or
  - (b) such extended period as may at any time be agreed in writing between the applicant and the local authority,
- the local authority do not notify the applicant of their decision on the application, subsection (1) above applies in relation to the application as if the local authority had refused the application and notified the applicant of their decision at the end of the said period.
- (3) The notice of appeal shall set out the grounds of appeal, and a copy of the notice of appeal shall be sent to the local authority.

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- (4) The local authority, on receiving a copy of the notice of appeal, shall at once transmit to the Secretary of State a copy of the application and a copy of all the documents furnished by the applicant for the purposes of his application.
- (5) The local authority shall at the same time give to the Secretary of State in writing any representations that they desire to make as regards the appeal, and shall send a copy to the appellant.
- (6) If the Secretary of State allows the appeal, he shall give such directions for dispensing with or relaxing building regulations as may be appropriate.

#### **40 Appeal against section 36 notice. E+W**

- (1) A person aggrieved by the giving of a section 36 notice may appeal to a magistrates' court<sup>F59</sup> ....
- (2) Subject to subsection (3) below, on an appeal under this section the court shall—
  - (a) if it determines that the local authority were entitled to give the notice, confirm the notice, and
  - (b) in any other case, give the local authority a direction to withdraw the notice.
- (3) If, in a case where the appeal is against a notice under section 36(2) above, the court is satisfied that—
  - (a) the local authority were entitled to give the notice, but
  - (b) in all the circumstances of the case the purpose for which was enacted the section of this Act by virtue of which the notice was given has been substantially achieved,the court may give a direction under subsection (2)(b) above.
- (4) An appeal under this section shall be brought—
  - (a) within 28 days of the giving of the section 36 notice, or
  - (b) in a case where the person to whom the section 36 notice was given gives notice under section 37(1)(a) above, within 70 days of the giving of the section 36 notice.
- (5) Where an appeal is brought under this section—
  - (a) the section 36 notice is of no effect pending the final determination or withdrawal of the appeal, and
  - (b) section 36(3) above has effect in relation to that notice as if after the words “28 days” there were inserted the words “(beginning, in a case where an appeal is brought under section 40 below, on the date when the appeal is finally determined or, as the case may be, withdrawn)”.
- (6) If, on an appeal under this section, there is produced to the court a report that has been submitted to the local authority under section 37(1) above, the court, in making an order as to costs, may treat the expenses incurred in obtaining the report as expenses incurred for the purposes of the appeal.

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### Textual Amendments

**F59** Words in s. 40(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 279, Sch. 10; S.I. 2005/910, art. 3(y)

## 41 Appeal to Crown Court. **E+W**

- (1) Where a person—
- (a) is aggrieved by an order, determination or other decision of a magistrates' court under this Part of this Act, or under Part IV of this Act as it applies in relation to this Part, and
  - (b) is not by any other enactment authorised to appeal to the Crown Court.
- he may appeal to the Crown Court.
- (2) Subsection (1) above does not confer a right of appeal in a case in which each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by a magistrates' court.

## 42 Appeal and statement of case to High Court in certain cases. **E+W**

- (1) Where the Secretary of State gives a decision in proceedings—
- (a) on an appeal under section 20 or 39 above,
  - (b) on a reference under section 16 above or 50 below, or
  - (c) on an application for a direction under section 8 above where the power of giving the direction is not exercisable by the local authority,
- the relevant person or the local authority or, as the case may be, the approved inspector may appeal to the High Court against the decision on a point of law.
- (2) In subsection (1) above, “the relevant person” means—
- (a) as regards an appeal under the said section 20 or 39, the appellant,
  - (b) as regards a reference under the said section 16 or 50, the person on whose application the reference was made,
  - (c) as regards such an application as is mentioned in subsection (1)(c) above, the applicant.
- (3) At any stage of the proceedings on such an appeal, reference or application as is mentioned in subsection (1) above—
- (a) the Secretary of State may state a question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court, and
  - (b) a decision of the High Court on a case so stated is deemed to be a judgment of the court within the meaning of section 16 of the <sup>M4</sup>[<sup>F60</sup>Senior Courts Act 1981] (appeals from the High Court to the Court of Appeal).
- (4) In relation to proceedings in the High Court or the Court of Appeal brought by virtue of this section, the power to make rules of court includes 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

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- (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, and references to the giving of a decision shall be construed accordingly.
- (7) Until such day as the Secretary of State may by order appoint, subsections (1) and (2) above have effect as if—
  - (a) in subsection (1)(b), for “section 16 above or 50 below” there were substituted “section 30 above”,
  - (b) in subsection (1), the words “or, as the case may be, the approved inspector” were omitted, and
  - (c) in subsection (2)(b), for “section 16 or 50” there were substituted “section 30” and the words “(jointly with the local authority)” were inserted after “application”.

#### Textual Amendments

**F60** Words in s. 42(3)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604](#), art. 2(d)

#### Commencement Information

**I5** S. 42(4)-(6) in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

#### Marginal Citations

**M4** [1981 c. 54](#).

### 43 Procedure on appeal to Secretary of State on certain matters. **E+W**

- (1) On an appeal to the Secretary of State under section 20 or 39 above, the Secretary of State may at his discretion afford to the appellant and the local authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (2) On determining such an appeal, the Secretary of State shall give such directions, if any, as he considers appropriate for giving effect to his determination.
- (3) Without prejudice to paragraph 10(c) of Schedule 1 to this Act, building regulations may, in connection with such an appeal, include such supplementary provisions with respect to procedure as the Secretary of State thinks fit.



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PROSPECTIVE

*Application of building regulations to Crown etc.*

**44 Application to Crown. E+W**

- (1) Except in so far as buildings regulations provide otherwise, the substantive requirements of building regulations—
  - (a) apply in relation to work carried out or proposed to be carried out by or on behalf of a Crown authority (whether or not in relation to a Crown building) as they would apply if the person by or on behalf of whom the work was or is to be carried out were not a Crown authority, and
  - (b) so far as they consist of continuing requirements, apply to Crown authorities (whether or not in relation to Crown buildings) as they apply to persons who are not Crown authorities.
- (2) In so far as building regulations so provide as regards any of the substantive requirements of building regulations, those requirements—
  - (a) apply in relation to work carried out or proposed to be carried out as mentioned in subsection (1)(a) above in inner London, and
  - (b) so far as they consist of continuing requirements, apply to Crown authorities there as mentioned in subsection (1)(b) above,
 even if those requirements do not apply there in the case of work carried out or proposed to be carried out otherwise than by or on behalf of a Crown authority or, in the case of continuing requirements, do not apply there to persons other than Crown authorities.
- (3) Except in so far as building regulations provide otherwise, building regulations and the enactments relating to building regulations—
  - (a) apply in relation to work carried out or proposed to be carried out in relation to a Crown building otherwise than by or on behalf of a Crown authority, and, in the case of section 2 above and building regulations made by virtue of it, apply in relation to a Crown building to persons other than Crown authorities, as they would apply if the building were not a Crown building, and
  - (b) apply in relation to work carried out or proposed to be carried out by or on behalf of a government department acting for a person other than a Crown authority as they would apply if the work had been or were to be carried out by that person.
- (4) Section 38 above and any building regulations made by virtue of subsection (1) of that section apply in relation to duties imposed by building regulations in their application in accordance with subsections (1) to (3) above.
- (5) Where—
  - (a) work is carried out or proposed to be carried out by or on behalf of a Crown authority, or
  - (b) a Crown authority is or (apart from any dispensation or relaxation) will be subject to continuing requirements,
 that authority may exercise the like powers of dispensing with or relaxing the substantive requirements of building regulations or, as the case may be, the continuing requirements in question as are conferred on the Secretary of State and local authorities



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by virtue of section 8 above (other than a power that by virtue of paragraph 6 of Schedule 1 to this Act is exercisable otherwise than by a local authority), subject to—

- (i) the like requirements as to consultation (if any) as apply by virtue of paragraph 3 of Schedule 1 to this Act in the case of a local authority (but not the requirements of the said section 8 as to consultation with the local authority), and
- (ii) the like requirements as in the case of the Secretary of State apply by virtue of section 10 above,

and no application is necessary for the exercise of any such powers by virtue of this subsection.

- (6) In relation to continuing requirements, references in subsection (5) above to section 8 above are references to it as modified by section 2(6) above.
- (7) For the purposes of subsection (5) above, work carried out or proposed to be carried out by or on behalf of a government department acting for another Crown authority shall be treated as carried out or proposed to be carried out by or on behalf of that department (and not by or on behalf of the other Crown authority).

- (8) In this section—

“continuing requirement” means a continuing requirement of building regulations imposed by virtue of section 2(1) or (2)(a) or (b) above;

“Crown authority” means the Crown Estate Commissioners, a Minister of the Crown, a government department, any other person or body whose functions are performed on behalf of the crown (not being a person or body whose functions are performed on behalf of Her Majesty in her private capacity), or a person acting in right of the Duchy of Lancaster or the Duchy of Cornwall;

“Crown building” means a building in which there is a Crown interest or a Duchy interest;

“Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;

“Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall.

- (9) If any question arises under this section as to which Crown authority is entitled to exercise any such powers as are mentioned in subsection (5) above, that question shall be referred to the Treasury, whose decision is final.
- (10) This section, with any necessary modifications, applies in relation to the making of a material change in the use of a building within the meaning of building regulations made for the purposes of paragraph 8(1)(e) of Schedule 1 to this Act as it applies in relation to the carrying out of work.

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

**C18** S. 44 extended (17.7.1992) by S.I. 1992/1732, art. 4(1)(a)

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#### **45 Application to United Kingdom Atomic Energy Authority. E+W**

- (1) The provisions of section 44(1) and (4) to (10) above apply in relation to the United Kingdom Atomic Energy Authority (in this section referred to as “the Authority”) as if—
- (a) the Authority were a Crown authority,
  - (b) a building belonging to or occupied by the Authority were a Crown building, and
  - (c) the references in subsection (1) to not being a Crown authority were references to being neither a Crown authority nor the Authority,
- but the said provisions do not by virtue of this subsection apply in relation to dwelling-houses or offices belonging to or occupied by the Authority.
- (2) Subject to the said provisions as applied by subsection (1) above, building regulations and the enactments relating to building regulations do not apply in relation to buildings belonging to or occupied by the Authority, except dwelling-houses and offices.

#### *Inner London*

#### **46 Inner London. E+W**

In its application to inner London, this Part of this Act has effect subject to Part I of Schedule 3 to this act.

### **PART II E+W**

#### SUPERVISION OF BUILDING WORK ETC. OTHERWISE THAN BY LOCAL AUTHORITIES

#### *Supervision of plans and work by approved inspectors*

#### **47 Giving and acceptance of initial notice. E+W**

- (1) If—
- (a) a notice in the prescribed form (called an “initial notice”) is given jointly to a local authority by a person intending to carry out work and a person who is an approved inspector in relation to that work,
  - (b) the initial notice is accompanied by such plans of the work as may be prescribed,
  - (c) the initial notice is accompanied by such evidence as may be prescribed that an approved scheme applies, or the prescribed insurance cover has been or will be provided, in relation to the work, and
  - (d) the initial notice is accepted by the local authority,
- then, so long as the initial notice continues in force, the approved inspector by whom the notice was given shall undertake such functions as may be prescribed with respect to the inspection of plans of the work [<sup>F61</sup>to which the notice relates], the supervision of that work and the giving [<sup>F62</sup>and receiving] of certificates and other notices.
- (2) A local authority to whom an initial notice is given—
- (a) may not reject the notice except on prescribed grounds, and

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- (b) shall reject the notice if any of the prescribed grounds exists,  
and, in a case where the work to which an initial notice relates is work of such a description that, if plans of it had been deposited with the local authority, the authority could, under any enactment, have imposed requirements as a condition of passing the plans, the local authority may impose the like requirements as a condition of accepting the initial notice.
- (3) Unless, within the prescribed period, the local authority to whom an initial notice is given give notice of rejection, specifying the ground or grounds in question, to each of the persons by whom the initial notice was give, the authority is conclusively presumed to have accepted the initial notice and to have done so without imposing any such requirements as are referred to in subsection (2) above.
- (4) An initial notice—
- (a) comes into force when it is accepted by the local authority, either by notice given within the prescribed period to each of the persons by whom it was given or by virtue of subsection (3) above, and
- (b) subject to section 51(3) below, continues in force until—
- (i) it is cancelled by a notice under section 52 below, or
- (ii) the occurrence of, or the expiry of a prescribed period of time beginning on the date of, such event as may be prescribed;
- and building regulations may empower a local authority to extend (whether before or after its expiry) any such period of time as is referred to in paragraph (ii) above.
- (5) The form prescribed for an initial notice may be such as to require—
- (a) either or both of the persons by whom the notice is to be given to furnish information relevant for the purposes of this Act, Part II or IV of the <sup>M5</sup>Public Health Act 1936 or any provision of building regulations, and
- (b) the approved inspector by whom the notice is to be given to enter into undertakings with respect to his performance of any of the functions referred to in subsection (1) above.
- (6) The Secretary of State may approve for the purposes of this section any scheme that appears to him to secure the provision of adequate insurance cover in relation to any work [<sup>F63</sup>to which an initial notice relates] and is work to which the scheme applies.
- (7) Building regulations may prescribe for the purposes of this section the insurance cover that is to be provided in relation to any work [<sup>F63</sup>to which an initial notice relates] and is not work to which an approved scheme applies and may, in particular, prescribe the form and content of policies of insurance.

#### Textual Amendments

**F61** Words in s. 47(1) substituted (14.10.1996) by S.I. 1996/1905, art. 3(2)(a)

**F62** Words in s. 47(1) inserted (1.2.2006) by Sustainable and Secure Buildings Act 2004 (c. 22), ss. 8(2), 11(3); S.I. 2006/224, art. 2(c)

**F63** Words in s. 47(6)(7) substituted (14.10.1996) by S.I. 1996/1905, art. 3(2)(b)

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

**C19** S. 47 excluded (21.7.1994) by 1994 c. xv, s. 58(9)

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### Marginal Citations

M5 1936 c. 49.

## 48 Effect of initial notice. **E+W**

- (1) So long as an initial notice continues in force, the function of enforcing building regulations that is conferred on a local authority by section 91(2) below is not exercisable in relation to the work [<sup>F64</sup>to which the notice relates], and accordingly—
- (a) a local authority may not give a notice under section 36(1) above in relation to [<sup>F65</sup>that work], and
  - (b) a local authority may not institute proceedings under section 35 above for a contravention of building regulations that arises out of the carrying out of [<sup>F65</sup>that work].
- (2) For the purposes of the enactments specified in subsection (3) below—
- (a) the giving of an initial notice accompanied by such plans as are referred to in section 47(1)(b) above shall be treated as the deposit of plans,
  - (b) the plans accompanying an initial notice shall be treated as the deposited plans,
  - (c) the acceptance or rejection of an initial notice shall be treated as the passing or, as the case may be, the rejection of plans, and
  - (d) the cancellation of an initial notice under section 52(5) below shall be treated as a declaration under section 32 above that the deposit of plans is of no effect.
- (3) The enactments referred to in subsection (2) above are—
- (a) section 36(2) above,
  - (b) section 36(5) above, in so far as it relates to a notice under section 36(2) above and to non-compliance with any such requirement as is referred to in that subsection,
  - (c) section 36(6) above, in so far as it relates to a contravention of this Act,
  - (d) section 18(2) above, and
  - (e) sections 219 to 225 of the <sup>M6</sup>Highways Act 1980 (the advance payments code).

<sup>F66</sup>(4) .....

### Textual Amendments

**F64** Words in s. 48(1) substituted (14.10.1996) by S.I. 1996/1905, art. 3(3)(a)

**F65** Words in s. 48(1)(a)(b) substituted (14.10.1996) by S.I. 1996/1905, art. 3(3)(b)

**F66** S. 48(4) repealed (1.10.2006) by Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541), art. 1(3), Sch. 2 para. 33(2), Sch. 4 (with art. 49) (as amended by The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484), arts. 1(1), 2)

### Modifications etc. (not altering text)

**C20** S. 48(2) amended by Midland Metro Act 1989 (c. xv), s. 45(10); s. 48(2) extended (27.7.1993) by 1993 c. xv, s. 55(10); s. 48(2) applied (with modifications) (21.7.1994) by 1994 c. xv, s. 58(10)

### Marginal Citations

M6 1980 c. 66.

