



# Planning (Listed Buildings and Conservation Areas) Act 1990

## 1990 CHAPTER 9

### PART I

#### LISTED BUILDINGS

#### CHAPTER 1

##### LISTING OF SPECIAL BUILDINGS

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

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

#### **1 Listing of buildings of special architectural or historic interest.**

- (1) For the purposes of this Act and with a view to the guidance of local planning authorities in the performance of their functions under this Act and the principal Act in relation to buildings of special architectural or historic interest, the Secretary of State shall compile lists of such buildings, or approve, with or without modifications, such lists compiled by the Historic Buildings and Monuments Commission for England (in this Act referred to as “the Commission”) or by other persons or bodies of persons, and may amend any list so compiled or approved.
- (2) The Secretary of State shall not approve any list compiled by the Commission if the list contains any building situated outside England.
- (3) In considering whether to include a building in a list compiled or approved under this section, the Secretary of State may take into account not only the building itself but also—

*Status: Point in time view as at 01/10/2012.*

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- (a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and
  - (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.
- (4) Before compiling, approving (with or without modifications) or amending any list under this section the Secretary of State shall consult—
- (a) in relation to buildings which are situated in England, with the Commission; and
  - (b) with such other persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.
- (5) In this Act “listed building” means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; and for the purposes of this Act—
- (a) any object or structure fixed to the building;
  - (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948,
- shall be treated as part of the building.
- (6) Schedule 1 shall have effect for the purpose of making provision as to the treatment as listed buildings of certain buildings formerly subject to building preservation orders.

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

**C2** Ss. 1(3)(5)(6), 3–5 modified by [S.I. 1990/1519, reg. 13\(1\)](#)

**C3** S. 1: definition applied (30.11.1991) by [Coal Mining Subsidence Act 1991 \(c. 45, SIF 86\), s. 19\(1\)\(c\); S.I. 1991/2508, art. 2](#)

S. 1(5) definition of “listed building” applied by [London Underground \(Safety Measures\) Act 1991 \(c. xviii\), s. 28\(1\)](#)

S. 1(5) applied (18.12.1996) by [1996 c. 61, s. 12, Sch. 7 paras. 1\(5\), 2\(3\)](#)

**2 Publication of lists.**

- (1) As soon as possible after any list has been compiled or approved under section 1 or any amendments of such a list have been made, a copy of so much of the list as relates to any district [<sup>F1</sup>, Welsh County, county borough,] or London borough or, as the case may be, of so much of the amendments as so relates, certified by or on behalf of the Secretary of State to be a true copy, shall be deposited—
- (a) in the case of a London borough, with the council of the borough and with the chief officer of the Commission; <sup>F2</sup> . . .
  - (b) in the case of a district—
    - (i) with the district council;
    - (ii) with the county planning authority whose area or any part of whose area includes the district, or any part of it; and
    - (iii) where the district council are not the district planning authority, with that authority; [<sup>F3</sup> and

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- (c) in the case of a Welsh county or county borough—
- (i) with the county council or (as the case may be) the county borough council; and
  - (ii) with the local planning authority, if different from that council.]
- (2) Any copy deposited under subsection (1) shall be a local land charge, and the council with whom a copy is deposited shall be treated for the purposes of the <sup>M1</sup>Local Land Charges Act 1975 as the originating authority as respects the charge constituted by the deposit.
- (3) As soon as possible after the inclusion of any building in a list under section 1 (whether it is included when the list is compiled, approved or amended) or as soon as possible after any such list has been amended by the exclusion of any building from it—
- (a) the Secretary of State shall inform the council of the district [<sup>F4</sup>, Welsh county, county borough,] or London borough in whose area the building is situated of the inclusion or exclusion; and
  - (b) the council shall serve a notice in the prescribed form on every owner and occupier of the building, stating that the building has been included in or excluded from the list.
- (4) The Secretary of State shall keep available for public inspection free of charge at reasonable hours and at a convenient place, copies of all lists and amendments of lists, compiled, approved or made by him under section 1.
- (5) Every authority with whom copies of any list or amendments are deposited under this section shall similarly keep available copies of so much of any such list or amendment as relates to buildings within their area.
- (6) For the purposes of subsection (5) the Commission shall be taken to be an authority whose area is Greater London.

#### Textual Amendments

- F1** Words in s. 2(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(1)(a)** (with ss. 54(5)(7), 55(5), 66(7), **Sch. 17 para. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**
- F2** Word in s. 2(1)(a) repealed (1.4.1996) by 1994 c. 19, ss. 20(4), 66(8), **Sch. 6 Pt. II para. 25(1)(a), Sch. 18** (with ss. 54(5)(7), 55(5), 66(7), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**
- F3** S. 2(1)(c) and the preceding “and” inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(1)(a)** (with ss. 54(5)(7), 55(5), 66(7), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**
- F4** Words in 2(3)(a) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(1)(b)** (with ss. 54(5)(7), 55(5), 66(7), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**

#### Marginal Citations

- M1** 1975 c.76.

### 3 Temporary listing: building preservation notices.

- (1) If it appears to a local planning authority [<sup>F5</sup>in Wales, or to a local planning authority in England who are not] a county planning authority, that a building in their area which is not a listed building—
- (a) is of special architectural or historic interest; and

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- (b) is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest,  
they may serve on the owner and occupier of the building a notice (in this Act referred to as a “building preservation notice”).
- (2) A building preservation notice served by a local planning authority shall—
- (a) state that the building appears to them to be of special architectural or historic interest and that they have requested the Secretary of State to consider including it in a list compiled or approved under section 1; and
- (b) explain the effect of subsections (3) to (5) and Schedule 2.
- (3) A building preservation notice—
- (a) shall come into force as soon as it has been served on both the owner and occupier of the building to which it relates; and
- (b) subject to subsection (4), shall remain in force for six months from the date when it is served or, as the case may be, last served.
- (4) A building preservation notice shall cease to be in force if the Secretary of State—
- (a) includes the building in a list compiled or approved under section 1, or
- (b) notifies the local planning authority in writing that he does not intend to do so.
- (5) While a building preservation notice is in force with respect to a building, the provisions of this Act (other than section 59) and the principal Act shall have effect in relation to the building as if it were a listed building.
- (6) If, following the service of a building preservation notice, the Secretary of State notifies the local planning authority that he does not propose to include the building in a list compiled or approved under section 1, the authority shall immediately give notice of that decision to the owner and occupier of the building.
- (7) Following such a notification by the Secretary of State no further building preservation notice in respect of the building shall be served by the local planning authority within the period of 12 months beginning with the date of the notification.
- (8) The Commission shall, as respects any London borough, have concurrently with the council of that borough the functions of a local planning authority under this section; and references to the local planning authority shall be construed accordingly.

#### Textual Amendments

**F5** Words in s. 3(1) substituted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(2)** (with ss. 54(5)(7), 55(5), 66(7), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**

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

**C4** Ss. 1(3)(5)(6), 3–5 modified by S.I. 1990/1519, **reg. 13(1)**

**C5** S. 3(1): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, **reg. 2(1)**, **Sch. 1** Table A23

#### 4 Temporary listing in urgent cases.

- (1) If it appears to the local planning authority to be urgent that a building preservation notice should come into force, they may, instead of serving the notice on the owner and occupier of the building, affix the notice conspicuously to some object on the building.

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- (2) The affixing of a notice under subsection (1) shall be treated for all the purposes of section 3, this section, sections 5 and 10 to 26 and Schedule 2 as service of the notice.
- (3) A notice which is so affixed must explain that by virtue of being so affixed it is treated as being served for those purposes.
- (4) The Commission shall, as respects any London borough, have concurrently with the council of that borough the functions of a local planning authority under this section; and references to the local planning authority shall be construed accordingly.

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

**C6** Ss. 1(3)(5)(6), 3–5 modified by S.I. 1990/1519, reg. 13(1)

**C7** S. 4(1): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1 Table A23

**5 Provisions applicable on lapse of building preservation notice.**

Schedule 2 to this Act shall have effect as respects the lapse of building preservation notices.

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

**C8** Ss. 1(3)(5)(6), 3–5 modified by S.I. 1990/1519, reg. 13(1)

**6 Issue of certificate that building not intended to be listed.**

- (1) Where—
  - (a) application has been made for planning permission for any development involving the alteration, extension or demolition of a building; or
  - (b) any such planning permission has been granted;
 the Secretary of State may, on the application of any person, issue a certificate stating that he does not intend to list the building.
- (2) The issue of such a certificate in respect of a building shall—
  - (a) preclude the Secretary of State for a period of 5 years from the date of issue from exercising in relation to that building any of the powers conferred on him by section 1; and
  - (b) preclude the local planning authority for that period from serving a building preservation notice in relation to it.
- (3) Notice of an application under subsection (1) shall be given to the local planning authority within whose area the building is situated at the same time as the application is submitted to the Secretary of State.
- (4) In this section “local planning authority”, in relation to a building in Greater London, includes the Commission.

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## CHAPTER II

### AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

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

- C9** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(b); S.I. 1993/2762, art.3.

#### *Control of works in respect of listed buildings*

### 7 Restriction on works affecting listed buildings.

[<sup>F6</sup>(1)] Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised [<sup>F7</sup>under section 8].

[<sup>F8</sup>(2) Subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).]

#### Textual Amendments

- F6** S. 7 renumbered as s. 7(1) (1.3.2010) by virtue of Planning Act 2008 (c. 29), ss. 36, 241(8), Sch. 2 para. 39(2) (with s. 226); S.I. 2010/101, art. 2 (with art. 6)
- F7** Words in S. 7(1) inserted (1.3.2010) by Planning Act 2008 (c. 29), ss. 36, 241(8), Sch. 2 para. 39(3) (with s. 226); S.I. 2010/101, art. 2 (with art. 6)
- F8** S. 7(2) inserted (1.3.2010) by Planning Act 2008 (c. 29), ss. 36, 241(8), Sch. 2 para. 39(4) (with s. 226); S.I. 2010/101, art. 2 (with art. 6)

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

- C10** Ss. 7, 8 modified by S.I. 1990/1519, reg. 13(1); applied (with modifications) by S.I. 1990/1519, reg. 12, Sch. 3
- C11** S. 7 excluded (18.12.1996) by 1996 c. 61, s. 12, Sch. 7 paras. 1(1)(3), 2(1)(a)  
S. 7 applied (18.12.1996) by 1996 c. 61, s. 12, Sch. 8 paras. 1(5), 2(5)  
S. 7 restricted (1.10.1994) by S.I. 1994/1771, art. 5(5)
- C12** S. 7 excluded (22.7.2008) by Crossrail Act 2008 (c. 18), Sch. 9 paras. 1(1)(a)(3), 2(1)(a)(2)
- C13** S. 7 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), regs. 1, 16, Sch. 3

### 8 Authorisation of works: listed building consent.

- (1) Works for the alteration or extension of a listed building are authorised if—
- (a) written consent for their execution has been granted by the local planning authority or the Secretary of State; and
  - (b) they are executed in accordance with the terms of the consent and of any conditions attached to it.
- (2) Works for the demolition of a listed building are authorised if—

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- (a) such consent has been granted for their execution;
  - (b) notice of the proposal to execute the works has been given to the Royal Commission;
  - (c) after such notice has been given either—
    - (i) for a period of at least one month following the grant of such consent, and before the commencement of the works, reasonable access to the building has been made available to members or officers of the Royal Commission for the purpose of recording it; or
    - (ii) the Secretary of the Royal Commission, or another officer of theirs with authority to act on their behalf for the purposes of this section, has stated in writing that they have completed their recording of the building or that they do not wish to record it; and
  - (d) the works are executed in accordance with the terms of the consent and of any conditions attached to it.
- (3) Where—
- (a) works for the demolition of a listed building or for its alteration or extension are executed without such consent; and
  - (b) written consent is granted by the local planning authority or the Secretary of State for the retention of the works,
- the works are authorised from the grant of that consent.
- (4) In this section “the Royal Commission” means—
- (a) in relation to England, the Royal Commission on the Historical Monuments of England; and
  - (b) in relation to Wales, the Royal Commission on Ancient and Historical Monuments in Wales.
- (5) The Secretary of State may by order provide that subsection (2) shall have effect with the substitution for the references to the Royal Commission of references to such other body as may be so specified.
- (6) Such an order—
- (a) shall apply in the case of works executed or to be executed on or after such date as may be specified in the order; and
  - (b) may apply in relation to either England or Wales, or both.
- (7) Consent under subsection (1), (2) or (3) is referred to in this Act as “listed building consent”.

