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# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART XIII

#### APPLICATION OF ACT TO CROWN LAND

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

- C1** Pt. XIII (ss. 293-302) modified (17.7.1992) by S.I. 1992/1732, **art. 2(1)(2)**  
Pt. XIII (ss. 293-302) extended (17.7.1992) by S.I. 1992/1732, **art. 2(1)(a)**

##### *Preliminary*

VALID FROM 06/08/2004

##### [<sup>F1</sup>292A Application to the Crown

- (1) This Act binds the Crown.
- (2) But subsection (1) is subject to express provision made by this Part.]

##### Textual Amendments

- F1** S. 292A inserted (6.8.2004 for certain purposes and otherwise 7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 79(1), 121** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2(a)**

## 293 Preliminary definitions.

- (1) In this Part—  
“Crown land” means land in which there is a Crown interest or a Duchy interest;

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“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;

“private interest” means an interest which is neither a Crown interest nor a Duchy interest.

- (2) For the purposes of this Part “the appropriate authority”, in relation to any land—
- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners;
  - (b) in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;
  - (c) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;
  - (d) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
  - (e) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.
- (3) If any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.
- (4) A person who is entitled to occupy Crown land by virtue of a licence in writing shall be treated for the purposes of section 296(1)(c), so far as applicable to Parts III, VII and VIII, and sections 294(2) to (7), 295, 299 and 300 as having an interest in land and references in section 299 to the disposal of an interest in Crown land, and in that section and sections 294(2) and 300 to a private interest in such land, shall be construed accordingly.

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

- C2** S. 293(2)(b) modified (17.7.1992) by S.I. 1992/1732, **art. 2(4)(a)**
- C3** S. 293(3) applied (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), **ss. 221(5)**, 223(2) (with **ss. 82(3)**, 186(1), 188, 222(1), Sch. 14 para. 6) and (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 222(8)(9)**, 225(2) (with **ss. 16(6)**, 178, 179, 222(3), 224(1), Sch. 22 para. 1)
- S. 293(3) applied (1.12.2000) by 1991 c. 56, **s. 221(8)** (as substituted (1.12.2000) by 1995 c. 25, s. 116, **Sch. 21 Pt. I para. 1(1)** (with **ss. 7(6)**, 115, 117)); S.I. 2000/3033, **art. 2**
- S. 293(3) applied (1.7.1997 for certain purposes and otherwise prosp.) by 1991 c. 57, **s. 222(10)** (as substituted by 1995 c. 25, **ss. 116**, 125(3), **Sch. 21 Pt. I para. 2(4)** (with **ss. 7(6)**, 115, 117); S.I. 1997/1626, **art. 2**)
- C4** S. 293(3) applied (1.10.2004 for E. and 11.11.2004 for W.) by Reservoirs Act 1975 (c. 23), s. 27A(8) (as inserted by 2003 c. 37, **s. 80**; S.I. 2004/2528, **art. 2(p)**; S.I. 2004/2916, **art. 2(e)**)

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### *Application of Act as respects Crown land*

VALID FROM 06/08/2004

#### **[<sup>F2</sup>293A Urgent Crown development: application**

- (1) This section applies to a development if the appropriate authority certifies—
  - (a) that the development is of national importance, and
  - (b) that it is necessary that the development is carried out as a matter of urgency.
- (2) The appropriate authority may, instead of making an application for planning permission to the local planning authority in accordance with Part 3, make an application for planning permission to the Secretary of State under this section.
- (3) If the appropriate authority proposes to make the application to the Secretary of State it must publish in one or more newspapers circulating in the locality of the proposed development a notice—
  - (a) describing the proposed development, and
  - (b) stating that the authority proposes to make the application to the Secretary of State.
- (4) For the purposes of an application under this section the appropriate authority must provide to the Secretary of State—
  - (a) any matter required to be provided by an applicant for planning permission in pursuance of regulations made under section 71A;
  - (b) a statement of the authority's grounds for making the application.
- (5) If the appropriate authority makes an application under this section subsections (6) to (9) below apply.
- (6) The Secretary of State may require the authority to provide him with such further information as he thinks necessary to enable him to determine the application.
- (7) As soon as practicable after he is provided with any document or other matter in pursuance of subsection (4) or (6) the Secretary of State must make a copy of the document or other matter available for inspection by the public in the locality of the proposed development.
- (8) The Secretary of State must in accordance with such requirements as are contained in a development order publish notice of the application and of the fact that such documents and other material are available for inspection.
- (9) The Secretary of State must consult—
  - (a) the local planning authority for the area to which the proposed development relates, and
  - (b) such other persons as are specified or described in a development order, about the application.
- (10) Subsection (7) does not apply to the extent that the document or other matter is subject to a direction under section 321(3)(matters related to national security).
- (11) Subsections (4) to (7) of section 77 apply to an application under this section as they apply to an application in respect of which a direction under section 77 has effect.]