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## 49 Approved inspectors. **E+W**

- (1) In this Act, “approved inspector” means a person who, in accordance with building regulations, is approved for the purposes of this Part of this Act—
  - (a) by the Secretary of State, or
  - (b) by a body (corporate or unincorporated) that, in accordance with the regulations, is designated by the Secretary of State for the purpose.
- (2) Any such approval as is referred to in subsection (1) above may limit the description of work in relation to which the person concerned is an approved inspector.
- (3) Any such designation as is referred to in subsection (1)(b) above may limit the cases in which and the terms on which the body designated may approve a person and, in particular, may provide that any approval given by the body shall be limited as mentioned in subsection (2) above.
- (4) There shall be paid on an application for any such approval as is referred to in subsection (1) above—
  - (a) where the application is made to the Secretary of State, such fee as may be prescribed,
  - (b) where the application is made to a body designated by him as mentioned in that subsection, such fee as that body may determine.
- (5) Building regulations may—
  - (a) contain provision prescribing the period for which, subject to any provision made by virtue of paragraph (b) or (c) below, any such approval as is referred to in subsection (1) above continues in force,
  - (b) contain provision precluding the giving of, or requiring the withdrawal of, any such approval as is referred to in subsection (1) above in such circumstances as may be prescribed,
  - (c) contain provision authorising the withdrawal of any such approval or designation as is referred to in subsection (1) above,
  - (d) provide for the maintenance—
    - (i) by the Secretary of State of a list of bodies that are for the time being designated by him as mentioned in subsection (1) above, and
    - (ii) by the Secretary of State and by each designated body of a list of persons for the time being approved by him or them as mentioned in that subsection,
  - (e) make provision for the supply to local authorities of copies of any list of approved inspectors maintained by virtue of paragraph (d) above and for such copy lists to be made available for inspection, and
  - (f) make provision for the supply, on payment of a prescribed fee, of a certified copy of any entry in a list maintained by virtue of paragraph (d) above or in a copy list held by a local authority by virtue of paragraph (e) above.
- (6) Unless the contrary is proved, in any proceedings (whether civil or criminal) a document that appears to the court to be a certified copy of an entry either in a list maintained as mentioned in subsection (5)(d) above or in a copy of such a list supplied as mentioned in subsection (5)(e) above—
  - (a) is presumed to be a true copy of an entry in the current list so maintained, and
  - (b) is evidence of the matters stated in it.

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- (7) An approved inspector may make such charges in respect of the carrying out of the functions referred to in section 47(1) above as may in any particular case be agreed between him and the person who intends to carry out the work in question or, as the case may be, by whom that work is being or has been carried out.
- (8) Nothing in this Part of this Act prevents an approved inspector from arranging for plans or work to be inspected on his behalf by another person; but such a delegation—
- (a) shall not extend to the giving of a certificate under section 50 or 51 below, and
  - (b) shall not affect any liability, whether civil or criminal, of the approved inspector which arises out of functions conferred on him by this Part of this Act or by building regulations,
- and, without prejudice to the generality of paragraph (b) above, an approved inspector is liable for negligence on the part of a person carrying out an inspection on his behalf in like manner as if it were negligence by a servant of his acting in the course of his employment.

## 50 Plans certificates. E+W

- (1) Where an approved inspector—
- (a) has inspected plans of the work [<sup>F67</sup>to which an initial notice given by him relates],
  - (b) is satisfied that the plans neither are defective nor show that work carried out in accordance with them would contravene any provision of building regulations, and
  - (c) has complied with any prescribed requirements as to consultation or otherwise,
- he shall, if requested to do so by the person intending to carry out the work, give a certificate in the prescribed form (called a “plans certificate”) to the local authority and to that person.
- (2) If any question arises under subsection (1) above between an approved inspector and a person who proposes to carry out any work whether plans of the work are in conformity with building regulations, that person may refer the question to the Secretary of State for his determination.
- (3) An application for a reference under subsection (2) above shall be accompanied by such fee as may be prescribed.
- (4) Building regulations may authorise the giving of an initial notice combined with a certificate under subsection (1) above, and may prescribe a single form for such a combined notice and certificate; and where such a prescribed form is used—
- (a) a reference in this Part of this Act to an initial notice or to a plans certificate includes a reference to that form, but
  - (b) should the form cease to be in force as an initial notice by virtue of section 47(4) above, nothing in that subsection affects the continuing validity of the form as a plans certificate.
- (5) A plans certificate—
- (a) may relate either to the whole or to part only of the work [<sup>F68</sup>to which the initial notice concerned relates], and
  - (b) does not have effect unless it is accepted by the local authority to whom it is given.



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- (6) A local authority to whom a plans certificate is given—
- (a) may not reject the certificate except on prescribed grounds, and
  - (b) shall reject the certificate if any of the prescribed grounds exists.
- (7) Unless, within the prescribed period, the local authority to whom a plans certificate is given give notice of rejection, specifying the ground or grounds in question, to—
- (a) the approved inspector by whom the certificate was given, and
  - (b) the other person to whom the approved inspector gave the certificate,
- the authority shall be conclusively presumed to have accepted the certificate.
- (8) If it appears to a local authority by whom a plans certificate has been accepted that the work to which the certificate relates has not been commenced within the period of three years beginning on the date on which the certificate was accepted, the authority may rescind their acceptance of the certificate by notice, specifying the ground or grounds in question, given—
- (a) to the approved inspector by whom the certificate was given, and
  - (b) to the person shown in the initial notice concerned as the person intending to carry out the work.

#### Textual Amendments

**F67** Words in s. 50(1)(a) substituted (14.10.1996) by S.I. 1996/1905, art. 3(4)(a)

**F68** Words in s. 50(5)(a) substituted (14.10.1996) by S.I. 1996/1905, art. 3(4)(b)

## 51 Final certificates. **E+W**

<sup>F69</sup>[(1) Where an approved inspector is satisfied that any work to which an initial notice given by him relates has been completed, he shall give to the local authority by whom the initial notice was accepted such certificate with respect to the completion of the work and the discharge of his functions as may be prescribed (called a “final certificate”).]

(2) Section 50(5) to (7) above has effect in relation to a final certificate as if any reference in those subsections to a plans certificate were a reference to a final certificate.

(3) Where a final certificate—

- (a) has been given with respect to any of the work [<sup>F70</sup>to which an initial notice relates], and
- (b) has been accepted by the local authority concerned,

the initial notice ceases to apply to that work, but section 48(1) above continues to apply, by virtue of this subsection, in relation to that work as if the initial notice continued in force in relation to it.

#### Textual Amendments

**F69** S. 51(1) substituted (14.10.1996) by S.I. 1996/1905, art. 4

**F70** Words in s. 51(3)(a) substituted (14.10.1996) by S.I. 1996/1905, art. 3(5)

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

**C21** S. 51(1) restricted (*prosp.*) by Smoke Detectors Act 1991 (c. 37, SIF 15), ss. 5(3), 7(3).



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**[<sup>F71</sup>51A Variation of work to which initial notice relates. E+W**

- (1) This section applies where it is proposed that the work to which an initial notice relates should be varied.
- (2) If—
  - (a) a notice in the prescribed form (called an “amendment notice”)—
    - (i) is given to the local authority by whom the initial notice was accepted, and
    - (ii) is jointly given by the approved inspector who gave the initial notice and by the person shown in the amendment notice as the person intending to carry out the relevant work,
  - (b) the amendment notice is accompanied by such plans of the proposed variation as may be prescribed,
  - (c) the amendment notice is accompanied by such evidence as may be prescribed that—
    - (i) a scheme approved for the purposes of section 47 above applies, or
    - (ii) the insurance cover prescribed for those purposes has been, or will be provided, in relation to the relevant work, and
  - (d) the amendment notice—
    - (i) is accepted by the local authority giving notice of acceptance within the prescribed period to each of the persons by whom the amendment notice was given, or
    - (ii) is deemed to have been accepted by the local authority by virtue of subsection (5) below,

the work to which the initial notice relates shall be treated as varied as proposed in the amendment notice.
- (3) A local authority to whom an amendment notice is given—
  - (a) may not reject the notice except on prescribed grounds, and—
  - (b) shall reject the notice if any of the prescribed grounds exists.
- (4) Where the relevant work is of such a description that, if plans of it had been deposited with the local authority, the authority could, under any enactment, have imposed requirements as a condition of passing the plans, the local authority may impose the like requirements as a condition of accepting the amendment notice.
- (5) Unless, within the prescribed period, the local authority to whom an amendment notice is given give notice of rejection, specifying the ground or grounds in question, to each of the persons by whom the notice was given, the authority is conclusively presumed to have accepted it and to have done so without imposing any such requirements as are referred to in subsection (4) above.
- (6) Section 47(5) shall apply in relation to the form prescribed for an amendment notice as it applies in relation to the form prescribed for an initial notice.
- (7) In this section, references to the relevant work are to the work to which the initial notice, as proposed to be varied, relates.]

**Textual Amendments**

**F71** Ss. 51A, 51B, 51C inserted (14.10.1996) by S.I. 1996/1905, art.2

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[<sup>F72</sup>**51B Effect of amendment notice** **E+W**]

- (1) For the purposes of the enactments specified in section 48(3) above—
- (a) the giving of an amendment notice accompanied by such plans as are referred to in section 51A(2)(b) above shall be treated as the deposit of plans,
  - (b) the acceptance or rejection of an amendment notice shall be treated as the passing, or, as the case may be, the rejection of plans,
  - (c) where an initial notice is varied by an amendment notice, the deposited plans shall be treated—
    - (i) as including the plans accompanying the amendment notice, and
    - (ii) as excluding such of the plans previously treated as the deposited plans as are superseded by the plans accompanying the amendment notice, and
  - (d) where an initial notice has been varied by an amendment notice, the cancellation of the initial notice under section 52(5) below shall be treated as a declaration under section 32 above that the deposit of plans constituted by the giving of the amendment notice is of no effect.

<sup>F73</sup>(2) . . . . .]

**Textual Amendments**

**F72** Ss. 51A, 51B, 51C inserted (14.10.1996) by S.I. 1996/1905, **art.2**

**F73** S. 51B(2) repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), **art. 1(3)**, **Sch. 2 para. 33(3)**, **Sch. 4** (with **art. 49**) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), **arts. 1(1), 2**)

[<sup>F74</sup>**51C Change of person intending to carry out work** **E+W**]

- (1) This section applies where it is proposed that the work to which an initial notice relates should be carried out by a different person.
- (2) If—
- (a) the approved inspector who gave the initial notice, and
  - (b) the person who now proposes to carry out the work to which the initial notice relates,
- jointly give written notice of the proposal to the local authority by whom the initial notice was accepted, the initial notice shall be treated as showing as the person intending to carry out the work to which it relates the person mentioned in the notice under this section.]

**Textual Amendments**

**F74** Ss. 51A, 51B, 51C inserted (14.10.1996) by S.I. 1996/1905, **art.2**

**52 Cancellation of initial notice.** **E+W**

- (1) If, at a time when an initial notice is in force—

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- (a) the approved inspector becomes or expects to become unable to carry out (or to continue to carry out) his functions with respect to any of the work [<sup>F75</sup>to which the initial notice relates],
- (b) the approved inspector is of the opinion that any of the work is being so carried out that he is unable adequately to carry out his functions with respect to it, or
- (c) the approved inspector is of the opinion that there is a contravention of any provision of building regulations with respect to any of that work and the circumstances are as mentioned in subsection (2) below,

the approved inspector shall cancel the initial notice by notice in the prescribed form given to the local authority concerned and to the person carrying out or intending to carry out the work.

- (2) The circumstances referred to in subsection (1)(c) above are—
  - (a) that the approved inspector has, in accordance with building regulations, given notice of the contravention to the person carrying out the work [<sup>F76</sup>or intending to carry out the work], and
  - (b) that, within the prescribed period, [<sup>F77</sup>the prescribed steps are not taken by the person who, in accordance with building regulations, is required to take them].
- (3) If, at a time when an initial notice is in force, it appears to the person carrying out or intending to carry out the work [<sup>F78</sup>to which the notice relates] that the approved inspector is no longer willing or able to carry out his functions with respect to any of that work, he shall cancel the initial notice by notice in the prescribed form given to the local authority concerned and, if it is practicable to do so, to the approved inspector.
- (4) If a person fails without reasonable excuse to give to a local authority a notice that he is required to give by subsection (3) above, he is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) If, at a time when an initial notice is in force, it appears to the local authority by whom the initial notice was accepted that the work to which the initial notice relates has not been commenced within the period of three years beginning on the date on which the initial notice was accepted, the authority may cancel the initial notice by notice in the prescribed form given
  - (a) to the approved inspector by whom the initial notice was given, and
  - (b) to the person shown in the initial notice as the person intending to carry out the work.
- (6) A notice under subsection (1), (3) or (5) above has the effect of cancelling the initial notice to which it relates with effect from the day on which the notice is given.

#### Textual Amendments

- F75** Words in s. 52(1)(a) substituted (14.10.1996) by S.I. 1996/1905, art. 3(6)(a)
- F76** Words in s. 52(2)(a) inserted (1.2.2006) by Sustainable and Secure Buildings Act 2004 (c. 22), ss. 8(3)(a), 11(3); S.I. 2006/224, art. 2(c)
- F77** Words in s. 52(2)(b) substituted (1.2.2006) by Sustainable and Secure Buildings Act 2004 (c. 22), ss. 8(3)(b), 11(3); S.I. 2006/224, art. 2(c)
- F78** Words in s. 52(3) substituted (14.10.1996) by S.I. 1996/1905, art. 3(6)(b)

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### 53 Effect of initial notice ceasing to be in force. **E+W**

- (1) This section applies where an initial notice ceases to be in force by virtue of section 47(4)(b)(i) or (ii) above.
- (2) Building regulations may provide that, if—
  - (a) a plans certificate was given before the day on which the initial notice ceases to be in force,
  - (b) that certificate was accepted by the local authority (before, on or after that day), and
  - (c) before that day, that acceptance was not rescinded by a notice under section 50(8) above,then with respect to the work specified in the certificate, such of the functions of a local authority referred to in section 48(1) above as may be prescribed for the purposes of this subsection either are not exercisable or are exercisable only in prescribed circumstances.
- (3) If, before the day on which the initial notice ceased to be in force, a final certificate—
  - (a) was given in respect of part of the work [<sup>F79</sup>to which the initial notice relates], and
  - (b) was accepted by the local authority (before, on or after that day),the fact that the initial notice has ceased to be in force does not affect the continuing operation of section 51(3) above in relation to that part of the work.
- (4) Notwithstanding anything in subsections (2) and (3) above, for the purpose of enabling the local authority to perform the functions referred to in section 48(1) above in relation to any part of the work not specified in a plans certificate or final certificate, as the case may be, building regulations may require the local authority to be provided with plans that relate not only to that part but also to the part to which the certificate in question relates.
- (5) In any case where this section applies, the reference in subsection (4) of section 36 above to the date of the completion of the work in question has effect, in relation to a notice under subsection (1) of that section, as if it were a reference to the date on which the initial notice ceased to be in force.
- (6) Subject to any provision of building regulations made by virtue of subsection (2) above, if, before the initial notice ceased to be in force, an offence under section 35 above was committed with respect to any of the work [<sup>F80</sup>to which that notice relates], proceedings for that offence may be commenced by the local authority at any time within six months beginning with the day on which the function of the local authority referred to in section 48(1) above became exercisable with respect to the provision of building regulations to which the offence relates.
- [<sup>F81</sup>(6A) Subsection (6) above is without prejudice to any ability which, after that function has become exercisable, the local authority may have under section 35A above to commence proceedings for the offence after the end of that period of six months.]
- (7) The fact that an initial notice has ceased to be in force does not affect the right to give a new initial notice relating to any of the work [<sup>F82</sup>to which the original notice related] and in respect of which no final certificate has been given and accepted; but where—
  - (a) a plans certificate has been given in respect of any of that work,
  - (b) the conditions in paragraphs (a) to (c) of subsection (2) above are fulfilled with respect to that certificate, and

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- (c) such a new initial notice is given and accepted,  
 section 50(1) above does not apply in relation to so much of the work to which the new initial notice relates as is work specified in the plans certificate.