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

**C14** Ss. 7, 8 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**

**C15** S. 8 restricted (1.10.1994) by S.I. 1994/1771, **art. 5(5)**

**C16** S. 8 modified (W.) (30.4.2012) by **The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793)**, **regs. 1, 16, Sch. 3**

**C17** S. 8(2) amended (E.) (19.2.2001) by S.I. 2001/24, **art. 2**

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## 9 Offences.

- (1) If a person contravenes section 7 he shall be guilty of an offence.
- (2) Without prejudice to subsection (1), if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent, he shall be guilty of an offence.
- (3) In proceedings for an offence under this section it shall be a defence to prove the following matters—
  - (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;
  - (b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter;
  - (c) that the works carried out were limited to the minimum measures immediately necessary; and
  - (d) that notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.
- [<sup>F9</sup>(4) A person who is guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £20,000, or both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.]
- (5) In determining the amount of any fine to be imposed on a person convicted <sup>F10</sup> . . . of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

### Textual Amendments

**F9** S. 9(4) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. 1 para. 1\(a\)](#); [S.I. 1991/2067, art.3](#)

**F10** Words in s. 9(5) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 84(6), [Schs. 3 Pt. 1 para. 1\(b\)](#), [19 Pt.I](#); [S.I. 1991/2067, art. 3](#) and [Sch.1](#)

### Modifications etc. (not altering text)

**C18** Ss. 9–12 modified by [S.I. 1990/1519, reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519, reg. 12, Sch. 3](#)

**C19** S. 9 restricted (1.10.1994) by [S.I. 1994/1771, art. 5\(5\)](#)

**C20** Ss. 9-12 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, [Sch. 3](#)

## *Applications for listed building consent*

## 10 Making of applications for listed building consent.

- (1) Except as provided in sections 12 to 15, an application for listed building consent shall be made to and dealt with by the local planning authority.



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- (2) Such an application <sup>F11</sup> . . . shall contain—
- (a) sufficient particulars to identify the building to which it relates, including a plan;
  - (b) such other plans and drawings as are necessary to describe the works which are the subject of the application; and
  - (c) such other particulars as may be required by the authority.
- (3) Provision may be made by regulations under this Act with respect to—
- <sup>F12</sup>(a) the form and manner in which such applications are to be made;
  - (aa) particulars of such matters as are to be included in such applications;
  - (ab) the documents or other materials as are to accompany such applications;]
  - <sup>F13</sup>(b) requirements as to publicity in relation to such applications;]
  - (c) the time within which they are to be dealt with by local planning authorities or, as the case may be, by the Secretary of State.
  - <sup>F14</sup>(d) requirements as to consultation in relation to such applications;
  - (e) prohibiting the determination of such applications during such period as is prescribed;
  - (f) requirements on the local planning authority to take account of responses from persons consulted.]
- <sup>F15</sup>(4) The regulations must require that an application for listed building consent of such description as is prescribed must be accompanied by such of the following as is prescribed—
- (a) a statement about the design principles and concepts that have been applied to the works;
  - (b) a statement about how issues relating to access to the building have been dealt with.
- (5) The form and content of a statement mentioned in subsection (4) is such as is prescribed.]

#### Textual Amendments

- F11** Words in s. 10(2) repealed (6.8.2004 for specified purposes, otherwise prosp.) and omitted (6.8.2004 for specified purposes, otherwise 10.8.2006 for E. and 30.6.2007 for W.) by virtue of [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 42(6), 120, 121(1), [Sch. 9](#); S.I. 2004/2097, [art. 2](#); S.I. 2006/1061, [art. 3\(a\)](#) (with [art. 4](#) (which [art. 4](#) is revoked (11.2.2010) by S.I. 2010/321, [art. 3](#))); S.I. 2007/1369, [art. 2\(a\)](#) (with [art. 3](#) (as amended (11.2.2010) by S.I. 2010/321, [art. 4](#)))
- F12** S. 10(3)(a)-(ab) substituted for s. 10(3)(a) (6.8.2004 for specified purposes, otherwise 10.8.2006 for E. and 30.6.2007 for W.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 42\(7\)](#), 121(1) (with s. 111); S.I. 2004/2097, [art. 2](#); S.I. 2006/1061, [art. 3\(a\)](#) (with [art. 4](#) (which [art. 4](#) is revoked (11.2.2010) by S.I. 2010/321, [art. 3](#))); S.I. 2007/1369, [art. 2\(a\)](#) (with [art. 3](#) (as amended (11.2.2010) by S.I. 2010/321, [art. 4](#)))
- F13** S. 10(3)(b) substituted (6.8.2004 for specified purposes, otherwise 28.9.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 118(1), 121(1), [Sch. 6 para. 20\(a\)](#) (with s. 111); S.I. 2004/2097, [art. 2](#); S.I. 2004/2202, [art. 3\(e\)](#) (with [art. 4](#), [Sch. 2](#))
- F14** S. 10(3)(d)-(f) inserted (6.8.2004 for specified purposes, otherwise 28.9.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 118(1), 121(1), [Sch. 6 para. 20\(b\)](#) (with s. 111); S.I. 2004/2097, [art. 2](#); S.I. 2004/2202, [art. 3\(e\)](#)
- F15** S. 10(4)(5) inserted (6.8.2004 for specified purposes, otherwise 10.8.2006 for E. and 30.6.2007 for W.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 42\(8\)](#), 121(1) (with s. 111); S.I. 2004/2097,

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**art. 2;** S.I. 2006/1061, **art. 3(a)** (with **art. 4** (which **art. 4** is revoked (11.2.2010) by S.I. 2010/321, **art. 3**)); S.I. 2007/1369, **art. 2(a)** (with **art. 3** (as amended (11.2.2010) by S.I. 2010/321, **art. 4**))

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

- C20** Ss. 9-12 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**
- C21** Ss. 9–12 modified by [S.I. 1990/1519](#), **reg. 13(1)**; applied (with modifications) by [S.I. 1990/1519](#), **reg. 12**, **Sch. 3**
- C22** S. 10 modified (1.1.1993) by [S.I. 1992/3138](#), **reg. 3(2)**, **Sch. 1** para. 1

## **11 Certificates as to applicant’s status etc.**

- (1) Regulations under this Act may provide that an application for listed building consent shall not be entertained unless it is accompanied by one of the following certificates in the prescribed form and signed by or on behalf of the applicant—
- (a) a certificate stating that, at the beginning of the period of 21 days ending with the date of the application, no person (other than the applicant) was the owner of any of the building to which the application relates;
  - (b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than himself) who at the beginning of that period were owners of any of the building to which the application relates;
  - (c) a certificate stating—
    - (i) that the applicant is unable to issue a certificate in accordance with paragraph (a) or (b);
    - (ii) that he has given the requisite notice of the application to such one or more of the persons mentioned in paragraph (b) as are specified in the certificate; and
    - (iii) that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons but has been unable to do so;
  - (d) a certificate stating—
    - (i) that the applicant is unable to issue a certificate in accordance with paragraph (a); and
    - (ii) that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in paragraph (b) but has been unable to do so.
- (2) Where such provision is made any such certificate as is mentioned in subsection (1) (b) or (c) must set out—
- (a) the names of the persons to whom the applicant has given the requisite notice of the application;
  - (b) the addresses at which notice was given to them; and
  - (c) the date of service of each such notice.
- (3) Such regulations may require that any such certificate as is mentioned in subsection (1) (c) or (d) shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (which must not be earlier than the beginning of the period mentioned in subsection (1)(a)) been published in a local newspaper circulating in the locality in which the building is situated.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Such regulations may also require that where an application is accompanied by such a certificate as is mentioned in subsection (1)(b),(c) or (d), the local planning authority—
- (a) shall not determine the application before the end of the period of 21 days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or, if later, the date of publication of a notice as so mentioned;
  - (b) shall in determining the application take into account any representations relating to it which are made to them before the end of that period by any person who satisfies them that he is an owner of any of the building to which the application relates; and
  - (c) shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with paragraph (b).
- (5) Such regulations may also make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision made by virtue of this section.
- (6) If any person—
- (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or
  - (b) recklessly issues a certificate which purports to comply with those requirements and contains a statement which is false or misleading in a material particular,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Subject to subsection (5), in this section “owner” means a person who is for the time being the estate owner in respect of the fee simple or is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired.

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

**C20** Ss. 9-12 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**

**C23** Ss. 9–12 modified by [S.I. 1990/1519](#), **reg. 13(1)**; applied (with modifications) by [S.I. 1990/1519](#), **reg. 12**, **Sch. 3**

**12 Reference of certain applications to Secretary of State.**

- (1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the local planning authority.
- (2) A direction under this section may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.
- (3) An application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

[<sup>F16</sup>(3A) An application for listed building consent shall, without any direction by the Secretary of State, be referred to the Secretary of State instead of being dealt with by the

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local planning authority in any case where the consent is required in consequence of proposals included in an application for an order under section 1 or 3 of the Transport and Works Act 1992.]

- (4) Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant or the authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.
- (5) The decision of the Secretary of State on any application referred to him under this section shall be final.

#### Textual Amendments

**F16** S. 12(3A) inserted (1.1.1993) by [Transport and Works Act 1992 \(c. 42, SIF 102\)](#), [s.17](#); [S.I. 1992/2784](#), [art. 2](#), [Sch.1](#)

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

**C20** Ss. 9-12 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), [regs. 1, 16](#), [Sch. 3](#)

**C24** Ss. 9–12 modified by [S.I. 1990/1519](#), [reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519](#), [reg. 12](#), [Sch. 3](#)

### 13 Duty to notify Secretary of State of applications.

- (1) If a local planning authority (other than a London borough council) to whom application is made for listed building consent, or a London borough council to whom such an application is made by the Commission, intend to grant listed building consent they shall first notify the Secretary of State of the application, giving particulars of the works for which the consent is required.
- (2) The Secretary of State may within the period of 28 days beginning with the date of such a notification—
  - (a) direct the reference of the application to him under section 12; or
  - (b) give notice to the authority that he requires further time in which to consider whether to require such a reference.
- (3) The local planning authority shall not grant listed building consent until—
  - (a) the period mentioned in subsection (2) has expired without the Secretary of State directing the reference of the application to him or giving them notice under paragraph (b) of that subsection; or
  - (b) the Secretary of State has notified them that he does not intend to require the reference of the application.