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### Textual Amendments

- F2** S. 293A inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 82, 121** (with [s. 111](#)); [S.I. 2004/2097](#), **art. 2**; [S.I. 2006/1281](#), **art. 2**

## 294 Control of development on Crown land: special enforcement notices.

- (1) No enforcement notice shall be issued under section 172 in respect of development carried out by or on behalf of the Crown after 1st July 1948 on land which was Crown land at the time when the development was carried out.
- (2) The following provisions of this section apply to development of Crown land carried out otherwise than by or on behalf of the Crown at a time when no person is entitled to occupy it by virtue of a private interest.
- (3) Where—
  - (a) it appears to a local planning authority that development to which this subsection applies has taken place in their area, and
  - (b) they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations,
 they may issue a notice under this section (a “special enforcement notice”).
- (4) No special enforcement notice shall be issued except with the consent of the appropriate authority.
- (5) A special enforcement notice shall specify—
  - (a) the matters alleged to constitute development to which this section applies; and
  - (b) the steps which the authority issuing the notice require to be taken for restoring the land to its condition before the development took place or for discontinuing any use of the land which has been instituted by the development.
- (6) A special enforcement notice shall also specify—
  - (a) the date on which it is to take effect (“the specified date”), and
  - (b) the period within which any such steps as are mentioned in subsection (5)(b) are to be taken.
- (7) A special enforcement notice may specify different periods for the taking of different steps.

## 295 Supplementary provisions as to special enforcement notices.

- (1) Not later than 28 days after the date of the issue of a special enforcement notice and not later than 28 days before the specified date, the local planning authority who issued it shall serve a copy of it—
  - (a) on the person who carried out the development alleged in the notice;
  - (b) on any person who is occupying the land when the notice is issued; and
  - (c) on the appropriate authority.

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- (2) The local planning authority need not serve a copy of the notice on the person mentioned in subsection (1)(a) if they are unable after reasonable enquiry to identify or trace him.
- (3) Any such person as mentioned in subsection (1)(a) or (b) may appeal against the notice to the Secretary of State on the ground that the matters alleged in the notice—
  - (a) have not taken place, or
  - (b) do not constitute development to which section 294 applies.
- (4) A person may appeal against a special enforcement notice under subsection (3) whether or not he was served with a copy of it.
- (5) The provisions contained in or having effect under sections 174(3) to (5), 175(1) to (4) and 176(1) to (4) shall apply to special enforcement notices issued by local planning authorities and to appeals against them under subsection (3) as they apply to enforcement notices and to appeals under section 174.
- (6) The Secretary of State may by regulations apply to special enforcement notices and to appeals under subsection (3) such other provisions of this Act (with such modifications as he thinks fit) as he thinks necessary or expedient.

## **296 Exercise of powers in relation to Crown land.**

- (1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section—
  - (a) a plan approved, adopted or made under Part II of this Act or Part II of the 1971 Act may include proposals relating to the use of Crown land;
  - (b) any power to acquire land compulsorily under Part IX may be exercised in relation to any interest in Crown land which is for the time being held otherwise than by or on behalf of the Crown;
  - (c) any restrictions or powers imposed or conferred by Part III, VII [<sup>F3</sup>except sections 196A and 196B] or VIII, by the provisions of Part VI relating to purchase notices, or by any of the provisions of sections 266 to 270, shall apply and be exercisable in relation to Crown land, to the extent of any interest in it for the time being held otherwise than by or on behalf of the Crown.
- (2) Except with the consent of the appropriate authority—
  - [<sup>F4</sup>(aa) in relation to land which for the time being is Crown land—
    - (i) a planning obligation shall not be enforced by injunction; and
    - (ii) the power to enter land conferred by section 106(6) shall not be exercised;]
  - (a) no order or notice shall be made, issued or served under any of the provisions of section 102, 103, [<sup>F5</sup>171C, 172, 173A, 183, 187A, 187B], 198, 199 or 215 or Schedule 9 or under any of those provisions as applied by any order or regulations made under Part VIII, in relation to land which for the time being is Crown land;
  - (b) no interest in land which for the time being is Crown land shall be acquired compulsorily under Part IX.
- (3) No purchase notice shall be served in relation to any interest in Crown land unless—
  - (a) an offer has been previously made by the owner of that interest to dispose of it to the appropriate authority on equivalent terms, and