#### Textual Amendments

- F79** Words in s. 53(3)(a) substituted (14.10.1996) by S.I. 1996/1905, **art. 3(7)(a)**  
**F80** Words in s. 53(6) substituted (14.10.1996) by S.I. 1996/1905, **art. 3(7)(b)**  
**F81** S. 53(6A) inserted (21.8.2006) by Climate Change and Sustainable Energy Act 2006 (c. 19), **ss. 13(2), 28(1)**  
**F82** Words in s. 53(7) words substituted (14.10.1996) by S.I. 1996/1905, **art. 3(7)(c)**

### *Supervision of their own work by public bodies*

#### 54 Giving, acceptance and effect of public body's notice. **E+W**

- (1) This section applies where a body (corporate or unincorporated that acts under an enactment for public purposes and not for its own profit and is, or is of a description that is, approved by the Secretary of State in accordance with building regulations (in this Part of this Act referred to as a “public body”)—
- (a) intends to carry out in relation to a building belonging to it work to which the substantive requirements of building regulations apply.
  - (b) considers that the work can be adequately supervised by its own servants or agents, and
  - (c) gives to the local authority in whose district the work is to be carried out notice in the prescribed form (called a “public body’s notice”) together with such plans of the work as may be prescribed.
- (2) A public body’s notice is of no effect unless it is accepted by the local authority to whom it is given; and that local authority—
- (a) may not reject the notice except on prescribed grounds, and
  - (b) shall reject the notice if any of the prescribed grounds exists,
- and, in a case where the work to which the public body’s notice relates is work of such a description that, if plans of it had been deposited with the local authority, the authority could, under an enactment, have imposed requirements as a condition of passing the plans, the local authority may impose the like requirements as a condition of accepting the public body’s notice.
- (3) Unless, within the prescribed period, the local authority to whom a public body’s notice is given give notice of rejection, specifying the ground or grounds in question, the authority is conclusively presumed to have accepted the public body’s notice and to have done so without imposing any such requirements as are referred to in subsection (2) above.
- (4) Section 48 above has effect for the purposes of this section—
- (a) with the substitution of a reference to a public body’s notice for any reference to an initial notice, and
  - (b) with the substitution, in subsection (2)(a), of a reference to subsection (1)(c) of this section for the reference to section 47(1)(b).

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- (5) The form prescribed for a public body's notice may be such as to require the public body by whom it is to be given—
  - (a) to furnish information relevant for the purposes of this Act, Part II or IV of the <sup>M7</sup>Public Health Act 1936 or any provision of building regulations, and
  - (b) to enter into undertakings with respect to consultation and other matters.
- (6) Where a public body's notice is given and accepted by the local authority to whom it is given, the provisions of Schedule 4 to this Act have effect, being provisions that correspond, as nearly as may be, to those made by the preceding provisions of this Part of this Act for the case where an initial notice is given and accepted.

#### Marginal Citations

M7 1936 c. 49.

### Supplementary

#### 55 Appeals. **E+W**

- (1) A person aggrieved by the local authority's rejection of—
  - (a) an initial notice [<sup>F83</sup>, amendment notice] or a public body's notice, or
  - (b) a plans certificate, a final certificate, a public body's plans certificate or a public body's final certificate,may appeal to a magistrates' court <sup>F84</sup>....
- (2) On an appeal under subsection (1) above, the court shall—
  - (a) if it determines that the notice or certificate was properly rejected, confirm the rejection, and
  - (b) in any other case, give a direction to the local authority to accept the notice or certificate.
- (3) Where a person is aggrieved by a determination, confirmation, direction or other decision of a magistrates' court under this section, he may appeal to the Crown Court.

#### Textual Amendments

**F83** Words in s. 55(1)(a) inserted (14.10.1996) by S.I. 1996/1905, art. 3(8)

**F84** Words in s. 55(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 280, Sch. 10; S.I. 2005/910, art. 3(y)

#### 56 Recording and furnishing of information. **E+W**

- (1) Every local authority shall keep, in such manner as may be prescribed, a register containing such information as may be prescribed with respect to initial notices [<sup>F85</sup>amendment notices, notices under section 51C above,], public body's notices and certificates given to them, including information [<sup>F86</sup>(where applicable)] as to whether such notices or certificates have been accepted or rejected.



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- (2) The information that may be prescribed under subsection (1) above with respect to an initial notice [<sup>F87</sup>or amendment notice] includes information about the insurance cover provided with respect to the work to which the <sup>F88</sup> . . . notice relates.
- (3) The reference in subsection (1) above to certificates is a reference to plans certificates, final certificates, public body's final certificates and certificates given under section 16(9) above.
- (4) Every register kept under this section shall be available for inspection by the public at all reasonable hours.
- (5) Where an initial notice or a public body's notice has continued in force for any period, the local authority by whom it was accepted may require the approved inspector or public body by whom it was given to furnish them with any information that—
  - (a) they would have obtained themselves if during that period their function of enforcing building regulations had continued to be exercisable in relation to the work [<sup>F89</sup>to which the notice relates], and
  - (b) they require for the purpose of performing their duty under section 230 of the <sup>M8</sup>Local Government Act 1972 (reports and returns),
 and that section shall have effect as if during that period that function had continued to be so exercisable.

#### Textual Amendments

- F85** Words in S. 56(1) inserted (14.10.1996) by S.I. 1996/1905, art. 3(9)(a)(i)  
**F86** Words in s. 56(1) inserted (14.10.1996) by S.I. 1996/1905, art. 3(9)(ii)  
**F87** Words in s. 56(2) inserted (14.10.1996) by S.I. 1996/1905, art. 3(9)(b)  
**F88** Word in s. 56(2) repealed (14.10.1996) by S.I. 1996/1905, art. 3(9)(b)(ii)  
**F89** Words in s. 56(5)(a) substituted (14.10.1996) by S.I. 1996/1905, art. 3(9)(c)

#### Marginal Citations

- M8** 1972 c. 70.

## 57 Offences. **E+W**

- (1) If a person—
  - (a) gives a notice or certificate that—
    - <sup>F90</sup>(i) purports to comply with the requirements of this Part of this Act, section 16(9) above or building regulations falling within paragraph 4A(1)(a) or (b) of Schedule 1 to this Act, and]
    - (ii) contains a statement that he knows to be false or misleading in a material particular, or
  - (b) recklessly gives a notice or certificate that—
    - (i) purports to comply with those requirements, and
    - (ii) contains a statement that is false or misleading in a material particular, he is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding six months or both, and



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- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.
- (3) Where an approved inspector or person approved for the purposes of section 16(9) above is convicted of an offence under this section, the court by or before which he is convicted shall, within one month of the date of conviction, forward a certificate of the conviction to the person by whom the approval was given.

#### Textual Amendments

**F90** S. 57(1)(a)(i) substituted (1.2.2006) by Sustainable and Secure Buildings Act 2004 (c. 22), ss. 8(4), 11(3); S.I. 2006/224, art. 2(c)

### 58 Construction of Part II. **E+W**

- (1) In this Part of this Act—

[<sup>F91</sup>‘amendment notice’ has the meaning given by section 51A(2) above;]

“final certificate” has the meaning given by section 51(1) above;

“initial notice” has the meaning given by section 47(1) above;

“plans certificate” has the meaning given by section 50(1) above;

“public body” and “public body’s notice” have the meanings given by section 54(1) above;

“public body’s final certificate” has the meaning given by paragraph 3 of Schedule 4 to this Act;

“public body’s plans certificate” has the meaning given by paragraph 2 of Schedule 4 to this Act.

- (2) A reference in this part of this Act to the carrying out of work includes a reference to the making of a material change of use, as defined by and for the purposes of building regulations.
- (3) A reference in this Part of this Act to an initial notice given by an approved inspector is a reference to a notice given by him jointly with another person as mentioned in section 47(1)(a) above.

#### Textual Amendments

**F91** Words in s. 58(1) inserted (14.10.1996) by S.I. 1996/1905, art. 3(10)

## PART III **E+W**

### OTHER PROVISIONS ABOUT BUILDINGS

#### *Drainage*

### 59 Drainage of building. **E+W**

- (1) If it appears to a local authority that in the case of a building—

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- (a) satisfactory provision has not been, and ought to be, made for drainage<sup>F92</sup> . . . ,
- (b) a cesspool, private sewer, drain, soil pipe, rain-water pipe, spout, sink or other necessary appliance provided for the building is insufficient or, in the case of a private sewer or drain communicating directly or indirectly with a public sewer, is so defective as to admit subsoil water,
- (c) a cesspool or other such work or appliance as aforesaid provided for the building is in such a condition as to be prejudicial to health or a nuisance, or
- (d) a cesspool, private sewer or drain formerly used for the drainage of the building, but no longer used for it, is prejudicial to health or a nuisance,

they shall by notice require the owner of the building to make satisfactory provision for the drainage of the building, or, as the case may be, require either the owner or the occupier of the building to do such work as may be necessary for renewing, repairing or cleansing the existing cesspool, sewer, drain, pipe, spout, sink or other appliance, or for filling up, removing or otherwise rendering innocuous the disused cesspool, sewer or drain.

- (2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (3) Subsections (4), (5) and (6) of section 21 above apply in relation to a drain that a local authority require to be constructed under this section as they apply in relation to such a proposed drain as is mentioned in that section.
- (4) Subsection (1) above, so far as it empowers a local authority to take action in the cases mentioned in paragraphs (a) and (b) of the subsection, does not apply in relation to a building belonging to statutory undertakers . . . [<sup>F93</sup>the Civil Aviation Authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) and held or used by such a body or person for the purpose of that body's or that person's undertaking], unless it is—
  - (a) a house, . . . <sup>F94</sup> or
  - (b) a building used as offices or showrooms, and not forming part of a railway station or in the case of . . . <sup>F94</sup> or the Civil Aviation Authority not being on an aerodrome owned by the Authority . . . <sup>F94</sup>.

[<sup>F95</sup>(5) For the purposes of subsection (4) above, the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall be taken to be the person's undertaking as licence holder.]

[<sup>F96</sup>(6) In subsection (1) above, “drainage” includes the conveyance, by means of a sink and any other necessary appliance, of refuse water and the conveyance of rainwater from roofs.]

#### Textual Amendments

- F92** Words in s. 59(1)(a) omitted (1.4.2002) by virtue of S.I. 2001/3335, **reg. 3(4)(a)** (with **reg. 4**)
- F93** Words in s. 59(4) substituted (21.12.2001) by S.I. 2001/4050, **art. 2, Sch. Pt. II para. 7(b)(i)**
- F94** Words repealed by **Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. I**
- F95** S. 59(5) inserted (21.12.2001) by S.I. 2001/4050, **art. 2 Sch. Pt. II para. 7(b)(ii)**
- F96** S. 59(5) added (1.4.2002) by S.I. 2001/3335, **reg. 3(4)(b)** and renumbered as s. 59(6) (1.4.2002) by S.I. 2002/440, **reg. 4**

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

- C22** S. 59 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt I para. 5** (with ss. 42, 46)..

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**C23** S. 59(4) applied with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 58, [Sch. 2 para. 6\(b\)](#)

## **60 Use and ventilation of soil pipes.** **E+W**

- (1) A pipe for conveying rain-water from a roof shall not be used for the purpose of conveying the soil or drainage from a sanitary convenience.
- (2) The soil pipe from a water-closet shall be properly ventilated.
- (3) A pipe for conveying surface water from premises shall not be permitted to act as a ventilating shaft to a drain or sewer conveying foul water.
- (4) If it appears to the local authority . . . <sup>F97</sup> that there is on any premises a contravention of any provision of this section, they may by notice require the owner or the occupier of those premises to execute such work as may be necessary to remedy the matter.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (4) above.

### **Textual Amendments**

**F97** Words repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 69, 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 8 para. 7](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. I](#)

## **61 Repair etc, of drain.** **E+W**

- (1) No person shall—
  - (a) except in case of emergency, repair, reconstruct or alter the course of an underground drain that communicates with a sewer, or with a cesspool or other receptacle for drainage, or
  - (b) where in a case of emergency any such works have been executed without notice, cover over the drain or sewer,without giving to the local authority at least 24 hours' notice of his intention to do so.
- (2) While any such work as aforesaid is being executed, all persons concerned shall permit the proper officer, or any other authorised officer, of the local authority to have free access to the work.
- (3) A person who fails to comply with this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) This section does not apply to—
  - (a) so much of a drain or sewer constructed by, or belonging to, a railway company as runs under, across or along their railway, or
  - (b) so much of a drain or sewer constructed by, or belonging to, dock undertakers as is situated in or on land of the undertakers that is held or used by them for the purposes of their undertaking.

## **62 Disconnection of drain.** **E+W**

- (1) Where a person—

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- (a) reconstructs in the same or a new position a drain that communicates with a sewer or another drain,
- (b) executes any works to such a drain so as permanently to discontinue its use, or
- (c) executes any works on premises served by such a drain so as permanently to discontinue its use,

he shall cause any drains or parts of drains thereby becoming disused or unnecessary to be disconnected and sealed at such points as the local authority may reasonably require.

- (2) Any question as to the reasonableness of a requirement of a local authority under this section shall be determined by a magistrates' court, and the court may vary the requirement as it thinks fit.
- (3) No one shall be required under this section to carry out any work in land outside the premises served by the drain if he has not right to carry out that work, but, subject to section 101 below, the person undertaking the reconstruction of the drain or the execution of the works may break open any street for the purpose of complying with a requirement under this section.
- (4) Before a person complies with a requirement under this section, he shall give at least 48 hours' notice to the local authority, and a person who fails to comply with this subsection is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (5) A person who knowingly fails to comply with subsection (1) above is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £1 for each day on which the default continues after he is convicted.
- (6) This section does not apply in relation to anything done in the course of the demolition of a building, or of part of a building, being a demolition as respects which the local authority have power under section 81 below to serve a notice on the person undertaking the demolition.

### **63 Improper construction or repair of water-closet or drain. E+W**

- (1) If a water-closet, drain or soil pipe is so constructed or repaired as to be prejudicial to health or a nuisance, the person who undertook or executed the construction or repair is liable on summary conviction to a fine not exceeding level 1 on the standard scale, unless he shows that the prejudice to health or nuisance could not have been avoided by the exercise of reasonable care.
- (2) A person charged with an offence under this section (hereafter in this section referred to as "the original defendant") is entitled, upon information duly laid by him and on giving to the prosecutor not less than three clear days' notice of his intention, to have any other person, being his agent or servant, to whose act or default he alleges that the offence was due brought before the court at the time appointed for the hearing of the charge; and—
  - (a) if after the commission of the offence has been proved the original defendant proves that the offence was due to the act or default of that other person, that other person may be convicted of the offence, and
  - (b) if the original defendant further proves that he used all due diligence to secure that the water-closet, drain or soil pipe in question was so constructed or repaired as not to be prejudicial to health or a nuisance, he shall be acquitted of the offence.

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- (3) Where the original defendant seeks to avail himself of subsection (2) above—
  - (a) the prosecutor as well as the person whom the original defendant charges with the offence has the right to cross-examine the original defendant, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence, and
  - (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party to them.
- (4) In this section in its application to Greater London, a reference to a water-closet includes a reference to a urinal.