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

**C25** S. 13 modified by [S.I. 1990/1519](#), [reg. 13\(1\)](#); excluded by [S.I. 1990/1519](#), [reg. 12](#), [Sch. 3](#)

**C26** S. 13 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), [regs. 1, 16](#), [Sch. 3](#)

**C27** S. 13(1): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#) Table A22

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*Status: Point in time view as at 01/10/2012.*

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## **14 Duty of London borough councils to notify Commission.**

- (1) Where an application for listed building consent is made to a local planning authority which is a London borough council—
  - (a) unless the authority have determined to refuse it, they shall notify the Commission of the application, giving particulars of the works for which the consent is required; and
  - (b) the authority shall not grant the consent unless they are authorised or directed to do so under subsection (2)(a).
- (2) On receipt of such a notification the Commission may—
  - (a) subject to subsection (6), give the local planning authority directions as to the granting of the application or authorise them to determine the application as they think fit; or
  - (b) direct them to refuse the application.
- (3) If the Commission intend to exercise either of their powers under subsection (2)(a), they shall notify the Secretary of State of the application giving particulars of the works for which the consent is required.
- (4) Where the Commission direct the local planning authority under subsection (2)(b) to refuse listed building consent, the authority may, within 28 days from the date of the direction, notify the Secretary of State of the application giving particulars of the works for which the consent is required.
- (5) The Secretary of State may within the period of 28 days beginning with the date of a notification under subsection (3) or (4)—
  - (a) direct the reference of the application to him; or
  - (b) give notice to the authority who notified him or, as the case may be, the Commission that he requires further time in which to consider whether to require such a reference.
- (6) The Commission shall not direct the local planning authority under subsection (2)(a) to grant the application or authorise them to determine it as they think fit unless—
  - (a) the period mentioned in subsection (5) has expired without the Secretary of State directing the reference of the application to him or giving them notice under paragraph (b) of that subsection; or
  - (b) he has notified them that he does not intend to require the reference of the application.
- (7) Where the local planning authority notify the Secretary of State as mentioned in subsection (4), they shall not refuse the application unless—
  - (a) a period of 28 days beginning with the date of the notification has expired without the Secretary of State directing the reference of the application to him or giving them notice under subsection (5)(b); or
  - (b) he has notified the authority that he does not intend to require the reference of the application.
- (8) Where, after receiving notification under subsection (4), the Secretary of State directs the reference of the application to him, before determining the application he shall, if either the applicant or the authority or, as the case may be, the Commission so desire, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

- (9) Subsection (1) shall not apply where the application for listed building consent is made by the Commission.

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

- C28** Ss. 14, 15, 16 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, reg. 12, **Sch. 3**
- C29** S. 14 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**
- C30** S. 14(1)(4): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1** Table A22

**15 Directions concerning notification of applications etc.**

- (1) The Secretary of State may direct that, in the case of such descriptions of applications for listed building consent as he may specify, sections 13 and 14 shall not apply.
- (2) Where a direction is in force under subsection (1) in respect of any description of application, local planning authorities may determine applications of that description in any manner they think fit, without notifying the Secretary of State or, as the case may be, the Commission.
- (3) Before giving a direction under subsection (1) in respect of any description of application for consent to the demolition of a building in England, the Secretary of State shall consult the Commission.
- (4) Where a direction is in force under subsection (1), the Secretary of State may direct a local planning authority that section 13 or, as the case may be, section 14 shall nevertheless apply—
- (a) to a particular application for listed building consent; or
  - (b) to such descriptions of application for listed building consent as are specified in the direction;
- and such a direction has effect in relation to any such application which has not been disposed of by the authority by their granting or refusing consent.
- (5) Without prejudice to sections 10 to 14, the Secretary of State may give directions to local planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify him and such other persons as may be so specified—
- (a) of any applications made to the authorities for listed building consent; and
  - (b) of the decisions taken by the authorities on those applications.
- (6) Directions under subsection (1) or (5) may be given to authorities generally or to particular authorities or descriptions of authority.

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

- C31** Ss. 14, 15, 16 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, reg. 12, **Sch. 3**
- C32** S. 15 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

## 16 Decision on application.

- (1) Subject to the previous provisions of this Part, the local planning authority or, as the case may be, the Secretary of State may grant or refuse an application for listed building consent and, if they grant consent, may grant it subject to conditions.
- (2) In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- (3) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested in it.

### Modifications etc. (not altering text)

- C33** Ss. 14, 15, 16 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**
- C34** S. 16 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), **regs. 1, 16, Sch. 3**
- C35** S. 16(1): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, **reg. 2(1), Sch. 1** Table A21
- C36** S. 16(1)(2): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, **reg. 2(1), Sch. 1** Table A20

### *Grant of consent subject to conditions*

## 17 Power to impose conditions on grant of listed building consent.

- (1) Without prejudice to the generality of section 16(1), the conditions subject to which listed building consent may be granted may include conditions with respect to—
  - (a) the preservation of particular features of the building, either as part of it or after severance from it;
  - (b) the making good, after the works are completed, of any damage caused to the building by the works;
  - (c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.
- (2) A condition may also be imposed requiring specified details of the works (whether or not set out in the application) to be approved subsequently by the local planning authority or, in the case of consent granted by the Secretary of State, specifying whether such details are to be approved by the local planning authority or by him.
- (3) Listed building consent for the demolition of a listed building may be granted subject to a condition that the building shall not be demolished before—
  - (a) a contract for the carrying out of works of redevelopment of the site has been made; and
  - (b) planning permission has been granted for the redevelopment for which the contract provides.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

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

- C37** Ss. 17–20 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**
- C38** S. 17: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, **reg. 2(1), Sch. 1** Table A20
- C39** Ss. 17-20 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**

## 18 Limit of duration of listed building consent.

- (1) Subject to the provisions of this section, every listed building consent shall be granted subject to the condition that the works to which it relates must be begun not later than the expiration of—
- <sup>F17</sup>three years] beginning with the date on which the consent is granted; or
  - such other period (whether longer or shorter) beginning with that date as the authority granting the consent may direct, being a period which the authority considers appropriate having regard to any material considerations.
- (2) If listed building consent is granted without the condition required by subsection (1), it shall be deemed to have been granted subject to the condition that the works to which it relates must be begun not later than the expiration of <sup>F17</sup>three years] beginning with the date of the grant.
- <sup>F18</sup>(2A) Subsection (2B) applies if any proceedings are begun to challenge the validity of a grant of listed building consent or of a deemed grant of listed building consent.
- (2B) The period before the end of which the works to which the consent relates are required to be begun in pursuance of subsection (1) or (2) must be taken to be extended by one year.
- (2C) Nothing in this section prevents the works being begun from the time the consent is granted.]
- (3) Nothing in this section applies to any consent to the retention of works granted under section 8(3).

#### Textual Amendments

- F17** Words in s. 18(1)(a)(2) substituted (24.8.2005 for E., otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 51(4)(a)**, 121(1) (with ss. 51(6), 111); S.I. 2005/2081, **art 2(c)** (with art. 4)
- F18** S. 18(2A)-(2C) inserted (24.8.2005 for E., otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 51(4)(b)**, 121(1) (with ss. 51(6), 111); S.I. 2005/2081, **art 2(c)** (with art. 4)

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

- C39** Ss. 17-20 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**
- C40** Ss. 17–20 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**



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## 19 Application for variation or discharge of conditions.

- (1) Any person interested in a listed building with respect to which listed building consent has been granted subject to conditions may apply to the local planning authority for the variation or discharge of the conditions.
  - (2) The application shall indicate what variation or discharge of conditions is applied for.
  - (3) Sections 10 to 15 apply to such an application as they apply to an application for listed building consent.
  - (4) On such an application the local planning authority or, as the case may be, the Secretary of State may vary or discharge the conditions attached to the consent, and may add new conditions consequential upon the variation or discharge, as they or he thinks fit.
- [<sup>F19</sup>(5) But a variation or discharge of conditions under this section must not—
- (a) vary a condition subject to which a consent was granted by extending the time within which the works must be started;
  - (b) discharge such a condition.]

### Textual Amendments

**F19** S. 19(5) inserted (24.8.2005 for E., otherwise prosp.) by [Planning and Compulsory Purchase Act 2004](#) (c. 5), [ss. 51\(5\), 121\(1\)](#) (with [ss. 51\(6\), 111](#)); S.I. 2005/2081, [art 2\(c\)](#) (with art. 4)

### Modifications etc. (not altering text)

**C39** Ss. 17-20 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012](#) (No. 793), [regs. 1, 16](#), [Sch. 3](#)

**C41** Ss. 17-20 modified by S.I. 1990/1519, [reg. 13\(1\)](#); applied (with modifications) by S.I. 1990/1519, [reg. 12](#), [Sch. 3](#)

## Appeals

## 20 Right to appeal against decision or failure to take decision.

- (1) Where a local planning authority—
  - (a) refuse an application for listed building consent or grant it subject to conditions;
  - (b) refuse an application for the variation or discharge of conditions subject to which such consent has been granted or grant it and add new conditions; or
  - (c) refuse an application for approval required by a condition imposed on the granting of listed building consent with respect to details of works or grant it subject to conditions,the applicant, if aggrieved by the decision, may appeal to the Secretary of State.
- (2) A person who has made such an application may also appeal to the Secretary of State if the local planning authority have [<sup>F20</sup>done none of the following]—
  - (a) given notice to the applicant of their decision on the application;
  - [<sup>F21</sup>(aa) given notice to the applicant that they have exercised their power under section 81A or 81B to decline to determine the application;]
  - (b) in the case of such an application as is mentioned in paragraph (a) or (b) of subsection (1), given notice to the applicant that the application has been

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referred to the Secretary of State in accordance with directions given under section 12,

within the relevant period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.

- (3) In this section “the relevant period” means—
- (a) in the case of such an application as is mentioned in paragraph (a) or (b) of subsection (1), such period as may be prescribed; and
  - (b) in the case of such an application for approval as is mentioned in paragraph (c) of subsection (1), the period of eight weeks from the date of the receipt of the application.
- (4) For the purposes of the application of sections 22(1) and 63(7)(b) in relation to an appeal under subsection (2) it shall be assumed that the authority decided to refuse the application in question.

#### Textual Amendments

**F20** Words in s. 20(2) substituted (24.8.2005 for E., otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 43(4)(a)**, 121(1) (with **ss. 43(5)**, 111); S.I. 2005/2081, **art. 2(a)**

**F21** S. 20(2)(aa) substituted for word in s. 20(2) (24.8.2005 for E. for specified purposes, 6.4.2009 for E. for remaining purposes., otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 43(4)(b)**, 121(1) (with **ss. 43(5)**, 111); S.I. 2005/2081, **art. 2(a)(iv)**; S.I. 2009/384, **art. 2(c)**

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

**C39** Ss. 17-20 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), **regs. 1, 16**, **Sch. 3**

**C42** Ss. 17–20 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12**, **Sch. 3**

**C43** S. 20 applied (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 89**, 121(1), **Sch. 4 para. 11(3)** (with s. 111); S.I. 2006/1281, **art. 2(d)**

#### [<sup>F22</sup>20A Appeal made: functions of local planning authorities

- (1) This section applies if a person who has made an application mentioned in section 20(1)(a) appeals to the Secretary of State under section 20(2).
- (2) At any time before the end of the additional period the local planning authority may give the notice referred to in section 20(2).
- (3) If the local planning authority give notice as mentioned in subsection (2) that their decision is to refuse the application—
  - (a) the appeal must be treated as an appeal under section 20(1) against the refusal;
  - (b) the Secretary of State must give the person making the appeal an opportunity to revise the grounds of the appeal;
  - (c) the Secretary of State must give such a person an opportunity to change any option the person has chosen relating to the procedure for the appeal.
- (4) If the local planning authority give notice as mentioned in subsection (2) that their decision is to grant the application subject to conditions the Secretary of State must give the person making the appeal the opportunity—

**Status:** Point in time view as at 01/10/2012.

**Changes to legislation:** Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)

- (a) to proceed with the appeal as an appeal under section 20(1) against the grant of the application subject to conditions;
  - (b) to revise the grounds of the appeal;
  - (c) to change any option the person has chosen relating to the procedure for the appeal.
- (5) The Secretary of State must not issue his decision on the appeal before the end of the additional period.
- (6) The additional period is the period prescribed for the purposes of this section and which starts on the day on which the person appeals under section 20(2).]