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- (b) that offer has been refused by the appropriate authority.
- (4) In subsection (3) “equivalent terms” means that the price payable for the interest shall be equal to (and shall, in default of agreement, be determined in the same manner as) the compensation which would be payable in respect of it if it were acquired in pursuance of a purchase notice.
- (5) The rights conferred by the provisions of Chapter II of Part VI shall be exercisable by a person who (within the meaning of those provisions) is an owner-occupier of a hereditament or agricultural unit which is Crown land, or is a resident owner-occupier of a hereditament which is Crown land, in the same way as they are exercisable in respect of a hereditament or agricultural unit which is not Crown land, and those provisions shall apply accordingly.

#### Textual Amendments

- F3** Words in s. 296(1)(c) inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 45\(1\)](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch. 1](#)
- F4** S. 296(2)(aa) inserted (25.10.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. [12\(2\)](#) (with s. 84(5)); S.I. 1991/2272, [art. 3](#)
- F5** Words “171C, 172, 173A, 183, 187A, 187B” in s. 296(2)(a) substituted for “172” (2.1.1992 except so far as relating to the reference to s. 187A which exception is 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 45\(2\)](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch.1](#); S.I. 1992/1630, art. 2, [Sch. 1](#) (with art. 3(1))

VALID FROM 07/06/2006

#### [<sup>F6</sup>296A Enforcement in relation to the Crown

- (1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act.
- (2) A local planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.
- (3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.
- (4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.
- (5) A step taken for the purposes of enforcement includes—
- (a) entering land;
  - (b) bringing proceedings;
  - (c) the making of an application.
- (6) A step taken for the purposes of enforcement does not include—
- (a) service of a notice;
  - (b) the making of an order (other than by a court).

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#### Textual Amendments

- F6** Ss. 296A, 296B inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 84(2), 121 (with s. 111); S.I. 2006/1281, art. 2

VALID FROM 07/06/2006

#### 296B References to an interest in land

- (1) Subsection (2) applies to the extent that an interest in land is a Crown interest or a Duchy interest.
- (2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.
- (3) An interest in land includes an interest only as occupier of the land.]

#### Textual Amendments

- F6** Ss. 296A, 296B inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 84(2), 121 (with s. 111); S.I. 2006/1281, art. 2

#### 297 Agreements relating to Crown land.

- (1) The appropriate authority and the local planning authority for the area in which any Crown land is situated may make agreements for securing the use of the land, so far as may be prescribed by any such agreement, in conformity with the provisions of the development plan applicable to it.
- (2) Any such agreement may contain such consequential provisions, including provisions of a financial character, as may appear to be necessary or expedient having regard to the purposes of the agreement.
- (3) An agreement made under this section by a government department shall not have effect unless it is approved by the Treasury.
- (4) In considering whether to make or approve an agreement under this section relating—
  - (a) to land belonging to a government department, or
  - (b) to land held in trust for Her Majesty for the purposes of a government department,the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

#### 298 Supplementary provisions as to Crown and Duchy interests.

- [<sup>F7</sup>(1) Where there is a Crown interest in any land, sections 109 to 112 shall have effect in relation to any private interest or Duchy interest as if the Crown interest were a private interest.

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- <sup>F7</sup>(2) Where there is a Duchy interest in any land, those sections shall have effect in relation to that interest or any private interest as if the Duchy interest were a private interest.]
- (3) Where, in accordance with an agreement under section 297, the approval of a local planning authority is required in respect of any development of land in which there is a Duchy interest, [<sup>F8</sup>sections 109 to 112] shall have effect in relation to the withholding of that approval, or the giving of it subject to conditions, as if it were a refusal of planning permission or, as the case may be, a grant of planning permission subject to conditions.