#### *Provision of sanitary conveniences*

### **64 Provision of closets in building. E+W**

- (1) If it appears to a local authority—
  - (a) that a building is without sufficient closet accommodation,
  - (b) that a part of a building, being a part that is occupied as a separate dwelling, is without sufficient closet accommodation, or
  - (c) that any closets provided for or in connection with a building are in such a state as to be prejudicial to health or a nuisance and cannot without reconstruction be put into a satisfactory condition,the authority shall, by notice to the owner of the building, require him to provide the building with such closets or additional closets, or such substituted closets, being in each case either water-closets or earth-closets, as may be necessary.
- (2) Unless a sufficient water supply and sewer are available, the authority shall not require the provision of a water-closet except in substitution for an existing water-closet.
- (3) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (4) Among the grounds on which an appeal may be brought under section 102 below against such a notice is that—
  - (a) the need for the works to be executed under the notice would not, in whole or in part, arise but for the occupation of part of the building as a separate dwelling, and the occupation of that part as a separate dwelling is a matter in respect of which the appellant has a cause of action, and
  - (b) the person against whom the appellant has a cause of action ought to contribute towards the expenses of executing the works.
- (5) Where the grounds on which an appeal under section 102 below is brought include the ground specified in subsection (4) above—
  - (a) the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and
  - (b) on the hearing of the appeal the court may make such order as it thinks fit with respect to—
    - (i) the contribution to be made by any such person towards the cost of the works, or

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- (ii) the proportion in which any expenses that may be recoverable by the local authority are to be borne by the appellant and any such other person.
- (6) This section does not apply to—
- (a) a factory,
  - (b) a building that is used as a workplace, or
  - (c) premises to which the <sup>M9</sup>Offices, Shops and Railway Premises Act 1963 applies.

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

- C24** S. 64(1) applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2**. S. 64(1) applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch.2**.
- C25** S. 64(1): certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2**. S. 64(1): certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**.

**Marginal Citations**

- M9** 1963 c. 41.

**65 Provision of sanitary conveniences in workplace. E+W**

- (1) A building that is used as a workplace shall be provided with—
- (a) sufficient and satisfactory accommodation in the way of sanitary conveniences, regard being had to the number of persons employed in, or in attendance at, the building, and
  - (b) where persons of both sexes are employed or in attendance, sufficient and satisfactory separate accommodation for persons of each sex, unless the local authority are satisfied that in the circumstances of the particular case the provision of such separate accommodation is unnecessary.
- (2) If it appears to the local authority that subsection (1) above is not complied with in the case of any building, they shall by notice require the owner or the occupier of the building to make such alterations in the existing conveniences, and to provide such additional conveniences, as may be necessary.
- (3) Sections 99 and 102 below apply in relation to a notice given under subsection (2) above.
- (4) This section does not apply to premises to which the Offices, Shops and Railway Premises Act 1963 applies.

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

- C26** S. 65 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2**. S. 65 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**.
- C27** S. 65: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**. S. 65: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**.



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## 66 Replacement of earth-closets etc. **E+W**

- (1) If a building has a sufficient water supply and sewer available, the local authority may, subject to this section, by notice to the owner of the building require that any closets, other than water-closets, provided for, or in connection with, the building shall be replaced by water-closets, notwithstanding that the closets are not insufficient in number and are not prejudicial to health or a nuisance.
- (2) A notice under subsection (1) above shall—
  - (a) require the owner to execute the necessary works, or
  - (b) require that the authority themselves shall be allowed to execute them, and shall state the effect of subsection (3) below.
- (3) Where the local authority give a notice under subsection (1) above—
  - (a) if it requires the owner to execute the works, the owner is entitled to recover from them one-half of the expenses reasonably incurred by him in the execution of the works, and
  - (b) if it requires that they shall be allowed to execute the works, they are entitled to recover from the owner one-half of the expenses reasonably incurred by them in the execution of the works.
- (4) Where the owner of a building proposes to provide it with a water-closet in substitution for a closet of any other type, the local authority may, if they think fit, agree to pay him a part, not exceeding one-half, of the expenses reasonably incurred in effecting the replacement, notwithstanding that a notice has not been given by them under subsection (1) above.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above, subject to the following modifications—
  - (a) no appeal lies on the ground that the works are unnecessary, and
  - (b) any reference in the said section 99 to the expenses reasonably incurred in executing works is a reference to one-half of those expenses.

## 67 Loan of temporary sanitary conveniences. **E+W**

- (1) A local authority may, at the request of the occupier of any premises connected with a cesspool, sewer or drain on which any work of maintenance, improvement or repair that necessitates the disconnection of the sanitary conveniences provided for or in connection with the premises is to be carried out—
  - (a) by a local authority, or
  - (b) by the owner or occupier of the premises in pursuance of section 59 above, supply on loan temporary sanitary conveniences in substitution for any sanitary conveniences so disconnected.
- (2) Subject to the following provisions of this section, the local authority may make reasonable charges for supplying, removing and cleansing any temporary sanitary conveniences lent under this section for more than seven days.
- (3) No charge may be made under subsection (2) above—
  - (a) for the use of the temporary sanitary conveniences for the first seven days, or
  - (b) in a case where the work is made necessary by a defect in a public sewer . . . <sup>F98</sup>



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(4) No charge may be made under subsection (2) above where the work is made necessary—

(a) .....

(b) by a defect in a cesspool, private sewer or drain in respect of which the local authority have served a notice under section 59 above,

but, if the temporary sanitary conveniences are provided for a period of more than seven days, the reasonable expenses of supplying, removing and cleansing them are recoverable from the owner of the premises (but not any charge for the use of them for the first seven days).

(5) In proceedings to recover expenses under subsection (4) above, the court may—

(a) inquire whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and

(b) make such order concerning the expenses or their apportionment as appears to the court to be just,

but the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had notice of the proceedings and an opportunity of being heard.

#### Textual Amendments

**F98** Words repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

**F99** S. 67(4)(a) repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

## 68 Erection of public conveniences. **E+W**

(1) No person shall erect a public sanitary convenience in, or so as to be accessible from, a street without the consent of the local authority, who may give their consent upon such terms as to the use of the convenience or its removal at any time, if required by them, as they think fit.

(2) A person who contravenes subsection (1) above is liable on summary conviction to a fine not exceeding level 1 on the standard scale, without prejudice to the right of the authority under subsection (4) below to require the convenience to be removed.

(3) A person aggrieved by the refusal of a local authority to give a consent under subsection (1) above, or by any terms imposed by them, may appeal to a magistrates' court.

(4) The local authority may by notice require—

(a) the owner of a sanitary convenience—

(i) that has been erected in contravention of subsection (1) above, or

(ii) that the authority are, by virtue of the terms of a consent given under that subsection, entitled to require to be removed,

to remove it, or

(b) the owner of a sanitary convenience that opens on a street, and is so placed or constructed as to be a nuisance or offensive to public decency, to remove it or permanently close it.

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- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (4) above.
- (6) in this section, a reference to a local authority, in relation to a street that is a highway for which the local authority are not the highway authority, is a reference to the highway authority.
- (7) Subsection (1) above does not apply to a sanitary convenience erected—
  - (a) by a railway company within their railway station or its yard or approaches, or
  - (b) by dock undertakers in or on land that belongs to them and is held or used by them for the purposes of their undertaking.
- (8) This section does not affect the powers of—
  - (a) a county council . . . <sup>F100</sup> under section 87 of the <sup>M10</sup>Public Health Act 1936,
  - (b) the Secretary of State under section 112 of the <sup>M11</sup>Highways Act 1980, or
  - (c) a county council under section 114(1) of the Highways Act 1980.

**Textual Amendments**

**F100** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

**Marginal Citations**

**M10** 1936 c. 49.

**M11** 1980 c. 66.

*Buildings*

**69 Provision of water supply in occupied house. E+W**

F101

**Textual Amendments**

**F101** [S. 69](#) repealed (with saving) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2) (4), 163, 189(4)–(10), 190, 193(1), [Sch. 26](#) paras. 3(1)(2), 17, 20(2), 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. 1](#)

**70 Provision of food storage accommodation in house. E+W**

- (1) If it appears to a local authority that a house, or part of a building that is occupied as a separate dwelling, is without sufficient and suitable accommodation for the storage of food, the local authority may by notice require the owner of the house or building to provide the house or building with sufficient and suitable accommodation for that purpose.
- (2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (3) Among the grounds on which an appeal may be brought under section 102 below against such a notice are—

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- (a) that it is not reasonably practicable to comply with the notice;
  - (b) that—
    - (i) the need for the works to be executed under the notice would not, in whole or in part, arise but for the occupation of part of the building as a separate dwelling, and that the occupation of that part as a separate dwelling is a matter in respect of which the appellant has a cause of action, and
    - (ii) the person against whom the appellant has a cause of action ought to contribute towards the expenses of executing the works.
- (4) Where the grounds on which an appeal under section 102 below is brought include the ground specified in subsection (3)(b) above—
- (a) the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and
  - (b) on the hearing of the appeal the court may make such order as it thinks fit with respect to—
    - (i) the contribution to be made by any such person towards the cost of the works, or
    - (ii) the proportion in which any expenses that may be recoverable by the local authority are to be borne by the appellant and any such other person.

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

- C28** S. 70 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2**. S. 70 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**.
- C29** S. 70: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2**. S. 70: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**.

**<sup>F102</sup>71 Entrances, exits etc. to be required in certain cases. E+W**

.....

**Textual Amendments**

- F102** S. 71 repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), **Sch. 2 para. 33(4)**, **Sch. 4** (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), **arts. 1(1), 2**)

**72 Means of escape from fire. E+W**

- (1) If it appears to a local authority, after consultation with the [<sup>F103</sup>fire and rescue authority], that—
- (a) a building to which this section applies is not provided, or
  - (b) a proposed building that will be building to which this section applies will not be provided,

with such means of escape in case of fire as the local authority, after such consultation, deem necessary from each storey whose floor is more that twenty feet above the surface of the street or ground on any side of the building, the authority shall by notice

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require the owner of the building, or, as the case may be, the person proposing to erect the building, to execute such work or make such other provision in regard to the matters aforesaid as may be necessary.

- (2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above in so far as it requires a person to execute works.
- (3) In so far as such a notice requires a person to make provision otherwise than by the execution of works, he is, if he fails to comply with the notice, liable on summary conviction to a fine not exceeding level 4 on the standard scale and to a further fine not exceeding £2 for each day on which the offence continues after he is convicted.
- (4) In proceedings under subsection (3) above, it is open to the defendant to question the reasonableness of the authority's requirements.
- (5) Where building regulations imposing requirements as to the provision of means of escape in case of fire are applicable to a proposed building or proposed extension of a building, or would be so applicable but for a direction under section 8 above dispensing with such requirements—
  - (a) this section, and
  - (b) any provision of a local Act that has effect in place of this section, does not apply in relation to the proposed building or extension.
- (6) This section applies to a building that exceeds two storeys in height and in which the floor of any upper storey is more than twenty feet above the surface of the street or ground on any side of the building and that—
  - <sup>F104</sup>(a) .....
  - <sup>F105</sup>(b) .....
  - <sup>F105</sup>(c) .....
- <sup>F106</sup>(7) .....

#### Textual Amendments

- F103** Words in s. 72(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 57\(2\)\(3\)\(f\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F104** S. 72(6)(a) repealed (6.4.2007 for E.) by [Housing Act 2004 \(c. 34\)](#), ss. 53(3), 270(4)(5)(a), [Sch. 16](#); S.I. 2007/1068, art. 2
- F105** S. 72(6)(b)(c) repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), [Sch. 2 para. 33\(5\)\(a\)](#), [Sch. 4](#) (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), [arts. 1\(1\), 2](#))
- F106** S. 72(7) repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), [Sch. 2 para. 33\(5\)\(b\)](#), [Sch. 4](#) (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), [arts. 1\(1\), 2](#))

### 73 Raising of chimney. **E+W**

- (1) Where, after the <sup>M12</sup>3rd October 1961 (which was the date of commencement of the relevant provisions of the Public Health Act 1961)—
  - (a) a person erects or raises a building (in this section referred to as “the taller building”) to a greater height than an adjoining building, and

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(b) any chimneys or flues of an adjoining building are in a party wall between the two buildings or are six feet or less from the nearest part of the taller building, the local authority may by notice—

(i) require that person, within such time as may be specified in the notice, to build up those chimneys and flues, if it is reasonably practicable so to do, so that their top will be of the same height as the top of the chimneys of the taller building or the top of the taller building, whichever is the higher, and

(ii) require the owner or occupier of the adjoining building to allow the first-mentioned person to enter on that building and carry out such work as may be necessary to comply with the notice served on him,

except that, if the said owner or occupier, within fourteen days from the date of service of the notice on him, serves on the first-mentioned person and on the local authority a notice (in this section referred to as a “counter-notice”) that he elects to carry out the work himself, the owner or occupier shall comply with the notice served under paragraph (i) above instead of the first-mentioned person and may recover the expenses reasonably incurred in so doing from that person.

(2) A person on whom a notice is served under paragraph (i) or paragraph (ii) of subsection (1) above may appeal to a magistrates’ court.

(3) If—

(a) a person on whom a notice is served under paragraph (i) of subsection (1) above fails to comply with the notice, except in a case where the owner or occupier of an adjoining building has refused to allow entry on that building, or has refused to allow the carrying out of any such work as may be necessary to comply with the notice, or has served a counter-notice, or

(b) a person on whom a notice is served under paragraph (ii) of subsection (1) above fails to comply with the notice or, having served a counter-notice, fails to comply with the notice served under paragraph (i) of that subsection,

he is liable on summary conviction to a fine not exceeding level 1 on the standard scale, and the local authority may themselves carry out such work as may be necessary to comply with the notice served under the said paragraph (1), and recover the expenses reasonably incurred in doing so from the person on whom that notice was served.

#### Marginal Citations

M12 1961 c. 64.

## 74 Cellars and rooms below subsoil water level. E+W

(1) No person shall without the consent of the local authority construct a cellar or room in, or as part of, a house, shop, inn, hotel or office if the floor level of the cellar or room is lower than the ordinary level of the subsoil water on, under or adjacent to the site of the house, shop, inn, hotel or office.

(2) Subsection (1) above does not apply to—

<sup>F107</sup>(a) .....

(b) the construction of a cellar or room in connection with a shop, inn, hotel or office that forms part of a railway station.

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- (3) If a person constructs a cellar or room in contravention of subsection (1) above, or of any condition attached to a consent under this section—
- (a) he is liable on summary conviction to a fine not exceeding level 1 on the standard scale, and
  - (b) the local authority may by notice require him either to alter the cellar or room so that its construction will no longer contravene the said subsection or condition or, if he so elects, to fill it in or otherwise make it unusable.
- (4) Sections 99 and 102 below apply in relation to a notice given under subsection (3) above, subject to the following modifications—
- (a) section 99(1) requires the notice to indicate the nature of the works of alteration and that of the works for making the cellar or room unusable, and
  - (b) section 99(2) authorises the local authority to execute, subject to that subsection, at their election either the works of alteration or the works for making the cellar or room unusable.
- (5) If the owner for the time being of the house, shop, inn, hotel or office causes or permits a cellar or room forming part of it to be used in a manner that he knows to be in contravention of a condition attached to a consent under this section, he is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

#### Textual Amendments

**F107** S. 74(2)(a) repealed (24.11.2005) by [Licensing Act 2003 \(c. 17\)](#), s. 201(2), Sch. 6 para. 92, Sch. 7 (with ss. 2(3), 15(2), 195); [S.I. 2005/3056](#), art. 2(2) (with art. 4)

## 75 Consents under s. 74. **E+W**

- (1) A consent under section 74 above may be given subject to such conditions as to the construction or use of the premises as may be specified in it, and conditions specified in such a consent are binding on successive owners of the house, shop inn, hotel or office.
- (2) If a local authority—
- (a) refuse an application for such a consent, or
  - (b) attach any conditions to such a consent,
- the person applying for the consent may appeal to a magistrates' court against the refusal or, as the case may be, against any of the conditions, and if a magistrates' court allows an appeal against a refusal to grant a consent it may direct the local authority to give their consent subject to such conditions, if any, as appear to the court to be appropriate.
- (3) An application may be made at any time to the local authority for the variation or withdrawal of a condition attached to such a consent, and, if the local authority refuse the application, the applicant may appeal to a magistrates' court.