#### Textual Amendments

**F22** S. 20A inserted (6.8.2004 for specified purposes, 22.6.2015 for W. so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 50(2), 121(1) (with ss. 50(3)(4), 111); [S.I. 2004/2097](#), art. 2; [S.I. 2015/340](#), art. 2(b)

## 21 Appeals: supplementary provisions.

- (1) An appeal under section 20 must be made by notice served in the prescribed manner within such period as may be prescribed.
- (2) The period which may be prescribed under subsection (1) must not be less than—
  - (a) in the case of an appeal under subsection (1) of section 20, 28 days from the receipt by the applicant of notification of the decision; or
  - (b) in the case of an appeal under subsection (2) of that section, 28 days from the end of the relevant period (within the meaning of that section) or, as the case may be, the extended period there mentioned.
- (3) The notice of appeal may include as the ground or one of the grounds of the appeal a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 1.
- (4) In the case of a building with respect to which a listed building preservation notice is in force, the notice may include a claim that the building should not be included in such a list.
- (5) Regulations under this Act may provide that an appeal in respect of an application for listed building consent or for the variation or discharge of conditions subject to which such consent has been granted shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one of those described in subsection (1) of section 11.
- (6) Any such regulations may also include provisions corresponding to those which may be included in the regulations which may be made by virtue of section 11.
- (7) If any person—
  - (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of subsection (5) or (6) and contains a statement which he knows to be false or misleading in a material particular; or

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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) recklessly issues a certificate which purports to comply with those requirements and contains a statement which is false or misleading in a material particular,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

<sup>F23</sup><sup>F24</sup>(8) Regulations under this Act may provide for an appeal under section 20 to be accompanied by such other information as may be prescribed.

<sup>F23</sup>(9) The power to make regulations under subsection (8) is exercisable by—

- (a) the Secretary of State, in relation to England;
- (b) the Welsh Ministers, in relation to Wales.

<sup>F23</sup>(10) Section 93(3) does not apply in relation to regulations under subsection (8) made by the Welsh Ministers.

<sup>F23</sup>(11) Regulations under subsection (8) made by the Welsh Ministers are subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

#### Textual Amendments

**F23** S. 21(8)-(11) inserted (6.4.2009 for E., 30.4.2012 for W.) by [Planning Act 2008 \(c. 29\)](#), s. 241(3)(4), [Sch. 11 para. 5](#) (with s. 226); S.I. 2009/400, art. 5(d); S.I. 2012/802, art. 2(b)

**F24** S. 21(8)-(11) inserted (26.11.2008 for specified purposes, 6.4.2009 for E. in so far as not already in force, 30.4.2012 for W.) by [Planning Act 2008 \(c. 29\)](#), ss. 197, 241(1)(a)(3)(4), [Sch. 11 para. 5](#) (with s. 226); S.I. 2009/400, [art. 5\(d\)](#); S.I. 2012/802, art. 2(b)

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

**C44** Ss. 21, 22 modified by S.I. 1990/1519, [reg. 13\(1\)](#); applied (with modifications) by S.I. 1990/1519, [reg. 12](#), [Sch. 3](#)

**C45** S. 21 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, [Sch. 3](#)

## 22 Determination of appeals.

- (1) The Secretary of State may allow or dismiss an appeal under section 20 or may reverse or vary any part of the authority's decision (whether or not the appeal relates to that part), and—
  - (a) may deal with the application as if it had been made to him in the first instance; and
  - (b) may exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.
- (2) Before determining the appeal, the Secretary of State shall, if either the applicant or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (3) The decision of the Secretary of State on the appeal shall be final.
- (4) Schedule 3 applies to appeals under section 20.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

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

- C46** Ss. 21, 22 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**
- C47** S. 22 modified (W.) (30.4.2012) by **The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793)**, regs. 1, 16, **Sch. 3**

*Revocation and modification of consent*

**23 Revocation and modification of listed building consent by local planning authority.**

- (1) If it appears to the local planning authority that it is expedient to revoke or modify any listed building consent granted on an application under this Act, the authority may by order revoke or modify the consent to such extent as they consider expedient.
- (2) In performing their functions under subsection (1) the local planning authority shall have regard to [<sup>F25</sup>any] material considerations.
- (3) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

**Textual Amendments**

- F25** Word in s. 23(2) substituted (28.9.2004 for E. and 15.10.2005 for W.) by **Planning and Compulsory Purchase Act 2004 (c. 5)**, ss. 118(1), 121(1), **Sch. 6 para. 21** (with s. 111); S.I. 2004/2202, **art. 2(h)**; S.I. 2005/2847, **art 2(e)**

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

- C48** Ss. 23–26 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**
- C49** Ss. 23-26 modified (W.) (30.4.2012) by **The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793)**, regs. 1, 16, **Sch. 3**

**24 Procedure for s. 23 orders: opposed cases.**

- (1) Except as provided in section 25, an order made by a local planning authority under section 23 shall not take effect unless it is confirmed by the Secretary of State.
- (2) Where a local planning authority submit such an order to the Secretary of State for confirmation they shall serve notice on—
  - (a) the owner of the building affected;
  - (b) the occupier of that building; and
  - (c) any other person who in their opinion will be affected by the order.
- (3) The notice shall specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) If within that period a person on whom the notice is served so requires, the Secretary of State shall give such an opportunity both to that person and to the local planning authority before he confirms the order.
- (5) The Secretary of State may confirm an order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

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

**C49** Ss. 23-26 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**

**C50** Ss. 23-26 modified by [S.I. 1990/1519](#), **reg. 13(1)**; applied (with modifications) by [S.I. 1990/1519](#), reg. 12, **Sch. 3**

**25 Procedure for s. 23 orders: unopposed cases.**

- (1) This section shall have effect where—
- (a) the local planning authority have made an order under section 23 revoking or modifying a listed building consent granted by them; and
  - (b) the owner and occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order.
- (2) Where this section applies, instead of submitting the order to the Secretary of State for confirmation the authority shall—
- (a) advertise in the prescribed manner the fact that the order has been made, specifying in the advertisement—
    - (i) the period within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before and being heard by a person appointed by him for the purpose; and
    - (ii) the period at the end of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section without being confirmed by him;
  - (b) serve notice to the same effect on the persons mentioned in subsection (1)(b);
  - (c) send a copy of any such advertisement to the Secretary of State not more than three days after its publication.
- (3) If—
- (a) no person claiming to be affected by the order has given notice to the Secretary of State as mentioned in subsection (2)(a)(i) within the period referred to in that subsection; and
  - (b) the Secretary of State has not directed within that period that the order be submitted to him for confirmation,
- the order shall take effect at the end of the period referred to in subsection (2)(a)(ii) without being confirmed by the Secretary of State as required by section 24(1).
- (4) The period referred to in subsection (2)(a)(i) must not be less than 28 days from the date on which the advertisement first appears.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

- (5) The period referred to in subsection (2)(a)(ii) must not be less than 14 days from the end of the period referred to in subsection (2)(a)(i).

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

- C49** Ss. 23–26 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, [Sch. 3](#)
- C51** Ss. 23–26 modified by [S.I. 1990/1519](#), [reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519](#), [reg. 12](#), [Sch. 3](#)

**26 Revocation and modification of listed building consent by the Secretary of State.**

- (1) If it appears to the Secretary of State that it is expedient that an order should be made under section 23 revoking or modifying any listed building consent granted on an application under this Act, he may himself make such an order revoking or modifying the consent to such extent as he considers expedient.
- (2) In performing his functions under subsection (1) the Secretary of State shall have regard to [<sup>F26</sup>any] material considerations.
- (3) The Secretary of State shall not make an order under that subsection without consulting the local planning authority.
- (4) Where the Secretary of State proposes to make such an order he shall serve notice on—
- the owner of the building affected;
  - the occupier of that building; and
  - any other person who in his opinion will be affected by the order.
- (5) The notice shall specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (6) If within that period a person on whom it is served so requires, before the Secretary of State makes the order he shall give such an opportunity both to him and to the local planning authority.
- (7) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.
- (8) An order under this section shall have the same effect as if it had been made by the local planning authority under section 23 and confirmed by the Secretary of State under section 24.

**Textual Amendments**

- F26** Word in [s. 26\(2\)](#) substituted (28.9.2004 for E. and 15.10.2005 for W.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 118(1), 121(1), [Sch. 6 para. 22](#) (with [s. 111](#)); [S.I. 2004/2202](#), [art. 2\(h\)](#); [S.I. 2005/2847](#), [art 2\(e\)](#)

**Status:** Point in time view as at 01/10/2012.

**Changes to legislation:** Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)

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

- C49** Ss. 23–26 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012](#) (No. 793), regs. 1, 16, **Sch. 3**
- C52** Ss. 23–26 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**

**CHAPTER III**

RIGHTS OF OWNERS ETC.

*Compensation*

<sup>F27</sup>**27 Compensation for refusal of consent to alteration, etc. of listed building.**

.....

**Textual Amendments**

- F27** S. 27 repealed(*for application for listed building consent made on or after 16.11.1990*) by [Planning and Compensation Act 1991](#) (c. 34, SIF 123:1), ss. 31(3)(8), 84(6), **Sch. 19 Pt.II**

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

- C53** S. 27 modified by S.I. 1990/1519, **reg. 13(1)**

**28 Compensation where listed building consent revoked or modified.**

- (1) This section shall have effect where listed building consent is revoked or modified by an order under section 23 (other than an order which takes effect by virtue of section 25).
- (2) If on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the building—
  - (a) has incurred expenditure in carrying out works which are rendered abortive by the revocation or modification; or
  - (b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,
 the authority shall pay that person compensation in respect of that expenditure, loss or damage.
- (3) Subject to subsection (4), no compensation shall be paid under this section in respect of—
  - (a) any works carried out before the grant of the listed building consent which is revoked or modified; or
  - (b) any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that consent.



*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part 1 is up to date with all changes known to be in force on or before 21 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) For the purposes of this section, expenditure incurred in the preparation of plans for the purposes of any works, or upon other similar matters preparatory to any works, shall be taken to be included in the expenditure incurred in carrying out those works.

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

- C54** S. 28 modified by [S.I. 1990/1519, reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519, reg. 12, Sch. 3](#)
- C55** S. 28 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\), regs. 1, 16, Sch. 3](#)

**29 Compensation for loss or damage caused by service of building preservation notice.**

- (1) This section applies where a building preservation notice ceases to have effect without the building having been included in a list compiled or approved by the Secretary of State under section 1.
- (2) Any person who at the time when the notice was served had an interest in the building shall, on making a claim to the authority within the prescribed time and in the prescribed manner, be entitled to be paid compensation by the local planning authority in respect of any loss or damage directly attributable to the effect of the notice.
- (3) The loss or damage in respect of which compensation is payable under subsection (2) shall include a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect to it.