#### Textual Amendments

- F7** S. 298(1)(2) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s.31, [Sch. 6 para. 25](#) (1) (with saving in Sch. 6 para. 25(3) and with s. 84(5)); S.I. 1991/2067, [art.3](#) (subject to art. 4)
- F8** Words in s. 298(3) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 31, [Sch. 6 para. 25](#) (2) (with saving in Sch. 6 para. 25(3) and with s. 84(5)); S.I. 1991/2067, [art.3](#) (subject to art. 4)

VALID FROM 06/08/2004

#### <sup>F9</sup>298A Applications for planning permission by Crown

- (1) This section applies to an application for planning permission or for a certificate under section 192 made by or on behalf of the Crown.
- (2) The Secretary of State may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.
- (3) A statutory provision is a provision contained in or having effect under any enactment.]

#### Textual Amendments

- F9** S. 298A inserted (6.8.2004 for certain purposes and 7.6.2006 otherwise) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 79, 121, [Sch. 3 para. 10\(1\)](#) (with s. 111); S.I. 2004/2097, [art. 2](#); S.I. 2006/1281, [art. 2](#)

### *Provisions relating to anticipated disposal of Crown land*

#### **299 Application for planning permission etc. in anticipation of disposal of Crown land.**

- (1) This section has effect for the purpose of enabling Crown land, or an interest in Crown land, to be disposed of with the benefit of planning permission or a [<sup>F10</sup>certificate under section 192].
- (2) Notwithstanding the interest of the Crown in the land in question, an application for any such permission [<sup>F11</sup>or certificate] may be made by—



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- (a) the appropriate authority; or
  - (b) any person authorised by that authority in writing;
- and, subject to subsections (3) to (5), all the statutory provisions relating to the making and determination of any such application shall accordingly apply as if the land were not Crown land.
- (3) Any planning permission granted by virtue of this section shall apply only—
- (a) to development carried out after the land in question has ceased to be Crown land; and
  - (b) so long as that land continues to be Crown land, to development carried out by virtue of a private interest in the land.
- [<sup>F12</sup>(4) Any application made by virtue of this section for a certificate under section 192 shall be determined as if the land were not Crown land.]
- (5) The Secretary of State may by regulations—
- (a) modify or exclude any of the statutory provisions referred to in subsection (2) in their application by virtue of that subsection and any other statutory provisions in their application to permissions or [<sup>F13</sup>certificates] granted or made by virtue of this section;
  - (b) make provision for requiring a local planning authority to be notified of any disposal of, or of an interest in, any Crown land in respect of which an application has been made by virtue of this section; and
  - (c) make such other provision in relation to the making and determination of applications by virtue of this section as he thinks necessary or expedient.
- (6) This section shall not be construed as affecting any right to apply for any such permission or [<sup>F14</sup>certificate] as is mentioned in subsection (1) in respect of Crown land in a case in which such an application can be made by virtue of a private interest in the land.
- (7) In this section “statutory provisions” means provisions contained in or having effect under any enactment.

#### Textual Amendments

- F10** Words in s. 299(1) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 46** (2) (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))
- F11** Words in s. 299(2) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 46** (3) (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))
- F12** S. 299(4) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 46** (4) (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))
- F13** Word in s. 299(5)(a) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 46** (5) (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))
- F14** Word in s. 299(6) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 46** (6) (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))

#### [<sup>F15</sup>299A] Crown planning obligations.

- (1) The appropriate authority in relation to any Crown interest or Duchy interest in land in the area of a local planning authority may enter into an obligation falling within