*Defective premises, demolition etc.*

## 76 Defective premises. **E+W**

- (1) If it appears to a local authority that—

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- (a) any premises are in such a state (in this section referred to as a “defective state”) as to be prejudicial to health or a nuisance, and
- (b) unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by [<sup>F108</sup>section 80 of the Environmental Protection Act 1990],

the local authority may serve on the person on whom it would have been appropriate to serve an abatement notice under the said section 93 (if the local authority had proceeded under that section) a notice stating that the local authority intend to remedy the defective state and specifying the defects that they intend to remedy.

- (2) Subject to subsection (3) below, the local authority may, after the expiration of nine days after service of a notice under subsection (1) above, execute such works as may be necessary to remedy the defective state, and recover the expenses reasonably incurred in so doing from the person on whom the notice was served.
- (3) If, within seven days after service of a notice under subsection (1) above, the person on whom the notice was served serves a counter-notice that he intends to remedy the defects specified in the first-mentioned notice, the local authority shall take no action in pursuance of the first-mentioned notice unless the person who served the counter-notice—
  - (a) fails within what seems to the local authority a reasonable time to begin to execute works to remedy the said defects, or
  - (b) having begun to execute such works fails to make such progress towards their completion as seems to the local authority reasonable.
- (4) In proceedings to recover expenses under subsection (2) above, the court—
  - (a) shall inquire whether the local authority were justified in concluding that the premises were in a defective state, or that unreasonable delay in remedying the defective state would have been occasioned by following the procedure prescribed by [<sup>F108</sup>section 80 of the Environmental Protection Act 1990], and
  - (b) if the defendant proves that he served a counter-notice under subsection (3) above, shall inquire whether the defendant failed to begin the works to remedy the defects within a reasonable time, or failed to make reasonable progress towards their completion,

and if the court determines that—

- (i) the local authority were not justified in either of the conclusions mentioned in paragraph (a) of this subsection, or
- (ii) there was no failure under paragraph (b) of this subsection,

the local authority shall not recover the expenses or any part of them.

- (5) Subject to subsection (4) above, in proceedings to recover expenses under subsection (2) above, the court may—
  - (a) inquire whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and
  - (b) make such order concerning the expenses or their apportionment as appears to the court to be just,

but the court shall not order the expenses or any part of them to be borne by a person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

- (6) A local authority shall not serve a notice under subsection (1) above, or proceed with the execution of works in accordance with a notice so served, if the execution of the



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works would, to their knowledge, be in contravention of a building preservation order under section 29 of the <sup>M13</sup>Town and Country Planning Act 1947.

- (7) The power conferred on a local authority by subsection (1) above may be exercised notwithstanding that the local authority might instead have proceeded under [<sup>F109</sup>Part VI of the Housing Act 1985 (repair notices)].

#### Textual Amendments

**F108** Words substituted by Environmental Protection Act 1990 (c.43, SIF 46:4), s. 162(1), **Sch. 15 para. 24**

**F109** Words substituted by Housing (Consequential Provisions) Act 1985 (c.71, SIF 61), ss. 4, 5(2), **Sch. 2 para. 58(2), Sch. 4**

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

**C30** S. 76 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2**. S. 76 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch.2**.

**C31** S. 76: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2**. S. 76: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**.

#### Marginal Citations

**M13** 1947 c. 51.

## 77 Dangerous building. **E+W**

- (1) If it appears to a local authority that a building or structure, or part of a building or structure, is in such a condition, or is used to carry such loads, as to be dangerous, the authority may apply to a magistrates' court, and the court may—
- (a) where danger arises from the condition of the building or structure, make an order requiring the owner thereof—
    - (i) to execute such work as may be necessary to obviate the danger or,
    - (ii) if he so elects, to demolish the building or structure, or any dangerous part of it, and remove any rubbish resulting from the demolition, or
  - (b) where danger arises from overloading of the building or structure, make an order restricting its use until a magistrates' court, being satisfied that any necessary works have been executed, withdraws or modifies the restriction.
- (2) If the person on whom an order is made under subsection (1)(a) above fails to comply with the order within the time specified, the local authority may—
- (a) execute the order in such manner as they think fit, and
  - (b) recover the expenses reasonably incurred by them in doing so from the person in default,

and, without prejudice to the right of the authority to exercise those powers, the person is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

- [<sup>F110</sup>(3) This section has effect subject to the provisions [<sup>F111</sup>the Planning (Listed Buildings and Conservation Areas) Act 1990] relating to listed buildings, buildings subject to building preservation [<sup>F111</sup>notices] and buildings in conservation areas.]

#### Textual Amendments

**F110** S. 77(3) inserted by Housing and Planning Act 1986 (c. 63, SIF 15), s. 40, **Sch. 9 para. 6(2)**

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**F111** Words substituted by **Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, Sch. 2 para. 67(3)**

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

**C32** *S. 77* applied (with modifications) (07. 08. 1991) by *S.I. 1991/1773, art. 8(2)(3), Sch. 2.S. 77* applied (with modifications) (10. 01. 1992) by *S.I. 1991/2913, art. 8(2)(3), Sch.2.S. 77* excluded (20.9.2000) by **2000 c. vii, s. 45(4)**

**C33** *S. 77*: certain functions transferred (07. 08. 1991) by *S.I. 1991/1773, art. 8(1)(3), Sch.2.S. 77*: certain functions transferred (10. 01. 1992) by *S.I. 1991/2913, art. 8(1)(3), Sch. 2.*

**78 Dangerous building—emergency measures. E+W**

- (1) If it appears to a local authority that—
  - (a) a building or structure, or part of a building or structure, is in such a state, or is used to carry such loads, as to be dangerous, and
  - (b) immediate action should be taken to remove the danger,
 they may take such steps as may be necessary for that purpose.
- (2) Before exercising their powers under this section, the local authority shall, if it is reasonably practicable to do so, give notice of their intention to the owner and occupier of the building, or of the premises on which the structure is situated.
- (3) Subject to this section, the local authority may recover from the owner the expenses reasonably incurred by them under this section.
- (4) So far as expenses incurred by the local authority under this section consist of expenses of fencing off the building or structure, or arranging for it to be watched, the expenses shall not be recoverable in respect of any period—
  - (a) after the danger has been removed by other steps under this section, or
  - (b) after an order made under section 77(1) above for the purpose of its removal has been complied with or has been executed as mentioned in subsection (2) of that section.
- (5) In proceedings to recover expenses under this section, the court shall inquire whether the local authority might reasonably have proceeded instead under section 77(1) above, and, if the court determines that the local authority might reasonably have proceeded instead under that subsection, the local authority shall not recover the expenses or any part of them.
- (6) Subject to subsection (5) above, in proceedings to recover expenses under this section, the court may—
  - (a) inquire whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and
  - (b) make such order concerning the expenses or their apportionment as appears to the court to be just,
 but the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless it is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.
- (7) Where in consequence of the exercise of the powers conferred by this section the owner or occupier of any premises sustains damage, but section 106(1) below does not apply because the owner or occupier has been in default—

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- (a) the owner or occupier may apply to a magistrates' court to determine whether the local authority were justified in exercising their powers under this section so as to occasion the damage sustained, and
  - (b) if the court determines that the local authority were not so justified, the owner or occupier is entitled to compensation, and section 106(2) and (3) below applies in relation to any dispute as regards compensation arising under this subsection.
- (8) The proper officer of a local authority may, as an officer of the local authority, exercise the powers conferred on the local authority by subsection (1) above.
- (9) This section does not apply to premises forming part of a mine or quarry within the meaning of the <sup>M14</sup>Mines and Quarries Act 1954.

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

**C34** S. 78 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), Sch. 2.S. 78 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), Sch. 2.

**C35** S. 78: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), Sch.2.S. 78: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), Sch.2.

**Marginal Citations**

**M14** 1954 c. 70.

**79 Ruinous and dilapidated buildings and neglected sites. E+W**

- (1) If it appears to a local authority that a building or structure is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood, the local authority may by notice require the owner thereof—
- (a) to execute such works of repair or restoration, or
  - (b) if he so elects, to take such steps for demolishing the building or structure, or any part thereof, and removing any rubbish or other material resulting from or exposed by the demolition,
- as may be necessary in the interests of amenity.
- (2) If it appears to a local authority that—
- (a) rubbish or other material resulting from, or exposed by, the demolition or collapse of a building or structure is lying on the site or on any adjoining land, and
  - (b) by reason thereof the site or land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood,
- the local authority may by notice require the owner of the site or land to take such steps for removing the rubbish or material as may be necessary in the interests of amenity.
- (3) Sections 99 and 102 below apply in relation to a notice given under subsection (1) or (2) above, subject to the following modifications—
- (a) section 99(1) requires the notice to indicate the nature of the works of repair or restoration and that of the works of demolition and removal of rubbish or material, and

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- (b) section 99(2) authorises the local authority to execute, subject to that subsection, at their election either the works of repair or restoration or the works of demolition and removal of rubbish or material.
- (4) This section does not apply to an advertisement as defined in <sup>F112</sup>section 336(1) of the Town and Country Planning Act 1990].
- <sup>F113</sup>(5) This section has effect subject to the provisions of <sup>F114</sup>the Planning (Listed Buildings and Conservation Areas) Act 1990] relating to listed buildings, buildings subject to building preservation <sup>F114</sup>notices] and buildings in conservation areas.]

#### Textual Amendments

- F112** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 67\(4\)\(a\)](#)
- F113** [S. 79\(5\)](#) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 15\), s. 40, Sch. 9 para. 6\(2\)](#)
- F114** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 67\(4\)\(b\)](#)

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

- C36** [S. 79](#) applied (with modifications) (07. 08. 1991) by [S.I. 1991/1773, art. 8\(2\)\(3\), Sch. 2](#). [S. 79](#) applied (with modifications) (10. 01. 1992) by [S.I. 1991/2913, art. 8\(2\)\(3\), Sch. 2](#). [S. 79](#) excluded (20.9.2000) by [2000 c. vii, s. 45\(4\)](#)
- C37** [S. 79](#): certain functions transferred (07. 08. 1991) by [S.I. 1991/1773, art. 8\(1\)\(3\), Sch. 2](#). [S. 79](#): certain functions transferred (10. 01. 1992), by [S.I. 1991/2913, art. 8\(1\)\(3\), Sch. 2](#).

## 80 Notice to local authority of intended demolition. E+W

- (1) This section applies to any demolition of the whole or part of a building except—
  - (a) a demolition in pursuance of a demolition order <sup>F115</sup>or obstructive building order]made under <sup>F116</sup>Part IX of the Housing Act 1985], and
  - (b) a demolition—
    - (i) of an internal part of a building, where the building is occupied and it is intended that it should continue to be occupied,
    - (ii) of a building that has a cubic content (as ascertained by external measurement) of not more than 1750 cubic feet, or, where a greenhouse, conservatory, shed or prefabricated garage forms part of a larger building, of that greenhouse, conservatory, shed or prefabricated garage, or
    - (iii) without prejudice to sub-paragraph (ii) above, of an agricultural building (<sup>F117</sup>within the meaning of any of paragraphs 3 to 7 of Schedule 5 to the Local Government Finance Act 1988]), unless it is contiguous to another building that is not itself an agricultural building or a building of a kind mentioned in that sub-paragraph.
- (2) No person shall begin a demolition to which this section applies unless—
  - (a) he has given the local authority notice of his intention to do so, and
  - (b) either—
    - (i) the local authority have given a notice to him under section 81 below, or
    - (ii) the relevant period (as defined in that section) has expired.

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- (3) A notice under subsection (2) above shall specify the building to which it relates and the works of demolition intended to be carried out, and it is the duty of a person giving such a notice to a local authority to send or give a copy of it to—
- (a) the occupier of any building adjacent to the building,
  - [<sup>F118</sup>(b) any public gas supplier (as defined in Part I of the Gas Act 1986) in whose authorised area (as so defined) the building is situated,]
  - [<sup>F119</sup>(c) the public electricity supplier (as defined in Part I of the Electricity Act 1989) in whose authorised area (as so defined) the building is situated and any other person authorised by a licence under that Part to supply electricity to the building;]
- (4) A person who contravenes subsection (2) above is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Textual Amendments

**F115** Words inserted (*retrosp.* 1.4.1986) by Housing and Planning Act 1986 (c. 63, SIF 15), s. 24(1), **Sch. 5 para. 11(1)(2)**

**F116** Words substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 4, 5(2), Sch. 2 para. 58(3), **Sch. 4**

**F117** Words substituted by S.I. 1990/1285, art. 2, **Sch. para. 7**

**F118** S. 80(3)(b) substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 30, **Sch. 8 para. 33**

**F119** S. 80(3)(c) substituted by Electricity Act 1989 (c.29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 31, **Sch. 17 para. 33**

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

**C38** S. 80(3)(b) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(i)**; S.I. 1996/218, **art.2**

## 81 Local authority's power to serve notice about demolition. **E+W**

- (1) A local authority may give a notice under this section to—
- (a) a person on whom a demolition order [<sup>F120</sup>or obstructive building order] has been served under [<sup>F121</sup>Part IX of the Housing Act 1985],
  - (b) a person who appears to them not to be intending to comply with an order made under section 77 above or a notice given under section 79 above, and
  - (c) a person who appears to them to have begun or to be intending to begin a demolition to which section 80 above otherwise applies.
- (2) Nothing contained in a notice under this section prejudices or affects the operation of any of the relevant statutory provisions, as defined in section 53(1) of the <sup>M15</sup>Health and Safety at Work etc. Act 1974; and accordingly, if a requirement of such a notice is inconsistent with a requirement imposed by or under the said Act of 1974, the latter requirement prevails.
- (3) Where—
- (a) a person has given a notice under section 80 above, or
  - (b) the local authority have served a demolition order [<sup>F120</sup>or obstructive building order] on a person under [<sup>F121</sup>Part IX of the Housing Act 1985],
- a notice under this section may only be given to the person in question within the relevant period.

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- (4) In this section and section 80 above, “the relevant period” means—
- (a) in a case such as is mentioned in subsection (3)(a) above, six weeks from the giving of the notice under section 80 above, or such longer period as the person who gave that notice may in writing allow, and
  - (b) in a case such as is mentioned in subsection (3)(b) above, seven days after the local authority served a copy of the demolition order [<sup>F120</sup>or obstructive building order] in accordance with [<sup>F121</sup>Part IX of the Housing Act 1985], or such longer period as the person on whom the copy was served may in writing allow.
- (5) It is the duty of the local authority to send or give a copy of a notice under this section to the owner and occupier of any building adjacent to the building to which the notice relates.
- (6) It is also the duty of the local authority to send or give a copy of a notice under this section—
- (a) if it contains such a requirement as is specified in section 82(1)(h) below, to the statutory undertakers concerned, and
  - [<sup>F122</sup>(b) if it contains such a requirement as is specified in section 82(1)(i) below, to the fire and rescue authority, if they are not themselves the fire and rescue authority.]

<sup>F123</sup>(7) .....

#### Textual Amendments

- F120** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 15\)](#), s. 24, **Sch. 5 para. 11(1)**
- F121** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), ss. 4, 5(2), Sch. 2 para. 58(3), **Sch. 4**
- F122** S. 81(6)(b) substituted (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), **Sch. 2 para. 33(6)(a)** (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), **arts. 1(1), 2**)
- F123** S. 81(7) repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), Sch. 2 para. 33(6)(b), **Sch. 4** (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), **arts. 1(1), 2**)

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

- C39** S. 81 applied (with modifications) (07. 08. 1991) by [S.I. 1991/1773](#), art. 8(2)(3), **Sch.2.S. 81** applied (with modifications) (10. 01. 1992) by [S.I. 1991/2913](#), art. 8(2)(3), **Sch. 2**.
- C40** S. 81: certain functions transferred (07. 08. 1991) by [S.I. 1991/1773](#), art. 8(1)(3), **Sch.2.S. 81**: certain functions transferred (10. 01. 1992) by [S.I. 1991/2913](#), art. 8(1)(3), **Sch. 2**.
- C41** S. 81(1)(b) applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), **10(1)**

#### Marginal Citations

- M15** 1974 c. 37.