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

- C56** S. 29 modified by [S.I. 1990/1519, reg. 13\(1\)](#)

**30 Local planning authorities for compensation purposes.**

- (1) Subject to subsection (2)—
- <sup>F28</sup>(a)
- (b) claims under section 28 shall be made to and paid by the local planning authority who made the order in question or, where it was made by the Secretary of State under section 26, the local planning authority who are treated as having made it under that section;
- (c) claims under section 29 shall be made to and paid by the local planning authority who served the building preservation notice,
- and references in those sections to a local planning authority shall be construed accordingly.
- (2) The Secretary of State may after consultation with all the authorities concerned direct that where a local planning authority is liable to pay compensation under section <sup>F29</sup> . . . 28 or 29 in any particular case or class of case they shall be entitled to be reimbursed the whole of the compensation or such proportion of it as he may direct from one or more authorities specified in the direction.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

(3) This section does not apply in Greater London.

#### Textual Amendments

- F28** S. 30(1)(a) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31(4), 84(6), [Schs. 6 para. 42\(1\)](#), [19 Pt.II](#); [S.I. 1991/2067](#), [art.3](#)
- F29** Words in s. 30(2) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 31(4), 84(6), [Schs. 6 para. 42\(2\)](#), [19 Pt.II](#); [S.I. 1991/2067](#), [art.3](#)

### 31 General provisions as to compensation for depreciation under this Part.

- (1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 5 of the <sup>M2</sup>Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (2) This section applies to any compensation which is payable under sections [<sup>F30</sup>28 and] 29 in respect of depreciation of the value of an interest in land.
- (3) Where an interest in land is subject to a mortgage—
- any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the mortgage;
  - a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
  - no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
  - any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.
- (4) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under sections [<sup>F30</sup>28 and] 29 shall be referred to and determined by the [<sup>F31</sup>Upper Tribunal].
- (5) In relation to the determination of any such question, the provisions of [<sup>F32</sup>section] 4 of the <sup>M3</sup>Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

#### Textual Amendments

- F30** Words in s. 31(2)(4) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 31(4), [Sch. 6 para.43](#), [S.I. 1991/2067](#), [art.3](#)
- F31** Words in s. 31(4) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), [Sch. 1 para. 212\(a\)](#) (with [Sch. 5](#))
- F32** Words in s. 31(5) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), [Sch. 1 para. 212\(b\)](#) (with [Sch. 5](#))

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

#### Marginal Citations

M2 1961 c.33.

M3 1961 c.33.

### *Listed building purchase notices*

## **32 Purchase notice on refusal or conditional grant of listed building consent.**

(1) Where—

- (a) listed building consent in respect of a building is refused, or granted subject to conditions, or is revoked or modified by an order under section 23 or 26; and
- (b) any owner of the building claims—
  - (i) that the conditions mentioned in subsection (2) are satisfied with respect to it and any land comprising the building, or contiguous or adjacent to it, and owned with it; and
  - (ii) that the conditions mentioned in subsection (3) are satisfied with respect to that land,

he may, within the prescribed time and in the prescribed manner, serve on the council of the district [<sup>F33</sup>, Welsh county, county borough,] or London borough in which the building and land are situated a notice (in this Act referred to as a “listed building purchase notice”) requiring that council to purchase his interest in the building and land in accordance with sections 33 to 37.

(2) The conditions mentioned in subsection (1)(b)(i) are—

- (a) that the building and land in respect of which the notice is served have become incapable of reasonably beneficial use in their existing state;
- (b) in a case where listed building consent has been granted subject to conditions with respect to the execution of the works or has been modified by the imposition of such conditions, that the land cannot be rendered capable of such use by the carrying out of the works in accordance with those conditions; and
- (c) in any case, that the land cannot be rendered capable of such use by the carrying out of any other works for which listed building consent has been granted or for which the local planning authority or the Secretary of State has undertaken to grant such consent.

(3) The conditions mentioned in subsection (1)(b)(ii) are that the use of the land is substantially inseparable from that of the building and that it ought to be treated, together with the building, as a single holding.

(4) In determining for the purpose of subsection (2) what is or would in any particular circumstances be a reasonably beneficial use of land, no account shall be taken of any prospective use which would involve the carrying out of [<sup>F34</sup>development (other than any development specified in paragraph 1 or 2 of Schedule 3 to the principal Act)] or any works requiring listed building consent which might be executed to the building, other than works for which the local planning authority or the Secretary of State have undertaken to grant such consent.

[<sup>F35</sup>(4A) This section and sections 33 to 37 shall have effect as if—

- (a) the bodies on whom a listed building purchase notice may be served under this section included any National Park authority which is the local planning

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authority for the area in which the building and land in question are situated;  
and

- (b) a National Park authority were a local authority for the purposes of this Act and the Park for which it is the local planning authority were its area;

and the references in those sections and in section 63(7)(a) to a council and to a local authority shall be construed accordingly.]

- (5) References in sections 33 to 37 to the land are to the building and the land in respect of which the notice under subsection (1) is served.

#### Textual Amendments

**F33** Words in s. 32(1) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(3)** (with ss. 54(5) (7), 55(5), 66(7), Sch. 17 paras. 22(1), 23(2); S.I. 1996/396, art. 3, **Sch. 1**)

**F34** Words in s. 32(4) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31(4), **Sch. 6 para. 44**; S.I. 1991/2067, **art. 3**

**F35** S. 32(4A) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 33(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2**

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

**C57** S. 32 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**

S. 32: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**.

**C58** Ss. 32-33 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), **regs. 1, 16, Sch. 3**

### [<sup>F36</sup>32A Purchase notices: Crown land

- (1) A listed building purchase notice may be served in respect of Crown land only as mentioned in this section.
- (2) The owner of a private interest in Crown land must not serve a listed building purchase notice unless—
- he first offers to dispose of his interest to the appropriate authority on equivalent terms, and
  - the offer is refused by the appropriate authority.
- (3) The appropriate authority may serve a listed building purchase notice in relation to the following land—
- land belonging to Her Majesty in right of Her private estates;
  - land belonging to Her Majesty in right of the Duchy of Lancaster;
  - land belonging to the Duchy of Cornwall;
  - land which forms part of the Crown Estate.
- (4) An offer is made on equivalent terms if the price payable for the interest is equal to (and, in default of agreement, determined in the same manner as) the compensation which would be payable in respect of it if it were acquired in pursuance of a listed building purchase notice.]

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

#### Textual Amendments

**F36** S. 32A inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79(4), 121(1), **Sch. 3 para. 2** (with s. 111); S.I. 2006/1281, **art. 2(c)**

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

**C58** Ss. 32-33 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), regs. 1, 16, **Sch. 3**

### 33 Action by council on whom listed building purchase notice served.

- (1) The council on whom a listed building purchase notice is served by an owner shall serve on him a notice stating either—
  - (a) that the council are willing to comply with the purchase notice; or
  - (b) that another local authority or statutory undertakers specified in the notice under this subsection have agreed to comply with it in their place; or
  - (c) that for reasons so specified the council are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place and that they have transmitted to the Secretary of State a copy of the purchase notice and of the notice under this subsection.
- (2) A notice under subsection (1) must be served before the end of the period of three months beginning with the date of service of the listed building purchase notice.
- (3) Where such a notice as is mentioned in paragraph (a) or (b) of subsection (1) has been duly served, the council or, as the case may be, the other local authority or statutory undertakers specified in the notice shall be deemed—
  - (a) to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of section 47; and
  - (b) to have served a notice to treat in respect of it on the date of service of the notice under that subsection.
- (4) Where the council propose to serve such a notice as is mentioned in subsection (1)(c), they shall first send to the Secretary of State a copy of—
  - (a) the proposed notice; and
  - (b) the listed building purchase notice which was served on them.

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

**C58** Ss. 32-33 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), regs. 1, 16, **Sch. 3**

**C59** S. 33: power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3)(b), **Sch. 29 Pt. II para. 10** as inserted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**

S. 33: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art.3**.

**C60** S. 33 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, reg. 12, **Sch. 3**

S. 33 applied (with modifications) by S.I. 1993/1075, **art.4**.

**C61** S. 33 applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), art. 5, **Sch. para. 10**

*Status: Point in time view as at 01/10/2012.*

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- C62** S. 33 applied (with modifications) (12.10.2005) by [The Thurrock Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2572\)](#), **art. 5**
- C63** S. 33 applied (with modifications) (31.10.2005) by [The London Thames Gateway Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2721\)](#), **art. 6**
- C64** S. 33 applied (with modifications) (7.9.2006) by [The Olympic Delivery Authority \(Planning Functions\) Order 2006 \(S.I. 2006/2185\)](#), **art. 6**
- C65** S. 33(1): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), **Sch. 1** Table A20

### 34 Procedure on reference of listed building purchase notice to Secretary of State.

- (1) Where a copy of a listed building purchase notice is sent to the Secretary of State under section 33(4), he shall consider whether to confirm the notice or to take other action under section 35 in respect of it.
- (2) Before confirming such a notice or taking such other action, the Secretary of State shall give notice of his proposed action—
  - (a) to the person who served the notice;
  - (b) to the council on whom it was served;
  - (c) [<sup>F37</sup>in England] outside Greater London—
    - (i) to the county planning authority and also, where that authority is a joint planning board, to the county council; and
    - (ii) if the district council on whom the purchase notice in question was served is a constituent member of a joint planning board, to that board;
  - [<sup>F38</sup>(cc) in Wales, to the local planning authority, where it is a joint planning board;] and
  - (d) if the Secretary of State proposes to substitute any other local authority or statutory undertakers for the council on whom the notice was served, to them.
- (3) A notice under subsection (2) shall specify the period (which must not be less than 28 days from its service) within which any of the persons on whom it is served may require the Secretary of State to give him an opportunity of appearing before and being heard by a person appointed by him for the purpose.
- (4) If any of those persons so require, before the Secretary of State confirms the listed building purchase notice or takes any other action under section 35 in respect of it, he shall give such an opportunity to each of them.
- (5) If after any of those persons have appeared before and been heard by the appointed person, it appears to the Secretary of State to be expedient to take action under section 35 otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.

#### Textual Amendments

- F37** Words in s. 34(2)(c) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(4)(a)** (with ss. 54(5)(7), 55(5), 66(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 3, **Sch. 1**
- F38** S. 34(2)(cc) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(4)(b)** (with ss. 54(5)(7), 55(5), 66(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 3, **Sch. 1**

*Status: Point in time view as at 01/10/2012.*

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

- C66** S. 34 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**
- C67** S. 34: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art. 3**.
- C68** S. 34 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), **regs. 1, 16, Sch. 3**
- C69** S. 34(2)(d): power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), s. 149(3)(b), **Sch. 29 Pt. II para. 11** as inserted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 44(13)**  
S. 34(2)(d) applied (with modifications) by S.I. 1993/1075, **art. 4**.
- C70** S. 34(2)(d) applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), **art. 5, Sch. para. 11**
- C71** S. 34(2)(d) applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5**
- C72** S. 34(2)(d) applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
- C73** S. 34(2)(d) applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

### **35 Action by Secretary of State in relation to listed building purchase notice.**

- (1) Subject to the following provisions of this section, if the Secretary of State is satisfied that the conditions specified in section 32(2)(a) to (c) are satisfied in the case of any listed building purchase notice, he shall confirm the notice.
- (2) If the Secretary of State is satisfied that those conditions are fulfilled only in respect of part of the land, he shall confirm the notice only in respect of that part and the notice shall have effect accordingly.
- (3) The Secretary of State shall not confirm the notice unless he is satisfied that the land comprises such land contiguous or adjacent to the building as is in his opinion required—
  - (a) for preserving the building or its amenities, or
  - (b) for affording access to it, or
  - (c) for its proper control or management.
- (4) If it appears to the Secretary of State to be expedient to do so he may, instead of confirming the notice—
  - (a) in the case of a notice served on account of the refusal of listed building consent for any works, grant such consent for those works;
  - (b) in the case of a notice served on account of such consent being granted subject to conditions, revoke or amend those conditions so far as it appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of those works;
  - (c) in the case of a notice served on account of such consent being revoked by an order under section 23 or 26, cancel the order revoking the consent; or
  - (d) in the case of a notice served on account of such consent being modified by such an order by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the works in respect of which the consent was granted.

