



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART IX

#### ACQUISITION AND APPROPRIATION OF LAND FOR PLANNING PURPOSES, ETC.

##### *Extinguishment of certain rights affecting acquired or appropriated land*

#### **238 Use and development of consecrated land.**

- (1) Notwithstanding any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land, any such land, which has been the subject of a relevant acquisition or appropriation, may subject to the following provisions of this section—
  - (a) if it has been acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and
  - (b) in any other case, be used by any person in any manner in accordance with planning permission.
- (2) Subsection (1) applies whether or not the land includes a building but it does not apply to land which consists of or forms part of a burial ground.
- (3) Any use of consecrated land authorised by subsection (1) shall be subject—
  - (a) to compliance with the prescribed requirements with respect—
    - (i) to the removal and reinterment of any human remains, and
    - (ii) to the disposal of monuments and fixtures and furnishings; and
  - (b) to such provisions as may be prescribed for prohibiting or restricting the use of the land, either absolutely or until the prescribed consent has been obtained, so long as any church or other building used or formerly used for religious worship, or any part of it, remains on the land.
- (4) Any use of land other than consecrated land which—
  - (a) has been the subject of a relevant acquisition or appropriation, and

*Status: Point in time view as at 17/03/2017. This version of this provision has been superseded.*

*Changes to legislation: Town and Country Planning Act 1990, Section 238 is up to date with all changes known to be in force on or before 02 July 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)*

- (b) at the time of acquisition or appropriation included a church or other building used or formerly used for religious worship or the site of such a church or building,
- shall be subject to compliance with such requirements as are mentioned in subsection (3)(a).
- (5) Any regulations made for the purposes of subsection (3) or (4)—
- (a) shall contain such provisions as appear to the Secretary of State to be requisite for securing that any use of land which is subject to compliance with the regulations shall, as nearly as may be, be subject to the same control as is imposed by law in the case of a similar use authorised by an enactment not contained in this Act or by a Measure, or as it would be proper to impose on a disposal of the land in question otherwise than in pursuance of an enactment or Measure;
- (b) shall contain such requirements relating to the disposal of any such land as is mentioned in subsection (3) or (4) as appear to the Secretary of State requisite for securing that the provisions of those subsections are complied with in relation to the use of the land; and
- (c) may contain such incidental and consequential provisions (including provision as to the closing of registers) as appear to the Secretary of State to be expedient for the purposes of the regulations.
- (6) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such obligation, restriction or enactment as is mentioned in subsection (1).

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

- C1** Ss. 238, 239 modified by [National Health Service Act 1977 \(c. 49, SIF 113:2\)](#), **s. 87(6)** as substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 40**
- C2** Ss. 238, 239 excluded (with modifications) by [S.I. 2000/90](#), **art. 4** (with art. 2(5))
- C3** Ss. 238-240 applied (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by [Communications Act 2003 \(c. 21\)](#), ss. 118, 411, **Sch. 4 para. 3(5)(6)(a)** (with transitional provisions in [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), **2(1)**, [Sch. 1](#) (with transitional provisions in arts. 3-6); [S.I. 2003/3142](#), arts. 1(2), **3(2)** (with art. 11)
- Ss. 238-240 applied (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 34, 199, **Sch. 4 para. 86**; [S.I. 2004/759](#) {art. 2}
- S. 238 applied (1.3.2007) by [National Health Service Act 2006 \(c. 41\)](#), **ss. 211(7)**, 277
- S. 238 applied (1.3.2007) by [National Health Service \(Wales\) Act 2006 \(c. 42\)](#), **ss. 159(7)**, 208 (with s. 19(3))
- C4** Ss. 238, 239 applied (with modifications) (15.9.2016) by [The River Humber Gas Pipeline Replacement Order 2016 \(S.I. 2016/853\)](#), arts. 1, **20(15)** (with art. 43)
- C5** S. 238: functions made exercisable concurrently (23.12.2016) by [The Greater Manchester Combined Authority \(Functions and Amendment\) Order 2016 \(S.I. 2016/1267\)](#), arts. 1(2), **6(1)(j)(2)**
- C6** S. 238 applied (24.9.2014) by [The Thames Water Utilities Limited \(Thames Tideway Tunnel\) Order 2014 \(S.I. 2014/2384\)](#), arts. 1, **Sch. 19 Pt. 1 para. 9(2)**
- C7** S. 238: functions made exercisable concurrently (9.2.2017) by [The West of England Combined Authority Order 2017 \(S.I. 2017/126\)](#), arts. 1(3), **19(1)(j)**
- C8** S. 238 applied (with modifications) (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), **ss. 49(4)(c)**, 70(1)

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- C9** S. 238 applied (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\), ss. 49\(5\), 70\(1\)](#)
- C10** S. 238: functions made exercisable concurrently (17.3.2017) by [The Liverpool City Region Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/430\), arts. 1\(2\), 7\(1\)\(i\)](#)
- C11** S. 238(1)(b) modified (15.9.2016) by [The River Humber Gas Pipeline Replacement Order 2016 \(S.I. 2016/853\), arts. 1, 20\(15\)](#) (with art. 43)

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