## 82 Notices under section 81. **E+W**

- (1) A notice under section 81(1) above may require the person to whom it is given—
- (a) to shore up any building adjacent to the building to which the notices relates,



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- (b) to weatherproof any surfaces of an adjacent building that are exposed by the demolition,
  - (c) to repair and make good any damage to an adjacent building caused by the demolition or by the negligent act or omission of any person engaged in it,
  - (d) to remove material or rubbish resulting from the demolition and clearance of the site,
  - (e) to disconnect and seal, at such points as the local authority may reasonably require, any sewer or drain in or under the building,
  - (f) to remove any such sewer or drain, and seal any sewer or drain with which the sewer or drain to be removed is connected,
  - (g) to make good to the satisfaction of the local authority the surface of the ground disturbed by anything done under paragraph (e) or (f) above,
  - (h) to make arrangements with the relevant statutory undertakers for the disconnection of the supply of gas, electricity and water to the building,
  - [<sup>F124</sup>(i) to make such arrangements with regard to the burning of structures or materials on the site as may be reasonably required by the fire and rescue authority;]
  - (j) to take such steps relating to the conditions subject to which, the demolition is to be undertaken, and the condition in which the site is to be left on completion of the demolition, as the local authority may consider reasonably necessary for the protection of the public and the preservation of public amenity.
- (2) No one shall be required under paragraph (c), (e) or (f) of subsection (1) above to carry out any work in land outside the premises on which the works of demolition are being carried out if he has no right to carry out that work, but, subject to section 101 below, the person undertaking the demolition, or the local authority acting in his default, may break open any street for the purpose of complying with any such requirement.
- (3) Before a person complies with a requirement under paragraph (e), (f) or (g) of subsection (1) above, he shall give to the local authority—
- (a) at least 48 hours' notice, in the case of a requirement under paragraph (e) or (f), or
  - (b) at least 24 hours' notice, in the case of a requirement under paragraph (g),
- and a person who fails to comply with this subsection is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) This section does not authorise interference with apparatus or works of statutory undertakers authorised by an enactment to carry on an undertaking for the supply of electricity, [<sup>F125</sup> or gas or with apparatus or works of a water undertaker or sewerage undertaker].
- (5) Without prejudice to the generality of subsection (4) above, this section does not exempt a person from—
- (a) the obligation to obtain any consent required under [<sup>F126</sup>[<sup>F127</sup>section 174 of the Water Industry Act 1991 or section 176 of the Water Resources Act 1991] (interference with water supplies or with waterworks)]
  - (b) criminal liability under any enactment relating to the supply of gas or electricity, or
  - (c) the requirements of regulations under section 31 of the <sup>M16</sup>Gas Act 1972 (public safety).
- (6) Section 99 below applies in relation to a notice given under section 81(1) above.



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### Textual Amendments

- F124** S. 82(1)(i) substituted (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), **Sch. 2 para. 33(7)** (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), **arts. 1(1), 2**)
- F125** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(2)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F126** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(2)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F127** Words in s. 82(5)(a) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), **Sch. 1 para. 39(4)**.

### Modifications etc. (not altering text)

- C42** S. 82 applied (with modifications) (7.8.1991) by [S.I. 1991/1773](#), art. 8(2)(3), **Sch. 2**  
 S. 82 applied (with modifications) (10.1.1992) by [S.I. 1991/2913](#), art. 8(2)(3), **Sch. 2**
- C43** S. 82: certain functions transferred (7.8.1991) by [S.I. 1991/1773](#), art. 8(1)(3), **Sch.2**  
 S. 82: certain functions transferred (10.1.1992) by [S.I. 1991/2913](#), art. 8(1)(3), **Sch.2**
- C44** S. 82(4) amended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 2(8), **Sch. 8 para. 33**
- C45** S. 82(4) amended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 1(7), **Sch. 17 para. 33**
- C46** S. 82(4) amended (1.3.1996) by [1995 c. 45, s. 16\(1\)](#), **Sch. 4 para.2(8)**; [S.I. 1996/218](#), **art.2**

### Marginal Citations

- M16** [1972 c. 60](#).

## 83 Appeal against notice under s. 81. **E+W**

- (1) Section 102 below applies in relation to a notice given under section 81 above.
- (2) Among the grounds on which an appeal may be brought under section 102 below against such a notice are—
  - (a) in the case of a notice requiring an adjacent building to be shored up, that the owner of the building is not entitled to the support of that building by the building that is being demolished, and ought to pay, or contribute towards, the expenses of shoring it up,
  - (b) in the case of a notice requiring any surfaces of an adjacent building to be weatherproofed, that the owner of the adjacent building ought to pay, or contribute towards, the expenses of weatherproofing those surfaces.
- (3) Where the grounds on which an appeal under section 102 below is brought include a ground specified in subsection (2) above—
  - (a) the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and
  - (b) on the hearing of the appeal the court may make such order as it thinks fit—
    - (i) in respect of the payment of, or contribution towards, the cost of the works by any such person, or
    - (ii) as to how any expenses that may be recoverable by the local authority are to be borne between the appellant and any such person.

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### *Yards and passages*

#### **84 Paving and drainage of yards and passages. E+W**

- (1) If a court or yard appurtenant to, or a passage giving access to, buildings to which this section applies—
  - (a) is not so formed, flagged, asphalted or paved, or
  - (b) is not provided with such works on, above or below its surface,as to allow of the satisfactory drainage of its surface or subsoil to a proper outfall, the local authority may by notice require any person who is the owner of any of the buildings to execute all such works as may be necessary to remedy the defect.
- (2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (3) The buildings to which this section applies are houses and industrial and commercial buildings.
- (4) This section applies in relation to any court, yard or passage that is used in common by the occupiers of two or more houses, or a house and a commercial or industrial building, but is not a highway maintainable at the public expense.

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

- C47** S. 84 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), Sch.2.S. 84 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), Sch.2.
- C48** S. 84: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), Sch.2.S. 84: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), Sch.2.

#### **85 Maintenance of entrances to courtyards. E+W**

- (1) Except with the consent of the local authority—
  - (a) an entrance to a court or yard on which two or more houses front or abut shall not be closed, narrowed, reduced in height or otherwise altered so as to impede the free circulation of air through the entrance, and
  - (b) no permanent structure shall be erected so as to impede the free circulation of air through such an entrance.
- (2) A local authority in giving a consent under this section may impose such conditions as they think fit with respect to the provision of other openings or means of access, or other means for securing free circulation of air throughout the court or yard.
- (3) A person aggrieved by the refusal of a local authority to give a consent under this section, or by a condition imposed by them, may appeal to a magistrates' court.
- (4) A person who contravenes this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £2 for each day on which the offence continues after he is convicted.

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### *Appeal to Crown Court*

#### **86 Appeal to Crown Court. E+W**

- (1) Where a person—
  - (a) is aggrieved by an order, determination or other decision of a magistrates’ court under this Part of this Act, or under Part IV of this Act as it applies in relation to this Part, and
  - (b) is not by any other enactment authorised to appeal to the Crown Court, he may appeal to the Crown Court.
- (2) Subsection (1) above does not confer a right of appeal in a case in which each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by a magistrates’ court.

### *Application of provisions to Crown property*

#### **87 Application of provisions to Crown property. E+W**

- (1) This section applies to any house, building or other premises being property belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for purposes of a government department.
- (2) In relation to any such property, the appropriate authority may agree with—
  - (a) the council of the county, or
  - (b) the local authority of the district,
 in which the property is situated that any particular provisions of this Part of this Act, and of Part IV of this Act so far as it relates to this Part, shall apply to the property; and, while the agreement is in force, those provisions shall apply to that property accordingly, subject to the terms of the agreement.
- [<sup>F128</sup>(2A) Subsection (2) above shall apply in relation to property in Wales as if—
  - (a) in paragraph (a) the reference to a county included a reference to a county borough; and
  - (b) paragraph (b) were omitted.]
  - (3) Any such agreement may contain such consequential and incidental provisions (including, with the approval of the Treasury, provisions of a financial character) as appear to the appropriate authority to be necessary or equitable.
  - (4) In this section, “the appropriate authority” means—
    - (a) in the case of property belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the property,
    - (b) in the case of property belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy,
    - (c) in the case of property belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints, and

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- (d) in the case of property belonging to a government department or held in trust for Her Majesty for purposes of a government department, that department, and, if a question arises as to what authority is the appropriate authority in relation to any property, that question shall be referred to the Treasury, whose decision is final.

**Textual Amendments**

**F128** S. 87(2A) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 15(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); s.I. 1996/396, art. 3, Sch.1

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

**C49** S. 87 modified (17.7.1992) by S.I. 1992/1732, **art. 4(2)**

*Inner London*

**88 Inner London. E+W**

- (1) In its application to inner London, this Part of this Act has effect subject to Part II of Schedule 3 to this Act.
- (2) Part III of Schedule 3 to this Act has effect with respect to building and the drainage of buildings in the inner London boroughs.
- (3) Part IV of Schedule 3 to this Act has effect with respect to the making of byelaws . . .  
**F129**—
- (a) for the inner London boroughs, with respect to certain matters, and
- (b) for the inner London boroughs, the Inner Temple and the Middle Temple, with respect to certain other matters.

**Textual Amendments**

**F129** Words repealed by **Local Government Act 1985 (c. 51, SIF 81:1)**, s. 102, **Sch. 17**

*Miscellaneous*

**89 References in Acts to building byelaws. E+W**

- (1) Subject to subsection (2) below, for any reference to—
- (a) building byelaws as defined in section 343 of the <sup>M17</sup>Public Health Act 1936, or
- (b) byelaws made under Part II of that Act with respect to buildings, works and fittings,
- that occurs in an Act, or in an instrument having effect under an Act, there is substituted a reference to building regulations.
- (2) . . . . . **F130**

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#### Textual Amendments

**F130** S. 89(2) repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, 5(2), Sch. 1 Pt. I, Sch. 4

#### Marginal Citations

**M17** 1936 c. 49.

## 90 Facilities for inspecting local Acts. **E+W**

- (1) In an area in which there is in force a local Act containing provisions that impose an obligation or restriction as to the construction, nature or situation of buildings, the local authority shall keep a copy of those provisions at their offices for inspection by the public at all reasonable times free of charge.
- (2) Any question as to what provisions of a local Act are provisions of which a copy is to be so kept shall, on the application of the local authority, be determined by the Secretary of State.

## PART IV **E+W**

### GENERAL

#### *Duties of local authorities*

## 91 Duties of local authorities. **E+W**

- (1) It is the duty of local authorities to carry this Act into execution in their areas, subject to—
  - (a) the provisions of this Act relating to certain other authorities or persons,
  - (b) the provisions of Part I of the <sup>M18</sup>Public Health Act 1936 relating to united districts and joint boards,
  - (c) section 151 of the <sup>M19</sup>Local Government, Planning and Land Act 1980 (urban development areas), and
  - (d) section 1(3) of the <sup>M20</sup>Public Health (Control of Disease) Act 1984 (port health authorities).
- (2) It is the function of local authorities to enforce building regulations in their areas, subject to sections 5(3), 48(1) and 53(2) above . . . <sup>F131</sup>.

#### Textual Amendments

**F131** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, Sch. 17

#### Marginal Citations

**M18** 1936 c. 49.

**M19** 1980 c. 65.

**M20** 1984 c. 22.

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## [<sup>F132</sup>91A Registers to be kept by local authorities **E+W**]

- (1) A local authority shall keep in a register such information and documents as may be prescribed in connection with their functions, powers and duties conferred or imposed by or under this Act.
- (2) The information and documents that may be prescribed for the purposes of subsection (1) above include, in particular—
  - (a) documents that are given or issued to, or deposited with, a local authority in accordance with provision made by or under this Act, or copies of such documents;
  - (b) copies of documents that are given, made or issued by a local authority in accordance with provision so made;
  - (c) information with respect to documents of the kind mentioned in paragraph (a) or (b);
  - (d) information with respect to matters to which such documents relate.
- (3) Information and documents that are required to be kept in a register under subsection (1) above shall be so kept for the prescribed period.
- (4) A local authority—
  - (a) shall maintain the register required under subsection (1) above in the prescribed manner;
  - (b) shall ensure that the register is available for inspection by members of the public during prescribed periods;
  - (c) shall, in prescribed circumstances, provide to members of the public, on request, copies of information and documents kept in the register;
  - (d) may, in prescribed circumstances, charge a member of the public to whom they provide such copies a fee calculated in the prescribed manner.
- (5) In this section—

“documents” includes notices, certificates, orders, consents, demands and plans;

“prescribed” means prescribed by regulations made by the Secretary of State under this section.
- (6) Regulations under this section may—
  - (a) provide for a provision thereof to apply generally, or in a particular area;
  - (b) make different provision for different areas and generally different provision for different circumstances or cases;
  - (c) include such supplemental, transitional and incidental provisions as appear to the Secretary of State to be expedient.
- (7) The transitional provision that may be included in regulations under this section includes transitional provision in relation to information that, immediately before the coming into force of the regulations, was contained in registers kept by local authorities under section 56.
- (8) The power to make regulations under this section is exercisable by statutory instrument, which is subject to annulment in pursuance of a resolution of either House of Parliament.]

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### Textual Amendments

**F132** S. 91A inserted (1.2.2006 for specified purposes) by [Sustainable and Secure Buildings Act 2004](#) (c. 22), ss. 7, 11(3); S.I. 2006/224, art. 2(b)

## Documents

### 92 Form of documents. **E+W**

- (1) All—
- (a) notices, orders, consents, demands and other documents authorised or required by or under this Act to be given, made or issued by a local authority, and
  - (b) notices and applications authorised or required by or under this Act to be given or made to, or to any officer of, a local authority,
- shall be in writing.
- (2) The Secretary of State may, by regulations made by statutory instrument, prescribe the form of any notice, advertisement, certificate or other document to be used for any of the purposes of this Act, and if forms are so prescribed those forms or forms to the like effect may be used in all cases to which those forms are applicable.

### 93 Authentication of documents. **E+W**

- (1) A notice, order, consent, demand or other document that a local authority are authorised or required by or under this Act to give, make or issue may be signed on behalf of the authority—
- (a) by the proper officer of the authority or the district surveyor, as respects documents relating to matters within his province, or
  - (b) by an officer of the authority authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document.
- (2) A document purporting to bear the signature of an officer—
- (a) expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or
  - (b) expressed to be authorised by the local authority to sign such a document or the particular document,
- is deemed, for the purposes of this Act and of any building regulations and orders made under it, to have been duly given, made or issued by authority of the local authority, until the contrary is proved.
- (3) In subsection (2) above, “signature” includes a facsimile of a signature by whatever process reproduced.

### 94 Service of documents. **E+W**

- A notice, order, consent, demand or other document that is authorised or required by or under this Act to be given to or served on a person may, in any case for which no other provision is made by this Act, be given or served either—
- (a) by delivering it to that person,



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- (b) in the case of an officer of a local authority, by leaving it, or sending it in a prepaid letter addressed to him, at his office,
- (c) in the case of any other person, by leaving it, or sending it in a prepaid letter addressed to him, at his usual or last known residence,
- (d) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office,
- (e) in the case of a document to be given to or served on a person as being the owner of any premises by virtue of the fact that he receives the rackrent thereof as agent for another, or would so receive it if the premises were let at a rackrent, by leaving it, or sending it in a prepaid letter addressed to him, at his place of business,
- (f) in the case of a document to be given to or served on the owner or the occupier of any premises, if it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of “owner” or “occupier” of the premises (naming them) to which it relates, and delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

#### [<sup>F133</sup>94A. Electronic service of documents **E+W**

- (1) This section applies where—
  - (a) section 94 authorises the giving or serving of a document by its delivery to a particular person (“the recipient”), and
  - (b) the document is of a kind mentioned in subsection (7).
- (2) Transmission of the document to the recipient by means of an electronic communication has effect for the purposes of section 94 as delivery of the document to the recipient if, and only if, the conditions in subsection (3) are met.
- (3) The conditions are—
  - (a) that the recipient has stated a willingness to receive the document by means of an electronic communication,
  - (b) that the statement has not been withdrawn, and
  - (c) that the document was transmitted to an electronic address specified by the recipient.
- (4) A statement may be limited to documents of a specified description.
- (5) A statement may require a document to be in a specified electronic form.
- (6) A statement may be modified or withdrawn—
  - (a) in a case where the statement was made by being published, by publishing the modification or withdrawal in the same or in a similar manner;
  - (b) in any other case, by giving a notice to the person to whom the statement was made.
- (7) The documents are—
  - (a) a notice under section 16(6), 47, 50(7) or (8), 51A, 51C, 52, 54 or paragraph 1(1) or 2(5) or (6) of Schedule 4;

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- (b) a document containing plans or evidence which accompanies a notice under section 47(1), 51A(2) or 54(1);
  - (c) a certificate under section 50(1), 51(1) or paragraph 2(1) or 3(1) of Schedule 4;
  - (d) a combined notice and certificate under section 50(4) or paragraph 2(2) of Schedule 4.
- (8) In this section—
- “electronic address” includes any number or address used for the purposes of receiving electronic communications;
  - “electronic communication” means an electronic communication within the meaning of the Electronic Communications Act 2000;
  - “specified” means specified in a statement made for the purposes of subsection (3)(a).]