*Status: Point in time view as at 01/10/2012.*

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- (5) If it appears to the Secretary of State that the land (or any part of it) could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out—
- (a) of any other works for which listed building consent ought to be granted, or
  - (b) of any development for which planning permission ought to be granted,
- he may, instead of confirming the listed building purchase notice (or confirming it so far as it relates to that part), direct that if an application is made for such consent for those works or, as the case may be, for planning permission for that development, it shall be granted.
- (6) If it appears to the Secretary of State, having regard to the probable ultimate use of the building or its site, that it is expedient to do so, he may, if he confirms the notice, modify it either in relation to the whole or any part of the land, by substituting another local authority or statutory undertakers for the council on whom the notice was served.
- (7) Any reference in section 34 to the taking of action by the Secretary of State under this section includes a reference to the taking by him of a decision not to confirm the notice on the grounds that any of the conditions referred to in subsection (1) are not satisfied.

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

- C74** S. 35 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**
- C75** S. 35: power to modify conferred (10.11.1993) by 1993 c. 28, **s. 171(3)(b)**; S.I. 1993/2762, **art.3**.
- C76** Ss. 35-37 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), **regs. 1, 16, Sch. 3**
- C77** S. 35(6): power to apply (with modifications) conferred by Local Government, Planning and Land Act 1980 (c. 65, SIF 123:1), **s. 149(3)(b), Sch. 29 Pt. II para. 12** as inserted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), **s. 4, Sch. 2 para. 44(13)**  
S. 35(6) applied (with modifications) by S.I. 1993/1075, **art.4**.
- C78** S. 35(6) applied (with modifications) (7.6.2004) by The Milton Keynes (Urban Area and Planning Functions) Order 2004 (S.I. 2004/932), **art. 5, Sch. para. 12**
- C79** S. 35(6) applied (with modifications) (12.10.2005) by The Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572), **art. 5**
- C80** S. 35(6) applied (with modifications) (31.10.2005) by The London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2721), **art. 6**
- C81** S. 35(6) applied (with modifications) (7.9.2006) by The Olympic Delivery Authority (Planning Functions) Order 2006 (S.I. 2006/2185), **art. 6**

### **36 Effect of Secretary of State's action in relation to listed building purchase notice.**

- (1) Where the Secretary of State confirms a listed building purchase notice, the council on whom the notice was served shall be deemed—
- (a) to be authorised to acquire the owner's interest in the land compulsorily in accordance with the provisions of section 47; and
  - (b) to have served a notice to treat in respect of it on such date as the Secretary of State may direct.
- (2) If before the end of the relevant period the Secretary of State has neither—
- (a) confirmed the listed building purchase notice; nor
  - (b) notified the owner by whom it was served that he does not propose to confirm it; nor



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- (c) taken any such action in respect of it as is mentioned in subsection (4) or (5) of section 35,  
the notice shall be deemed to be confirmed at the end of that period and the council on whom it was served shall be deemed to have been authorised as mentioned in subsection (1)(a) and to have served a notice to treat in respect of the owner's interest at the end of that period.
- (3) Where a listed building purchase notice is confirmed in respect of only part of the land, references in this section to the owner's interest in the land are references to the owner's interest in that part.
- (4) Where a listed building purchase notice is modified under section 35(6) by the substitution of another local authority or statutory undertakers for the council on whom the notice was served, the reference in subsection (1) to that council is to that other local authority or those statutory undertakers.
- (5) In this section "the relevant period" means, subject to subsection (6) below—
- (a) the period of nine months beginning with the date of the service of the listed building purchase notice; or
- (b) if it ends earlier, the period of six months beginning with the date on which a copy of the notice was sent to the Secretary of State.
- (6) The relevant period does not run if the Secretary of State has before him at the same time both—
- (a) a copy of the listed building purchase notice sent to him under section 33(4); and
- (b) a notice of appeal under section 20 or section 39 relating to any of the land to which the listed building purchase notice relates.
- (7) Where any decision by the Secretary of State to confirm or not to confirm a listed building purchase notice (including any decision to confirm the notice only in respect of part of the land, or to give any direction as to the granting of listed building consent or planning permission) is quashed under section 63, the notice shall be treated as cancelled but the owner may serve a further notice in its place.
- (8) For the purposes of determining whether such a further notice has been served within the period prescribed for the service of listed building purchase notices, the decision concerning listed building consent on account of which the notice has been served shall be treated as having been made on the date on which the Secretary of State's decision was quashed.

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

- C76** Ss. 35-37 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, [Sch. 3](#)
- C82** S. 36 modified by [S.I. 1990/1519](#), [reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519](#), [reg. 12](#), [Sch. 3](#)
- C83** S. 36: power to modify conferred (10.11.1993) by [1993 c. 28](#), [s. 171\(3\)\(b\)](#); [S.I. 1993/2762](#), [art.3](#).
- C84** S. 36(4): power to apply (with modifications) conferred by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 123:1\)](#), [s. 149\(3\)\(b\)](#), [Sch. 29 Pt. II para. 13](#) as inserted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), [s. 4](#), [Sch. 2 para. 44\(13\)](#)  
S. 36(4) applied (with modifications) by [S.I. 1993/1075](#), [art.4](#).

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- C85** S. 36(4) applied (with modifications) (7.6.2004) by [The Milton Keynes \(Urban Area and Planning Functions\) Order 2004 \(S.I. 2004/932\)](#), art. 5, **Sch. para. 13**
- C86** S. 36(4) applied (with modifications) (12.10.2005) by [The Thurrock Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2572\)](#), **art. 5**
- C87** S. 36(4) applied (with modifications) (31.10.2005) by [The London Thames Gateway Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2721\)](#), **art. 6**
- C88** S. 36(4) applied (with modifications) (7.9.2006) by [The Olympic Delivery Authority \(Planning Functions\) Order 2006 \(S.I. 2006/2185\)](#), **art. 6**

### 37 Reduction of compensation on acquisition where s. 28 compensation payable.

Where compensation is payable under section 28 in respect of expenditure incurred in carrying out any works to a building, any compensation which then becomes payable in respect of the acquisition of an interest in the land in pursuance of a listed building purchase notice shall be reduced by an amount equal to the value of those works.

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

- C76** Ss. 35-37 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**
- C89** S. 37 modified by [S.I. 1990/1519](#), **reg. 13(1)**; applied (with modifications) by [S.I. 1990/1519](#), **reg. 12, Sch. 3**
- C90** S. 37: power to modify conferred (10.11.1993) by [1993 c. 28](#), **s. 171(3)(b)**; [S.I. 1993/2762](#), **art.3**.

## CHAPTER IV

### ENFORCEMENT

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

- C91** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by [1993 c. 28](#), **s. 171(4)(b)**; [S.I. 1993/2762](#), **art.3**.

### 38 Power to issue listed building enforcement notice.

- (1) Where it appears to the local planning authority—
  - (a) that any works have been or are being executed to a listed building in their area; and
  - (b) that the works are such as to involve a contravention of section 9(1) or (2), they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a notice under this section (in this Act referred to as a “listed building enforcement notice”).
- (2) A listed building enforcement notice shall specify the alleged contravention and require such steps as may be specified in the notice to be taken<sup>F39</sup> . . . —
  - (a) for restoring the building to its former state; or
  - (b) if the authority consider that such restoration would not be reasonably practicable or would be undesirable, for executing such further works

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specified in the notice as they consider necessary to alleviate the effect of the works which were carried out without listed building consent; or

- (c) for bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with.

[<sup>F40</sup>(3) A listed building enforcement notice—

- (a) shall specify the date on which it is to take effect and, subject to sections 39(3) and 65(3A), shall take effect on that date, and
- (b) shall specify the period within which any steps are required to be taken and may specify different periods for different steps,

and, where different periods apply to different steps, references in this Part to the period for compliance with a listed building enforcement notice, in relation to any step, are to the period within which the step is required to be taken.]

(4) A copy of a listed building enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the [<sup>F41</sup>date specified in it as the date on which it is to take effect]—

- (a) on the owner and on the occupier of the building to which it relates; and
- (b) on any other person having an interest in that building which in the opinion of the authority is materially affected by the notice.

[<sup>F42F42</sup>(5) The local planning authority may—

- (a) withdraw a listed building enforcement notice (without prejudice to their power to issue another); or
- (b) waive or relax any requirement of such a notice and, in particular, may extend the period specified in accordance with section 38(3),

and the powers conferred by this subsection may be exercised whether or not the notice has taken effect.

<sup>F42</sup>(6) The local planning authority shall, immediately after exercising the powers conferred by subsection (5), give notice of the exercise to every person who has been served with a copy of the listed building enforcement notice or would, if the notice were re-issued, be served with a copy of it]

(7) Where a listed building enforcement notice imposes any such requirement as is mentioned in subsection (2)(b), listed building consent shall be deemed to be granted for any works of demolition, alteration or extension of the building executed as a result of compliance with the notice.

#### Textual Amendments

- F39** Words in s. 38(2) repealed (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 25, 84(6), [Schs. 3 Pt. II para. 19\(a\)](#), [19 Pt.I](#); [S. I. 1991/2905](#), [art.3](#) and [Sch. 2](#)
- F40** [S. 38\(3\)](#) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. II para. 19\(b\)](#); [S.I. 1991/2905](#), [art.3](#)
- F41** Words in s. 38(4) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. II para. 19\(c\)](#); [S.I. 1991/2905](#), [art.3](#)
- F42** [S. 38\(5\)\(6\)](#) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. I para.2](#); [S.I. 1991/2905](#), [art.3](#)

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

- C92** S. 38 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**
- C93** S. 38: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, **reg. 2(1), Sch. 1** Table A24
- C94** S. 38 modified (W.) (30.4.2012) by **The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), regs. 1, 16, Sch. 3**

### **39 Appeal against listed building enforcement notice.**

- (1) A person having an interest in the building to which a listed building enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice on any of the following grounds—
- (a) that the building is not of special architectural or historic interest;
  - [<sup>F43</sup>(b) that the matters alleged to constitute a contravention of section 9(1) or (2) have not occurred;
  - (c) that those matters (if they occurred) do not constitute such a contravention]
  - (d) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;
  - (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
  - (f) that copies of the notice were not served as required by section 38(4);
  - (g) except in relation to such a requirement as is mentioned in section 38(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
  - (h) that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed;
  - (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
  - (j) that steps required to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building;
  - (k) that steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.
- [<sup>F44</sup>(2) An appeal under this section shall be made <sup>F45</sup> . . . —
- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the listed building enforcement notice as the date on which it is to take effect; or
  - (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date [<sup>F46</sup>; or

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- (c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.]]
- (3) Where such an appeal is brought the listed building enforcement notice shall <sup>F47</sup>be of no effect pending the final determination or the withdrawal of the appeal.
- (4) A person who gives notice of appeal under this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed, a statement in writing—
- (a) specifying the grounds on which he is appealing against the listed building enforcement notice; and
- (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in the statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.
- (6) Where any person has appealed to the Secretary of State under this section against a notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (7) In this section “relevant occupier” means a person who—
- (a) on the date on which the listed building enforcement notice is issued occupies the building to which the notice relates by virtue of a licence <sup>F48</sup>. . . ; and
- (b) continues so to occupy the building when the appeal is brought.