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- any of paragraphs (a) to (d) of section 106(1) (in this section referred to as a “planning obligation”) enforceable to the extent mentioned in subsection (3).
- (2) A planning obligation may not be entered into except by an instrument executed as a deed which—
- (a) states that the obligation is a planning obligation for the purposes of this section;
  - (b) identifies the land in relation to which the obligation is entered into;
  - (c) identifies the appropriate authority who are entering into the obligation and states what the Crown or Duchy interest in the land is; and
  - (d) identifies the local planning authority by whom the obligation is enforceable.
- (3) A planning obligation entered into under this section is enforceable—
- (a) against any person with a private interest deriving from the Crown or Duchy interest stated in accordance with subsection (2)(c);
  - (b) by the authority identified in accordance with subsection (2)(d).
- (4) Subject to subsection (5), subsections (2), (4) to (8) and (10) to (13) of section 106 and sections 106A and 106B apply to a planning obligation entered into under this section as they apply to a planning obligation entered into under that section.
- (5) The consent of the appropriate authority must be obtained to—
- (a) the enforcement by injunction of a planning obligation against a person in respect of land which is Crown land; and
  - (b) the exercise, in relation to Crown land, of the power to enter land conferred by section 106(6) (as applied by subsection (4)).]

#### Textual Amendments

**F15** S. 299A inserted (25.10.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 12\(3\)](#) (with [s. 84\(5\)](#)); S.I. 1991/2272, [art.3](#)

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

**C5** S. 299A modified (1.4.1996) by [1994 c. 19, s. 66\(7\)](#), [Sch. 17 para. 15\(4\)](#) (with [ss. 7\(6\)](#), [115](#), [117](#), [Sch. 8 para. 7](#)); S.I. 1995/3198, [art. 6\(3\)](#), [Sch. 5](#)

### 300 Tree preservation orders in anticipation of disposal of Crown land.

- (1) A local planning authority may make a tree preservation order in respect of Crown land in which no interest is for the time being held otherwise than by or on behalf of the Crown, if they consider it expedient to do so for the purpose of preserving trees or woodlands on the land in the event of its ceasing to be Crown land or becoming subject to a private interest.
- (2) No tree preservation order shall be made by virtue of this section except with the consent of the appropriate authority.
- (3) A tree preservation order made by virtue of this section shall not take effect until the first occurrence of a relevant event.
- (4) For the purposes of subsection (3), a relevant event occurs in relation to any land if it ceases to be Crown land or becomes subject to a private interest.

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- (5) A tree preservation order made by virtue of this section—
  - (a) shall not require confirmation under section 199 until after the occurrence of the event by virtue of which it takes effect; and
  - (b) shall by virtue of this subsection continue in force until—
    - (i) the expiration of the period of six months beginning with the occurrence of that event; or
    - (ii) the date on which the order is confirmed,whichever first occurs.
- (6) Where a tree preservation order takes effect in accordance with subsection (3), the appropriate authority shall as soon as practicable give to the authority who made the order a notice in writing of the name and address of the person who has become entitled to the land in question or to a private interest in it.
- (7) The procedure prescribed under section 199 in connection with the confirmation of a tree preservation order shall apply in relation to an order made by virtue of this section as if the order were made on the date on which the notice under subsection (6) is received by the authority who made it.

### **301 Requirement of planning permission for continuance of use instituted by the Crown.**

- (1) A local planning authority in whose area any Crown land is situated may agree with the appropriate authority that subsection (2) shall apply to such use of land by the Crown as is specified in the agreement, being a use resulting from a material change made or proposed to be made by the Crown in the use of the land.
- (2) Where an agreement is made under subsection (1) in respect of any Crown land, then, if at any time the land ceases to be used by the Crown for the purposes specified in the agreement, this Act shall have effect in relation to any subsequent private use of the land as if—
  - (a) the specified use by the Crown had required planning permission, and
  - (b) that use had been authorised by planning permission granted subject to a condition requiring its discontinuance at that time.
- (3) The condition referred to in subsection (2) shall not be enforceable against any person who had a private interest in the land at the time when the agreement was made unless the local planning authority by whom the agreement was made have notified him of the making of the agreement and of the effect of that subsection.
- (4) An agreement made under subsection (1) by a local planning authority shall be a local land charge, and for the purposes of the <sup>M1</sup>Local Land Charges Act 1975 the local planning authority by whom such an agreement is made shall be treated as the originating authority as respects the charge constituted by the agreement.
- (5) In this section “private use” means use otherwise than by or on behalf of the Crown, and references to the use of land by the Crown include references to its use on behalf of the Crown.