#### Textual Amendments

**F133** S. 94A inserted (1.10.2008) by [Building \(Electronic Communications\) Order 2008 \(S.I. 2008/2334\)](#), arts. 1, 2

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

**C50** S. 94A modified by SI 2000/2531, reg. 22B (as inserted (1.10.2008) by [Building \(Electronic Communications\) Order 2008 \(S.I. 2008/2334\)](#), arts. 1, 3)

**C51** S. 94A modified by SI 2000/2532, reg. 31A (as inserted (1.10.2008) by [Building \(Electronic Communications\) Order 2008 \(S.I. 2008/2334\)](#), arts. 1, 4)

### *Entry on premises*

## 95 Power to enter premises. **E+W**

- (1) Subject to this section, an authorised officer of a local authority, on producing, if so required, some duly authenticated document showing his authority, has a right to enter any premises at all reasonable hours—
- (a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises, a contravention of this Act, or of any building regulations, that it is the duty of the local authority to enforce,
  - (b) for the purpose of ascertaining whether or not circumstances exist that would authorise or require the local authority to take any action, or execute any work, under this Act or under building regulations,
  - (c) for the purpose of taking any action, or executing any work, authorised or required by this Act, or by building regulations, or by an order made under this Act, to be taken, or executed, by the local authority, or
  - (d) generally for the purpose of the performance by the local authority of their functions under this Act or under building regulations.
- (2) Admission to premises, other than a factory or workplace, shall not be demanded as of right unless 24 hours’ notice of the intended entry has been given to the occupier.
- (3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing that—

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- (a) admission to any premises has been refused, or refusal is apprehended, or the premises are unoccupied, or the occupier is temporarily absent, or the case is one of urgency, or an application for admission would defeat the object of the entry, and
- (b) there is reasonable ground for entry into the premises for any of the purposes mentioned in subsection (1) above,

the justice may by warrant under his hand authorise the local authority by any authorised officer to enter the premises, if need be by force.

- (4) A warrant shall not be issued under subsection (3) above unless the justice is satisfied that—
  - (a) notice of the intention to apply for a warrant has been given to the occupier, or
  - (b) the premises are unoccupied, or the occupier is temporarily absent, or the case is one of urgency, or the giving of the notice would defeat the object of the entry.

#### **96 Supplementary provisions as to entry. E+W**

- (1) An authorised officer entering premises by virtue of section 95 above, or of a warrant issued under it, may take with him such other persons as may be necessary, and on leaving unoccupied premises that he has entered by virtue of such a warrant he shall leave them as effectually secured against trespassers as he found them.
- (2) A warrant issued under that section shall continue in force until the purpose for which the entry is necessary has been satisfied.
- (3) A person who—
  - (a) is admitted into a factory or workplace in compliance with that section or a warrant issued under it, and
  - (b) discloses to another person information obtained by him in the factory or workplace with regard to a manufacturing process or trade secret,is liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding three months, unless the disclosure was made in the performance of his duty.

#### *Execution of works*

#### **97 Power to execute work. E+W**

A local authority may, by agreement with the owner or occupier of any premises, themselves execute at his expense—

- (a) any work that they have under this Act required him to execute, or
- (b) any work in connection with the construction, laying, alteration or repair of a sewer or drain that he is entitled to execute,

and for that purpose they have all the rights that he would have.

#### **98 Power to require occupier to permit work. E+W**

If, on a complaint made by the owner of premises, it appears to a magistrates' court that the occupier of those premises prevents the owner from executing any work that

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he is by or under this Act required to execute, the court may order the occupier to permit the execution of the work.

## 99 Content and enforcement of notice requiring works. **E+W**

- (1) A notice in relation to which it is declared by any provision of this Act that this section applies shall indicate the nature of the works to be executed and state the time within which they are to be executed.
- (2) Subject to any right of appeal conferred by section 102 below, if the person required by such a notice to execute works fails to execute them within the time limited by the notice—
  - (a) the local authority may themselves execute the works and recover from that person the expenses reasonably incurred by them in doing so, and
  - (b) without prejudice to that power, he is liable on summary conviction to a fine not exceeding level 4 on the standard scale and to a further fine not exceeding £2 for each day on which the default continues after he is convicted.
- (3) This section has effect subject to any modification specified in the provision under which the notice is given.

## 100 Sale of materials. **E+W**

- (1) A local authority may sell any materials that—
  - (a) have been removed by them from any premises, including a street, when executing works under this Act or otherwise carrying this Act into effect, and
  - (b) are not before the expiration of three days from the date of their removal claimed by the owner and taken away by him.
- (2) Where a local authority sell materials under this section, they shall pay the proceeds to the person to whom the materials belonged, after deducting the amount of any expenses recoverable by them from him.
- (3) This section does not apply to refuse removed by a local authority.

## 101 Breaking open of streets. **E+W**

- (1) For the purposes of any section of this Act that confers powers on local authorities to construct, lay or maintain sewers, drains or pipes, [<sup>F134</sup>[<sup>F135</sup>section 158 of the Water Industry Act 1991] (street works) shall apply, with the necessary modifications, as [<sup>F136</sup>it applies] for the purpose of conferring power on a water undertaker or sewerage undertaker to lay a relevant pipe, within the meaning of [<sup>F137</sup>that section] .]
- [<sup>F138</sup>(2) [<sup>F139</sup>That section] shall also so apply so far as necessary for the purposes of any power to lay or maintain a sewer or drain which is conferred by this Act on a person other than a local authority.]

### Textual Amendments

**F134** Words in s. 101(1) substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2) (4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(3)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

**F135** words in s. 101(1) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), **Sch. 1 para. 39(5)(a)**.

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- F136** Words in s. 101(1) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\), ss. 2\(1\), 4\(2\), Sch. 1 para. 39\(5\)\(a\)](#).
- F137** Words in s. 101(1) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\), ss. 2\(1\), 4\(2\), Sch. 1 para. 39\(5\)\(a\)](#).
- F138** S. 101(2) substituted by [Water Act 1989 \(c. 15, SIF 130\), ss. 58\(7\), 101\(1\), 141\(6\), 160\(1\)\(2\)\(4\), 163, 189\(4\)–\(10\), 190, 193\(1\), Sch. 25 para. 70\(3\)\(b\), Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#)
- F139** Words in s. 101(2) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\), ss. 2\(1\), 4\(2\), Sch. 1 para. 39\(5\)\(b\)](#).

### *Appeal against notice requiring works*

## 102 Appeal against notice requiring works. **E+W**

- (1) Where a person is given a notice in relation to which it is declared by any provision of this Act that this section applies, he may appeal to a magistrates' court on any of the following grounds that are appropriate in the circumstances of the particular case—
- (a) that the notice or requirement is not justified by the terms of the provision under which it purports to have been given,
  - (b) that there has been some informality, defect or error in, or in connection with, the notice,
  - (c) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary,
  - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose,
  - (e) that the notice might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served,
  - (f) where the works are works for the common benefit of the premises in question and other premises, that some other person, being the owner or occupier of premises to be benefited, ought to contribute towards the expenses of executing any works required.
- (2) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in or in connection with the notice, the court shall dismiss the appeal, if it is satisfied that the informality, defect or error was not a material one.
- (3) The appellant—
- (a) shall, where the grounds upon which the appeal is brought include a ground specified in subsection (1)(e) or (f) above, serve a copy of his notice of appeal on each other person referred to, and
  - (b) may, in the case of any appeal under this section, serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question,
- and on the hearing of the appeal the court may make such order as it thinks fit with respect to—
- (i) the person by whom any works are to be executed and the contribution to be made by any other person towards the cost of the works, or
  - (ii) the proportions in which any expenses that may become recoverable by the local authority are to be borne by the appellant and such other person.

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- (4) In exercising its powers under subsection (3) above, the court shall have regard—
- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required, and
  - (b) in any case, to the degree of benefit to be derived by the different persons concerned.
- (5) This section has effect subject to any modification specified in the provision under which the notice is given.

*General provisions about appeals and applications*

**103 Procedure on appeal or application to magistrates' court. E+W**

- (1) Where this Act provides—
- (a) for an appeal to a magistrates' court against a requirement, refusal or other decision of a local authority, or
  - (b) for a matter to be determined by, or for an application in respect of a matter to be made to, a magistrates' court,
- the procedure shall be by way of complaint for an order.
- (2) The time within which such an appeal may be brought is 21 days from the date on which notice of the local authority's requirement, refusal or other decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint is deemed to be the bringing of the appeal.
- (3) In a case where such an appeal lies, the document notifying to the person concerned the local authority's decision in the matter shall state the right of appeal to a magistrates' court and the time within such an appeal may be brought.

**104 Local authority to give effect to appeal. E+W**

Where upon an appeal under this Act a court varies or reverses a decision of a local authority, it is the duty of the local authority to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

**105 Judge not disqualified by liability to rates. E+W**

A judge of a court or a justice of the peace is not disqualified from acting in cases arising under this Act by reason only of his being, as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to, or be benefited by, a rate or fund out of which expenses of a local authority are to be defrayed.



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### *Compensation, and recovery of sums*

#### **106 Compensation for damage. E+W**

- (1) A local authority shall make full compensation to a person who has sustained damage by reason of the exercise by the authority, in relation to a matter as to which he has not himself been in default, of any of their powers under this Act.
- (2) Subject to subsection (3) below, any dispute arising under this section as to the fact of damage, or as to the amount of compensation, shall be determined by arbitration.
- (3) If the compensation claimed does not exceed £50, all questions as to the fact of damage, liability to pay compensation and the amount of compensation may on the application of either party be determined by, and any compensation awarded may be recovered before, a magistrates' court.

#### **107 Recovery of expenses etc. E+W**

- (1) Where a local authority have incurred expenses for whose repayment the owner of the premises in respect of which the expenses were incurred is liable, either under this Act or by agreement with the authority, those expenses, together with interest from the date of service of a demand for the expenses, may be recovered by the authority—
  - (a) from the person who is the owner of the premises at the date on which the works are completed, or
  - (b) if he has ceased to be the owner of the premises before the date on which a demand for the expenses is served, either from him or from the person who is the owner at the date on which the demand is served,and, as from the date of the completion of the works, the expenses and interest accrued due thereon are, until recovered, a charge on the premises and on all estates and interests in them.
- (2) A local authority, for the purpose of enforcing a charge under subsection (1) above, have all the same powers and remedies under the <sup>M21</sup>Law of Property Act 1925 and otherwise as if they were mortgagees by deed having powers of sale and lease, or accepting surrenders of leases and appointing a receiver.
- (3) The rate of interest chargeable under subsection (1) above is such reasonable rate as the authority may determine.
- (4) A sum that a local authority are entitled to recover under this Act, and with respect to whose recovery provision is not made by any other section of this Act, may be recovered as a simple contract debt in any court of competent jurisdiction.
- (5) Where—
  - (a) a person has been given a notice in relation to which section 102 above applies, and
  - (b) the local authority take proceedings against him for the recovery of expenses that they are entitled to recover from him,it is not open to him to raise any question that he could have raised on an appeal under that section.



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

**C52** Ss. 107-110 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), [s. 10\(3\)-\(5\)](#)

**Marginal Citations**

**M21** 1925 c. 20.

**108 Payment by instalments. E+W**

- (1) A local authority may by order declare any expenses recoverable by them under section 107(1) above to be payable with interest by instalments within a period not exceeding 30 years, until the whole amount is paid.
- (2) An order may be made under subsection (1) above at any time with respect to an unpaid balance of expenses and accrued interest, but the period for repayment shall not in any case extend beyond 30 years from the service of the first demand for the expenses.
- (3) Any such instalments and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred, and if recovered from the occupier, may be deducted by him from the rent of the premises; but an occupier shall not be required to pay at any one time a sum in excess of the amount that—
  - (a) was due from him on account of rent at, or
  - (b) has become due from him on account of rent since,
 the date on which he received a demand from the local authority together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.
- (4) The rate of interest chargeable under subsection (1) above is such reasonable rate as the authority may determine.

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

**C52** Ss. 107-110 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), [s. 10\(3\)-\(5\)](#)

**<sup>F140</sup>109 ..... E+W**

**Textual Amendments**

**F140** S. 109 repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt.1](#) Group 4.

**110 Liability of agent or trustee. E+W**

Where a local authority claim to recover expenses under this Act from a person as being the owner of the premises in respect of which the expenses were incurred, and that person proves that—

- (a) he is receiving the rent of those premises merely as agent or trustee for some other person, and

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- (b) he has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability is limited to the total amount of the money that he has or has had in his hands as aforesaid, but a local authority who are, or would be, debarred by the foregoing provisions of this section from recovering the whole of any such expenses from an agent or trustee may recover the whole or any unpaid balance thereof from the person on whose behalf the agent or trustee receives the rent.

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

C52 Ss. 107-110 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), s. 10(3)-(5)

**111 Arbitration. E+W**

In an arbitration under this Act, the reference shall be to a single arbitrator appointed by agreement between the parties, or in default of agreement by the Secretary of State.

*Obstruction*

**112 Obstruction E+W**

A person who wilfully obstructs a person acting in the execution of this Act, or of building regulations, or of an order or warrant made or issued under this Act, is in a case for which no other provision is made by this Act, liable on summary conviction to a fine not exceeding level 1 on the standard scale.

*Prosecutions*

**113 Prosecution of offences. E+W**

Proceedings in respect of an offence created by or under this Act shall not, without the written consent of the Attorney General, be taken by any person other than—

- (a) a party aggrieved, or
- (b) a local authority or a body whose function it is to enforce the provision in question.

**114 Continuing offences. E+W**

Where provision is made by or under this Act for the imposition of a daily penalty in respect of a continuing offence—

- (a) the court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for the defendant to comply with any directions given by the court, and
- (b) where the court has fixed such a period, the daily penalty is not recoverable in respect of any day before the period expires.

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### *Protection of members etc. of authorities*

#### **115 Protection of members etc. of authorities. E+W**

- (1) Nothing done, and no contract entered into by a local authority, port health authority or joint board, and nothing done by a member or officer of, or person acting under the direction of, such an authority or board, shall subject them or him personally to any action, liability, claim or demand whatsoever, if it is done or entered into bona fide for the purpose of executing this Act.
- (2) Any expense incurred by such an authority, board member, officer or other person acting bona fide for the purpose aforesaid shall be borne and repaid out of the fund or rate applicable by the authority or board for the general purposes of this Act.
- (3) Subsections (1) and (2) above do not exempt a member of such an authority or board from liability to make a payment in pursuance of [<sup>F141</sup>section 17 or 18 of the <sup>M22</sup>Audit Commission Act 1998](unlawful expenditure).