#### Textual Amendments

- F43** S. 39(1)(b)(c) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. I para. 3\(2\)](#); S.I. 1991/2905, [art.3](#)
- F44** S. 39(2) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. I para. 3\(3\)](#); S.I. 1991/2905, [art.3](#)
- F45** Word in s. 39(2) repealed (E.) (31.3.2003) by [The Town and Country Planning \(Electronic Communications\) \(England\) Order 2003 \(S.I. 2003/956\)](#), [art. 7](#); and that same word repealed (W.) (1.1.2005) by [The Town and Country Planning \(Electronic Communications\) \(Wales\) \(No. 1\) Order 2004 \(S.I. 2004/3156\)](#), [art. 7](#)
- F46** S. 39(2)(c) and preceding word inserted (E.) (31.3.2003) by [The Town and Country Planning \(Electronic Communications\) \(England\) Order 2003 \(S.I. 2003/956\)](#), [art. 7](#); and that same insertion made (W.) (1.1.2005) by [The Town and Country Planning \(Electronic Communications\) \(Wales\) \(No. 1\) Order 2004 \(S.I. 2004/3156\)](#), [art. 7](#)
- F47** Words in s. 39(3) inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. I para. 3\(4\)](#); S.I. 1991/2905, [art.3](#)
- F48** Words in s. 39(7) repealed (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 25, 84(6), [Schs. 3 Pt. II para. 20](#), [19 Pt.I](#); S.I. 1991/2905, [art.3](#), [sch. 2](#)

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

- C95** S. 39 applied (with modifications) by S.I. 1990/1519, reg. 12, [Sch. 3](#)
- C96** S. 39 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, [Sch. 3](#)

*Status: Point in time view as at 01/10/2012.*

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**C97** S. 39(1)–(5)(7) modified by S.I. 1990/1519, **reg. 13(1)**

#### **40 Appeals: supplementary provisions.**

- (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 39, and in particular, but without prejudice to the generality of this subsection may—
  - (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
  - (b) specify the matters to be included in such a statement;
  - (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the building in question is situated;
  - (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) Subject to section 41(4), the Secretary of State shall, if either the appellant or the local planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) Schedule 3 applies to appeals under section 39.

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

**C98** S. 40 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, **reg. 12, Sch. 3**

**C99** S. 40 modified (W.) (30.4.2012) by *The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793)*, **regs. 1, 16, Sch. 3**

#### **41 Determination of appeals under s. 39.**

- [<sup>F49</sup>(1) On an appeal under section 39 the Secretary of State may—
- (a) correct any defect, error or misdescription in the listed building enforcement notice; or
  - (b) vary the terms of the listed building enforcement notice,
- if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
- (2) Where the Secretary of State determines to allow the appeal, he may quash the notice.
  - (2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.]
  - (3) The Secretary of State—
    - (a) may dismiss such an appeal if the appellant fails to comply with section 39(4) within the prescribed time; and
    - (b) may allow such an appeal and quash the listed building enforcement notice if the local planning authority fail to comply within the prescribed period with

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any requirement imposed by regulations made by virtue of section 40(1)(a), (b) or (d).

- (4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the listed building enforcement notice under paragraph (b) of that subsection he need not comply with section 40(2).
- (5) Where it would otherwise be a ground for determining an appeal in favour of the appellant that a person required to be served with a copy of the listed building enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- (6) On the determination of an appeal the Secretary of State may—
  - (a) grant listed building consent for the works to which the listed building enforcement notice relates or for part only of those works;
  - (b) discharge any condition or limitation subject to which listed building consent was granted and substitute any other condition, whether more or less onerous;
  - (c) if he thinks fit, exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.
- (7) Any listed building consent granted by the Secretary of State under subsection (6) shall be treated as granted on an application for the same consent under section 10 and the Secretary of State's decision in relation to the grant shall be final.
- [<sup>F50</sup>(8) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 39 as if those proceedings were an inquiry held by the Secretary of State under section 250.]

#### Textual Amendments

**F49** S. 41(1)(2)(2A) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. 1 para.4](#); [S.I. 1991/2905](#), [art.3](#)

**F50** S. 41(8) inserted (*temp.*) by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 6, [Sch. 4 paras. 1, 9](#) (which temp. insertion ceases to have effect (2.1.1992 for specified purposes and 6.4.2009 for further specified purposes) by virtue of [S.I. 1991/2698](#), [art. 3](#) (with [art. 4](#)); [S.I. 2009/849](#), [art. 2](#) (with [art. 3](#)))

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

**C100** S. 41 modified by [S.I. 1990/1519](#), [reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519](#), [reg. 12](#), [Sch. 3](#)

**C101** S. 41 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), [regs. 1, 16](#), [Sch. 3](#)

## 42 Execution of works required by listed building enforcement notice.

- (1) If any of the steps specified in the listed building enforcement notice have not been taken within the [<sup>F51</sup>period for compliance with the notice], the authority may—
  - (a) enter the land and take those steps, and

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- (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
- (2) Where a listed building enforcement notice has been served in respect of a building—
- (a) any expenses incurred by the owner or occupier of the building for the purpose of complying with it, and
- (b) any sums paid by the owner of the building under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by it,
- shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (3) Regulations under this Act may provide that all or any of the following sections of the <sup>M4</sup>Public Health Act 1936, namely—
- (a) section 276 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);
- (b) section 289 (power to require the occupier of any premises to permit works to be executed by the owner of the premises);
- (c) section 294 (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),
- shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a listed building enforcement notice.
- (4) Regulations under subsection (3) applying all or any of section 289 of that Act may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.
- (5) Regulations under subsection (3) may also provide for the charging on the land on which the building stands of any expenses recoverable by a local planning authority under subsection (1).
- [<sup>F52</sup>(6) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

<sup>F53</sup>(7) .....

#### Textual Amendments

- F51** Words in s. 42(1) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. II para. 21(a)**; S.I. 1991/2905, **art. 3**
- F52** S. 42(6) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. I para. 5**; S.I. 1991/2905, **art. 3**
- F53** S. 42(7) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 25, 84(6), Schs. 3 Pt. II para. 21(b), **19 Pt. I**; S.I. 1991/2905, **art. 3 sch 2**

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

- C102** S. 42 applied (with modifications) by S.I. 1990/1519, reg. 12, **Sch. 3**
- C103** Ss. 42-44 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), regs. 1, 16, **Sch. 3**
- C104** S. 42 (1)–(5) modified by S.I. 1990/1519, **reg. 13(1)**



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**C105** S. 42(1) restricted (18.12.1996) by 1996 c. 61, s. 12, Sch. 7 paras. 1(1)(3), **2(1)(c)**

**C106** S. 42(1) restricted (22.7.2008) by Crossrail Act 2008 (c. 18), s. 16(1), Sch. 9 paras. 1(1)(c)(3), **2(1)(c)**

#### Marginal Citations

**M4** 1936 c. 49.

### [43] <sup>F54</sup> **Offence where listed building enforcement notice not complied with.**

- (1) Where, at any time after the end of the period for compliance with the notice, any step required by a listed building enforcement notice to be taken has not been taken, the person who is then owner of the land is in breach of the notice.
- (2) If at any time the owner of the land is in breach of a listed building enforcement notice he shall be guilty of an offence.
- (3) An offence under this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under this section by reference to any period of time following the preceding conviction for such an offence.
- (4) In proceedings against any person for an offence under this section, it shall be a defence for him to show—
  - (a) that he did everything he could be expected to do to secure that all the steps required by the notice were taken; or
  - (b) that he was not served with a copy of the listed building enforcement notice and was not aware of its existence.
- (5) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding £20,000; and
  - (b) on conviction on indictment, to a fine.
- (6) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.]

#### Textual Amendments

**F54** S. 43 substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. 1 para.6; S.I. 1991/2905, art.3**

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

**C103** Ss. 42-44 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), regs. 1, 16, **Sch. 3**

### 44 **Effect of listed building consent on listed building enforcement notice.**

- (1) If, after the issue of a listed building enforcement notice, consent is granted under section 8(3)—
  - (a) for the retention of any work to which the notice relates; or
  - (b) permitting the retention of works without compliance with some condition subject to which a previous listed building consent was granted,

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the notice shall cease to have effect in so far as it requires steps to be taken involving the works not being retained or, as the case may be, for complying with that condition.

- (2) The fact that such a notice has wholly or partly ceased to have effect under subsection (1) shall not affect the liability of any person for an offence in respect of a previous failure to comply with that notice.

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

**C103** Ss. 42-44 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**

**C107** Ss. 43–46 modified by [S.I. 1990/1519](#), **reg. 13(1)**; applied (with modifications) by [S.I. 1990/1519](#), reg. 12, **Sch. 3**

**[44A** <sup>F55</sup>**Injunctions.**

- (1) Where a local planning authority consider it necessary or expedient for any actual or apprehended contravention of section 9(1) or (2) to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Part.
- (2) On an application under subsection (1) the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the contravention.
- (3) Rules of court may, in particular, provide for such an injunction to be issued against a person whose identity is unknown.
- (4) The references in subsection (1) to a local planning authority include, as respects England, the Commission.
- (5) In this section “the court” means the High Court or the county court.]

**Textual Amendments**

**F55** [S. 44A](#) inserted (25.11.1991 for the purposes specified in [S.I. 1991/2728](#), **art. 2**) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, **Sch. 3 Pt. I para.7**; [S.I. 1991/2728](#), **art.2**

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

**C108** [S. 44A](#): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), **reg. 2(1)**, **Sch. 1** Table A26

**45 Commission to have concurrent enforcement functions in London.**

The Commission shall, as respects any London borough, have concurrently with the council of that borough the functions of a local planning authority under sections 38 to 43; and references to the local planning authority in those provisions shall be construed accordingly.

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

**C109** Ss. 43–46 modified by [S.I. 1990/1519](#), **reg. 13(1)**; applied (with modifications) by [S.I. 1990/1519](#), reg. 12, **Sch. 3**

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**C110** S. 45 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**

## **46 Enforcement by the Secretary of State.**

- (1) If it appears to the Secretary of State to be expedient that a listed building enforcement notice should be issued in respect of any land, he may issue such a notice.
- (2) Before the Secretary of State serves a notice under subsection (1) he shall consult—
  - (a) the local planning authority; and
  - (b) if the land is situated in England, the Commission.
- (3) A listed building enforcement notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority.
- (4) In relation to a listed building enforcement notice issued by the Secretary of State, [<sup>F56</sup>section 42] shall apply as if for any reference in [<sup>F56</sup>that section] to the local planning authority there were substituted a reference to the Secretary of State.
- (5) References in this section to the local planning authority shall in the case of an authority for an area [<sup>F57</sup>in England] outside Greater London be construed as references to the district planning authority.