#### **Marginal Citations**

**M1** 1975 c. 76.

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*Status:* Point in time view as at 01/11/1995. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* Town and Country Planning Act 1990, Part XIII is up to date with all changes known to be in force on or before 16 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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*Enforcement in respect of war-time breaches of planning control by Crown*

**302 Enforcement in respect of war-time breaches of planning control by the Crown.**

- (1) This section applies where during the war period—
  - (a) works not complying with planning control were carried out on land, or
  - (b) a use of land not complying with planning control was begun by or on behalf of the Crown.
- (2) Subject to subsection (4), if at any time after the end of the war period there subsists in the land a permanent or long-term interest which is neither held by or on behalf of the Crown nor subject to any interest or right to possession so held, the planning control shall, so long as such an interest subsists in the land, be enforceable in respect of those works or that use notwithstanding—
  - (a) that the works were carried out or the land used by or on behalf of the Crown, or
  - (b) the subsistence in the land of any interest held by or on behalf of the Crown in reversion (whether immediate or not) expectant on the termination of that permanent or long-term interest.
- (3) A person entitled to make an application under this subsection with respect to any land may apply at any time before the relevant date to an authority responsible for enforcing any planning control for a determination—
  - (a) whether works on the land carried out, or a use of the land begun, during the war period fail to comply with any planning control which the authority are responsible for enforcing, and
  - (b) if so, whether the works or use should be deemed to comply with that control.
- (4) Where any works on land carried out, or use of land begun, during the war period remain or continues after the relevant date and no such determination has been given, the works or use shall by virtue of this subsection be treated for all purposes as complying with that control unless steps for enforcing the control have been begun before that date.
- (5) Schedule 15 shall have effect for the purpose of making supplementary provision concerning the enforcement of breaches of planning control to which this section applies and the making and determination of applications under subsection (3).

- (6) In this section and that Schedule—

“authority responsible for enforcing planning control” means, in relation to any works on land or use of land, the authority empowered by virtue of section 75 of the 1947 Act or of paragraph 34 of Schedule 24 to the 1971 Act (including that paragraph as it continues in effect by virtue of Schedule 3 to the <sup>M2</sup>Planning (Consequential Provisions) Act 1990) to serve an enforcement notice in respect of it or the authority who would be so empowered if the works had been carried out, or the use begun, otherwise than in compliance with planning control;

“the relevant date”, in relation to any land, means the date with which the period of five years from the end of the war period ends, but for the purposes of this definition any time during which, notwithstanding subsection (2), planning control is unenforceable by reason of the subsistence in or over the land of any interest or right to possession held by or on behalf of the Crown shall be disregarded;

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“owner” has the same meaning as in the <sup>M3</sup>Housing Act 1985 and “owned” shall be construed accordingly;

“permanent or long-term interest”, in relation to any land, means the fee simple in the land, a tenancy of the land granted for a term of more than ten years and not subject to a subsisting right of the landlord to determine the tenancy at or before the expiration of ten years from the beginning of the term, or a tenancy granted for a term of ten years or less with a right of renewal which would enable the tenant to prolong the term of the tenancy beyond ten years;

“tenancy” includes a tenancy under an underlease and a tenancy under an agreement for a lease or underlease, but does not include an option to take a tenancy and does not include a mortgage;

“war period” means the period extending from 3rd September 1939 to 26th March 1946;

“works” includes any building, structure, excavation or other work on land.

(7) References in this section and that Schedule to non-compliance with planning control mean—

- (a) in relation to works on land carried out, or a use of land begun, at a time when the land was subject to a resolution to prepare a scheme under the <sup>M4</sup>Town and Country Planning Act 1932, that the works were carried out or the use begun otherwise than in accordance with the terms of an interim development order or of permission granted under such an order;
- (b) in relation to works on land carried out, or a use of land begun, at a time when the land was subject to such a scheme, that the works were carried out or the use begun otherwise than in conformity with the provisions of the scheme;

and references in this Act to compliance with planning control shall be construed accordingly.

(8) References in this section and that Schedule to the enforcement of planning control shall be construed as references to the exercise of the powers conferred by section 75 of the 1947 Act or by paragraph 34 of Schedule 24 to the 1971 Act (including that paragraph as it continues in effect by virtue of Schedule 3 to the <sup>M5</sup>Planning (Consequential Provisions) Act 1990).

#### Marginal Citations

**M2** 1990 c. 9.

**M3** 1985 c. 68.

**M4** 1932 c. 48.

**M5** 1990 c. 9.

**Status:**

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**Changes to legislation:**

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