#### **Textual Amendments**

**F141** Words in s. 115(3) substituted (11.9.1998) by 1998 c. 18, s. 54(1), Sch. 3 para.9

#### **Marginal Citations**

**M22** 1998 c. 18

### *Default powers*

#### **116 Default powers of Secretary of State. E+W**

- (1) If the Secretary of State is satisfied that a local authority or joint board have failed to discharge their functions under this Act in a case in which they ought to have discharged them, he may make an order declaring them to be in default and directing them for the purpose of removing the default to discharge such of their functions, in such manner and within such time or times, as may be specified in the order.
- (2) If a local authority or joint board with respect to whom an order has been made under subsection (1) above fail to comply with a requirement of the order within the time limited by the order for compliance with that requirement, the Secretary of State, in lieu of enforcing the order by mandamus or otherwise, may make an order transferring to himself such of the functions of the body in default as may be specified in his order.

#### **117 Expenses of Secretary of State. E+W**

- (1) Where the Secretary of State has by order under section 116(2) above transferred functions to himself, any expenses incurred by him in discharging those functions shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Secretary of State—
  - (a) shall be paid to him by the body in default on demand, and
  - (b) is recoverable by him from it as a debt due to the Crown,
 and that body has the like power of raising the money required as it has of raising money for defraying expenses incurred directly by it.

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- (2) The payment of such expenses as aforesaid is, to such extent as may be sanctioned by the Secretary of State, a purpose for which a local authority or joint board may borrow money in accordance with the statutory provisions relating to borrowing by such an authority or board.

**118 Variations or revocation of order transferring powers. E+W**

- (1) Where the Secretary of State has made an order under section 116(2) above, he may at any time by a subsequent order vary or revoke that order, but without prejudice to the validity of anything previously done.
- (2) Where an order is so revoked, the Secretary of State may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable with respect to the transfer, vesting and discharge of any property or liabilities acquired or incurred by him in discharging functions to which the revoked order related.

*Local inquiries*

**119 Local inquiries. E+W**

The Secretary of State may cause a local inquiry to be held in a case where he is authorised by this Act to determine a difference, to make an order, to give a consent or approval or otherwise to act under such a provision.

*Orders*

**120 Orders. E+W**

- (1) The power to make an order under section 16(13), 30(3) or (4), 42(7), 69(6) or 134(1) above, or under paragraph 5(2) of Schedule 1 to this Act, is exercisable by statutory instrument, and different days may be appointed by such an order for different provisions or for different purposes.
- (2) An order under section 30(3) above or 134(1) (a), (b) or (c) below may contain such transitional provisions and savings as appear to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions as appear to him necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).

*Interpretation*

**121 Meaning of “building”. E+W**

- (1) The word “building”, for the purposes of—
- (a) Part I of this Act, and
  - (b) any other enactment (whether or not contained in this Act) that relates to building regulations, or that mentions “buildings” or “a building” in a context from which it appears that those expressions are there intended to have the same meaning as in Part I of this Act,

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means any permanent or temporary building, and, unless the context otherwise requires, it includes any other structure or erection of whatever kind or nature (whether permanent or temporary).

- (2) In subsection (1) above, “structure or erection” includes a vehicle, vessel, hovercraft, aircraft or other movable object of any kind in such circumstances as may be prescribed (being circumstances that in the opinion of the Secretary of State justify treating it for those purposes as a building).
- (3) For the purposes mentioned in subsection (1) above, unless the context otherwise requires—
  - (a) a reference to a building includes a reference to part of a building and
  - (b) a reference to the provision of services, fittings and equipment in or in connection with buildings, or to services, fittings and equipment so provided, includes a reference to the affixing of things to buildings or, as the case may be, to things so affixed.

## 122 Meaning of “building regulations”. **E+W**

In this Act—

- (a) “building regulations” means, subject to paragraph (b) below, regulations made under section 1 above;
- (b) a reference to building regulations, in a particular case in relation to which a requirement of building regulations is for the time being dispensed with, waived, relaxed or modified by virtue of section 8 or 11 above or any other enactment, is a reference to building regulations as they apply in that case, unless the context otherwise requires.

## 123 Meaning of “construct” and “erect”. **E+W**

- (1) For the purposes of—
  - (a) Part I of this Act, and
  - (b) any other enactment (whether or not contained in this Act) that relates to building regulations, or that mentions “buildings” or “a building” in a context from which it appears that those expressions are there intended to have the same meaning as in the said Part I,

references to the construction or erection of a building include references to—

- (i) the carrying out of such operations (whether for the reconstruction of a building, the roofing over of an open space between walls or buildings, or otherwise) as may be designated in building regulations as operations falling to be treated for those purposes as the construction or erection of a building, and
- (ii) the conversion of a movable object into what is by virtue of section 121(1) and (2) above a building.

and “construct” and “erect” shall be construed accordingly.

- (2) For the purposes of Part III of this Act, each of the following operations is deemed to be the erection of a building—
  - (a) the re-erection of a building or part of a building when an outer wall of that building or, as the case may be, that part of a building has been pulled down,

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or burnt down, to within 10 feet of the surface of the ground adjoining the lowest storey of the building or of that part of the building,

- (b) the re-erection of a frame building or part of a frame building when that building or part of a building has been so far pulled down, or burnt down, as to leave only the framework of the lowest storey of the building or of that part of the building,
  - (c) the roofing over of an open space between walls or buildings,
- and “erect” shall be construed accordingly.

#### 124 Meaning of deposit of plans **E+W**

In this Act, a reference to the deposit of plans in accordance with building regulations is a reference to the deposit of plans in accordance with building regulations for the purposes of section 16 above, unless the context otherwise requires.

#### 125 Construction and availability of sewers. **E+W**

- (1) A reference in Part I of this Act to the construction of a sewer includes a reference to the extension of an existing sewer.
- (2) For the purposes of sections 64(2) and 66(1) above, a building or proposed building—
  - (a) is not deemed to have a sufficient water supply available unless—
    - (i) it has a sufficient supply of water laid on, or
    - (ii) such a supply can be laid on to it from a point within 100 feet of the site of the building or proposed building, and the intervening land is land through which the owner of the building or proposed building is, or will be, entitled to lay a communication pipe, and
  - (b) is not deemed to have a sewer available unless—
    - (i) there is within 100 feet of the site of the building or proposed building, and at a level that makes it reasonably practicable to construct a drain to communicate with it, a public sewer or other sewer that the owner of the building or proposed building is, or will be, entitled to use, and
    - (ii) the intervening land is land through which he is entitled to construct a drain.
- (3) The limit of 100 feet does not apply, for the purposes of subsection (2) above, if the local authority undertake to bear so much of the expenses reasonably incurred in—
  - (a) constructing, and maintaining and repairing, a drain to communicate with a sewer, or
  - (b) laying, and maintaining and repairing, a pipe for the purpose of obtaining a supply of water,

as the case may be, as is attributable of the fact that the distance of the sewer, or of the point from which a supply of water can be laid on, exceeds 100 feet.

#### 126 General interpretation. **E+W**

In this Act, unless the context otherwise requires—

“Act” includes an enactment contained in a local Act;

“approved inspector” has the meaning given by section 49(1) above;

“authorised officer”, in relation to a local authority, means—

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- (a) an officer of the local authority authorised by them in writing, either generally or specially, to act in matters of a specified kind or in a specified matter, or
- (b) by virtue of his appointment and for the purpose of matters within his province, a proper officer of the local authority . . . <sup>F142</sup>;

“cesspool” includes a settlement tank or other tank for the reception or disposal of foul matter from buildings;

“closet” includes privy;

“contravention” includes failure to comply, and “contravene” has a corresponding meaning;

F143

“drain” means a drain used for the drainage of one building or of buildings or yards appurtenant to buildings within the same curtilage, and includes any manholes, ventilating shafts, pumps or other accessories belonging to the drain;

“earth-closet” means a closet having a movable receptacle for the reception of faecal matter and its deodorisation by the use of earth, ashes or chemicals, or by other methods;

“enactment” includes an enactment contained in a local Act;

“factory” has the meaning given by section 175 of the <sup>M23</sup>Factories Act 1961;

[<sup>F144</sup>“fire and rescue authority” in relation to any premises or proposed premises, means—

- (a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises or proposed premises, the enforcing authority within the meaning given by article 25 of that Order;
- (b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the premises are or are to be situated ;]

“functions” includes powers and duties;

“highway authority” means, in the case of a highway repairable by the inhabitants at large, the council in whom the highway is vested;

“house” means a dwelling-house, whether a private dwelling-house or not;

“inner London” means the area comprising the inner London boroughs, the City of London, the Inner Temple and the Middle Temple;

“joint board” has the meaning given by section 343(1) of the <sup>M24</sup>Public Health Act 1936;

F145

“local Act” includes a provisional order confirmed by Parliament, and the confirming Act so far as it relates to that order;

[<sup>F146</sup> “ local authority ” means the council of a district or London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, the Under Treasurer of the Middle Temple or, for the purposes of Parts I and II above and of this Part so far as it relates to them, the Council of the Isles of Scilly [<sup>F147</sup> but, in relation to Wales, means the council of a county or county borough; ] ; ]

“modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;

“officer” includes servant;

“owner” means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own



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account or as agent or trustee for another person, or who would so receive it if those premises were let at a rackrent;

“plans” includes drawings of any other description, and also specifications or other information in any form;

“prejudicial to health” means injurious, or likely to cause injury, to health;

“premises” includes buildings, land, easements and hereditaments of any tenure;

“prescribed” means prescribed by building regulations;

“private sewer” means a sewer that is not a public sewer;

“proper officer”, in relation to a purpose and to a local authority, means an officer appointed for that purpose by that authority;

[<sup>F148</sup> “ public sewer ” has the same meaning as in the [<sup>F149</sup> Water Industry Act 1991 ] ; ]

“rackrent”, in relation to property, means a rent that is not less than two-thirds of the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant’s rates and taxes, and deducting from it the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the property in a state to command such rent;

“rating district” has the meaning given by section 115(1) of the <sup>M25</sup>General Rate Act 1967;

“relevant period” has the meaning given by section 16(12) or 81(4) above, as the case may require;

“sanitary convenience” means closet or urinal;

“school” includes a Sunday school or a Sabbath school;

“sewer” does not include a drain as defined in this section, but otherwise it includes all sewers and drains used for the drainage of buildings and yards appurtenant to buildings, and any manholes, ventilating shafts, pumps or other accessories belonging to the sewer;

<sup>F150</sup>  
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<sup>F150</sup>  
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“statutory undertakers” means persons authorised by an enactment or statutory order to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, . . . <sup>F151</sup> . . . <sup>F152</sup> . . . <sup>F153</sup> or other public undertaking; [<sup>F154</sup>but does not include a universal service provider (within the meaning of the Postal Services Act 2000), the Post Office company (within the meaning of Part IV of that Act) or any subsidiary or wholly-owned subsidiary (within the meanings given by [<sup>F155</sup>section 1159 of the Companies Act 2006]) of the Post Office company;]

. . . . . <sup>F156</sup>

“street” includes a highway, including a highway over a bridge, and a road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

“substantive requirements”, in relation to building regulations, means the requirements of building regulations with respect to the [<sup>F157</sup>matters mentioned in section 1(1A) above] (including requirements imposed by virtue of section 2(1) or (2)(a) or (b) above) [<sup>F158</sup>and requirements that are of a kind mentioned in subsection (2)(a), (b) or (c) of section 2A above and are imposed by virtue of subsection (1) of that section], as distinct from procedural requirements;

“surface water” includes water from roofs;

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“water-closet” means a closet that has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

“workplace” does not include a factory, but otherwise it includes any place in which persons are employed otherwise than in domestic service.

### Textual Amendments

- F142** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F143** Definition of “district surveyor” repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F144** Definition “fire and rescue authority” in s. 126 substituted (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), **Sch. 2 para. 33(8)** (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), **arts. 1(1), 2**)
- F145** Definition of “limits of supply” repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), **Sch. 27 Pt. I**
- F146** Definition of “local authority” substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 8 para. 14(4)(a)**
- F147** Words in s. 126 inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 15(3)** (with ss. 54(5)(7), 55(5) [Sch. 17 paras. 22\(1\), 23\(2\)](#); [S.I. 1996/396](#), art. 3, **Sch. 1**)
- F148** Definition of “public sewer” substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 70\(4\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), **58**
- F149** Words in s. 126 substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), **Sch. 1 para. 39(6)**.
- F150** Definitions in s. 126 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV Group 2**.
- F151** Word repealed by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), ss. 67(3)(4), [Sch. 8 para. 17](#), **Sch. 9 Pt. I**
- F152** Word repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), **Sch. 18**
- F153** Word repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), **Sch. 27 Pt. I**
- F154** Words in s. 126 inserted (26.3.2001) by [The Postal Services Act 2000 \(Consequential Modifications No. 1\) Order 2001 \(S.I. 2001/1149\)](#), art. 3(1), **Sch. 1 para. 61**
- F155** Words in s. 126 substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 55** (with art. 10)
- F156** Definition of “statutory water undertakers” repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), **Sch. 27 Pt. I**
- F157** Words in s. 126 substituted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), **ss. 1(4), 11(4)**
- F158** Words in s. 126 inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), **ss. 4(5), 11(4)**

### Marginal Citations

- M23** 1961 c. 34.  
**M24** 1936 c. 49.  
**M25** 1967 c. 9.

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## 127 Construction of certain references concerning Temples. **E+W**

In relation to the Inner Temple and the Middle Temple, a reference in a provision of this Part of this Act to the proper officer or an officer or authorised officer of a local authority is a reference to an officer authorised by the Sub-Treasurer or the Under Treasurer, as the case may be, to act for the purposes of that provision.

### *Savings*

## 128 Protection for dock and railway undertakings. **E+W**

Section 333 of the <sup>M26</sup>Public Health Act 1936 applies in relation to local authorities acting under this Act as it applies in relation to local authorities acting under that Act.

### Marginal Citations

M26 1936 c. 49.

## 129 Saving for Local Land Charges Act 1975. **E+W**

Nothing in this Act about the recovery of expenses from owners of premises affects the <sup>M27</sup>Local Land Charges Act 1975.

### Marginal Citations

M27 1975 c. 76.

## 130 Saving for other laws. **E+W**

All powers and duties conferred or imposed by this Act are in addition to, and not in derogation of, any other powers and duties conferred or imposed by Act, law or custom, and subject to any express provision of this Act, all such other powers and duties may be exercised and shall be performed in the same manner as if this Act had not been passed.

## 131 Restriction of application of Part IV to Schedule 3. **E+W**

This Part has effect subject to paragraph 13 of Schedule 3 to this Act.

## PART V **E+W**

### SUPPLEMENTARY

## 132 Transitional provisions. **E+W**

The transitional provisions contained in Schedule 5 to this Act have effect.

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### 133 Consequential amendments and repeals. **E+W**

- (1) The enactments specified in Schedule 6 to this Act have effect subject to the amendments specified in that Schedule.
- (2) The enactments specified in Schedule 7 to this Act are repealed to the extent specified in the third column of that Schedule.

### 134 Commencement. **E+W**

- (1) The following provisions of this Act—
  - (a) sections 12, 13, 31, 38, 42(4) to (6) and 43(3), except so far as they enable regulations to be made,
  - (b) sections 20, 33, 42(1) to (3), 43(1) and (2), 44 and 45,
  - (c) section 133(2) and Schedule 7 so far as they relate to <sup>F159</sup>. . . the <sup>M28</sup>Atomic Energy Authority Act 1954, and
  - (d) section 50(2) and (3) and paragraph 9 of Schedule 1,
 come into force on such day as the Secretary of State may by order appoint.
- (2) Subject to—
  - (a) subsection (1) above, and
  - (b) sections <sup>F159</sup>. . . 42(7) above,
 this Act comes into force on 1st December 1984.

#### Subordinate Legislation Made

**P1** Power of appointment conferred by s. 134(1) partly exercised: S.Is. 1985/1602, 1998/1836

#### Textual Amendments

**F159** Words in s. 134(1)(c)(2)(b) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.XIII** Group 1.

#### Marginal Citations

**M28** 1954 c. 32.

### 135 Short title and extent. **E+W**

- (1) This Act may be cited as the Building Act 1984.
- (2) This Act does not extend to Scotland or to Northern Ireland.

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