### **Textual Amendments**

- F56** Words in s. 46(4) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, **Sch. 3 Pt. II para. 22**; S.I. 1991/2905, art. 3
- F57** Words in s. 46(5) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(5)** (with ss. 54(5) (7), 55(5), 66(7), Sch. 17 paras. 22(1), 23(2); S.I. 1996/396, art. 3, **Sch. 1**

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

- C111** Ss. 43–46 modified by S.I. 1990/1519, **reg. 13(1)**; applied (with modifications) by S.I. 1990/1519, reg. 12, **Sch. 3**
- C112** S. 46 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, **Sch. 3**

## **CHAPTER V**

### **PREVENTION OF DETERIORATION AND DAMAGE**

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

- C113** Pt. I Ch. V (ss. 47–49): power to apply conferred by [Town and Country Planning Act 1990 \(c. 8, SIF 123:1\)](#), s. 243(3)(b)

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*Compulsory acquisition of listed building in need of repair*

**47 Compulsory acquisition of listed building in need of repair.**

- (1) If it appears to the Secretary of State that reasonable steps are not being taken for properly preserving a listed building he—
  - (a) may authorise the appropriate authority to acquire compulsorily under this section the building and any relevant land; or
  - (b) may himself compulsorily acquire them under this section.
- (2) The <sup>M5</sup>Acquisition of Land Act 1981 shall apply to compulsory acquisition under this section.
- (3) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless—
  - (a) in the case of the acquisition of a building situated in England otherwise than by the Commission, he has consulted with the Commission; and
  - (b) in any case, he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.
- (4) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within 28 days after the service of the notice required by section 12 of that Act of 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act, apply to a magistrates' court <sup>F58</sup> . . . for an order staying further proceedings on the compulsory purchase order.
- (5) If on an application under subsection (4) the court is satisfied that reasonable steps have been taken for properly preserving the building, the court shall make an order accordingly.
- (6) Any person aggrieved by the decision of a magistrates' court on an application under subsection (4) may appeal against the decision to the Crown Court.
- <sup>F59</sup>(6A) This section does not permit the acquisition of any interest in Crown land unless—
  - (a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and
  - (b) the appropriate authority (within the meaning of section 82C) consents to the acquisition.]
- (7) In this section—
 

“the appropriate authority” means—

  - (a) the council of the county [<sup>F60</sup>, county borough] or district in which the building is situated, or
  - (b) in the case of a building situated in Greater London, the Commission or the council of the London borough in which the building is situated, or
  - (c) in the case of a building situated outside Greater London, the joint planning board for the area in which the building is situated; or
  - (d) in the case of a building situated within the Broads, the Broads Authority;

“relevant land”, in relation to any building, means the land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving

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the building or its amenities, or for affording access to it, or for its proper control or management.

#### Textual Amendments

- F58** Words in s. 47(4) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110(1), Sch. 8 para. 344, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)**
- F59** S. 47(6A) inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 79(4), 121(1), **Sch. 3 para. 5(2)** (with s. 111); S.I. 2006/1281, **art. 2(c)**
- F60** S. 47(7)(a): words in definition of “the appropriate authority” inserted (1.4.1996) by 1994 c.19, s. 20(4), **Sch. 6 Pt. II para. 25(6)** (with ss. 54(5)(7), 55(5), 66(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

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

- C114** Ss. 47–50 modified by S.I. 1990/1519, **reg. 13(1)**  
S. 47 amended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 13(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C115** S. 47: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, **reg. 2(1)**, **Sch. 1** Table A25

#### Marginal Citations

- M5** 1981 c.67.

## 48 Repairs notice as preliminary to acquisition under s. 47.

- (1) The compulsory purchase of a building under section 47 shall not be started by the appropriate authority or by the Secretary of State unless at least two months previously the authority or, as the case may be, the Secretary of State has served on the owner of the building a notice under this section (in this section referred to as a “repairs notice”)—
- specifying the works which the appropriate authority or, as the case may be, the Secretary of State considers reasonably necessary for the proper preservation of the building; and
  - explaining the effect of sections 47 to 50,
- and the repairs notice has not been withdrawn.
- (2) Where—
- a building is demolished after a repairs notice has been served in respect of it by an appropriate authority or the Secretary of State, but
  - the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished,
- the demolition of the building shall not prevent the authority or the Secretary of State from being authorised under section 47 to acquire compulsorily the site of the building.
- (3) An appropriate authority or the Secretary of State may at any time withdraw a repairs notice served by them on any person; and if they do so, they shall immediately give him notice of the withdrawal.
- (4) The Secretary of State shall consult with the Commission before he serves or withdraws a repairs notice in relation to a building situated in England.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

- (5) Where a repairs notice has been served on a person in respect of a building, he shall not be entitled to serve a listed building purchase notice in respect of it—
- (a) until the expiration of three months beginning with the date of the service of the repairs notice; or
  - (b) if during that period the compulsory acquisition of the building is begun under section 47, unless and until the compulsory acquisition is discontinued.
- (6) For the purposes of this section a compulsory acquisition—
- (a) is started when the notice required by section 12 of the <sup>M6</sup>Acquisition of Land Act 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act is served; and
  - (b) is discontinued—
    - (i) in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order; and
    - (ii) in any other case, when the order is withdrawn or the Secretary of State decides not to confirm it.
- (7) In this section “appropriate authority” has the same meaning as in section 47.

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

**C116** Ss. 47–50 modified by S.I. 1990/1519, **reg. 13(1)**

S. 48 amended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 13(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

**C117** S. 48: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, **reg. 2(1)**, **Sch. 1** Table A25

#### Marginal Citations

**M6** 1981 c.67.

## 49 Compensation on compulsory acquisition of listed building.

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

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

F61 . . . . .

#### Textual Amendments

**F61** Words in s. 49 repealed (25.9.1991) by **Planning and Compensation Act 1991** (c. 34, SIF 123:1), **ss. 31(4)**, 84(6), Schs. 6 para. 45, 19 Pt.II; S.I. 1991/2067, **art.3 sch. 1**

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

**C118** Ss. 47–50 modified by S.I. 1990/1519, **reg. 13(1)**

*Status: Point in time view as at 01/10/2012.*

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S. 49 amended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 paras. 13(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

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

- (1) Where the appropriate authority within the meaning of section 47—
  - (a) propose to acquire a building compulsorily under that section; and
  - (b) are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or redevelopment of the site or any adjoining site,they may include in the compulsory purchase order as submitted to the Secretary of State for confirmation a direction for minimum compensation.
- (2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under section 47, he may, if he is satisfied as mentioned in subsection (1)(b), include a direction for minimum compensation in the compulsory purchase order.
- (3) Without prejudice to so much of section 12 of the <sup>M7</sup>Acquisition of Land Act 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act (notices stating effect of compulsory purchase order or, as the case may be, draft order) as requires the notice to state the effect of the order, the notice required to be served in accordance with that provision shall—
  - (a) include a statement that a direction for minimum compensation has been included in the order or, as the case may be, in the draft order prepared by the Secretary of State in accordance with Schedule 1 to that Act; and
  - (b) explain the meaning of the expression “direction for minimum compensation”.
- (4) A direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the contrary in the <sup>M8</sup>Land Compensation Act 1961, the principal Act, or this Act—
  - (a) that planning permission would not be granted for any development or redevelopment of the site of the building; and
  - (b) that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to and maintaining it in a proper state of repair.
- (5) If a compulsory purchase order is confirmed or made with the inclusion of a direction for minimum compensation, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.
- (6) Where such a direction is included in a compulsory purchase order or, as the case may be, in a draft order prepared by the Secretary of State, any person having an interest in the building may, within 28 days after the service of the notice mentioned in subsection (3), apply to a magistrates’ court <sup>F62</sup> . . . for an order that no such direction be included in the compulsory purchase order as confirmed or made by the Secretary of State.
- (7) If the court to which an application is made under subsection (6) is satisfied that the building in respect of which the application is made has not been deliberately allowed

*Status: Point in time view as at 01/10/2012.*

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to fall into disrepair for the purpose mentioned in subsection (1)(b) the court shall make the order applied for.

- (8) A person aggrieved by the decision of a magistrates' court on an application under subsection (6) may appeal against the decision to the Crown Court.
- (9) The rights conferred by subsections (6) and (8) shall not prejudice those conferred by section 47(4) and (6).

#### Textual Amendments

**F62** Words in s. 47(4) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110(1), Sch. 8 para. 345, Sch. 10; S.I. 2005/910, art. 3(y)(aa)

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

**C119** Ss. 47–50 modified by S.I. 1990/1519, reg. 13(1)  
S. 50 amended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), Sch. 9 para. 13(1) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

#### Marginal Citations

**M7** 1981 c.67.

**M8** 1961 c.33.

## 51 Ending of rights over land compulsorily acquired.

- (1) Subject to the provisions of this section, upon the completion of a compulsory acquisition of land under section 47—
- (a) all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished, and
  - (b) any such apparatus shall vest in the acquiring authority.
- (2) Subsection (1) shall not apply—
- (a) to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking, or
  - [<sup>F63</sup>(b) to any right conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network, or
  - (c) to any electronic communications apparatus kept installed for the purposes of any such network.]
- (3) In respect of any right or apparatus not falling within subsection (2), subsection (1) shall have effect subject—
- (a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) shall not apply to any right or apparatus specified in the direction; and
  - (b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.
- (4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.



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- (5) Any compensation payable under this section shall be determined in accordance with the <sup>M9</sup>Land Compensation Act 1961.

#### Textual Amendments

**F63** S. 51(2)(b)(c) substituted (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by **Communications Act 2003 (c. 21)**, ss. 406(1), 411(2), **Sch. 17 para. 106(2)** (with Sch. 18); S.I. 2003/1900, **art. 2(1)**, Sch. 1 (with arts. 3-6); S.I. 2003/3142, **art. 3(2)** (with art. 11)

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

**C120** S. 51 amended (19.9.1995) by **1995 c. 25**, ss. 70, 125(2), **Sch. 9 para. 13(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

#### Marginal Citations

**M9** 1961 c.33.

### *Acquisition by agreement*

## 52 Acquisition of land by agreement.

- (1) The council of any county, [<sup>F64</sup>county borough,] district or London borough or a joint planning board for an area outside Greater London may acquire by agreement—
- (a) any building appearing to them to be of special architectural or historic interest; and
  - (b) any land comprising or contiguous or adjacent to such a building which appears to the Secretary of State to be required—
    - (i) for preserving the building or its amenities, or
    - (ii) for affording access to it, or
    - (iii) for its proper control or management.
- (2) The provisions of Part I of the <sup>M10</sup>Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8, 10 and 31, shall apply in relation to the acquisition of land under subsection (1), but references in that Part to the execution of the works shall be construed as including references to—
- (a) any erection, construction or carrying out of buildings or works authorised by section 237 of the principal Act; and
  - (b) any erection, construction or carrying out of buildings or works on behalf of a Minister or statutory undertakers on land acquired by that Minister or those undertakers, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

#### Textual Amendments

**F64** Words in s. 52(1) inserted (1.4.1996) by **1994 c. 19**, s. 20(4), **Sch. 6 Pt. II para. 25(7)** (with ss. 54(5)(7), 55(5), 66(7), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, **art. 3**, **Sch. 1**

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

**C121** S. 52 amended (19.9.1995) by **1995 c. 25**, ss. 70, 125(2), **Sch. 9 para. 13(2)**(with ss. 7(6), 115, 117, Sch. 8 para. 7)

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S. 52 amended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 13(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

**C122** S. 52(2) amended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 13(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

#### Marginal Citations

**M10** 1965 c.56.

### *Management of acquired buildings*

#### **53 Management of listed buildings acquired under this Act.**

(1) Where—

- (a) a local authority or joint planning board acquire any building or other land under section 47(1) or 52(1)(a) or (b); or
- (b) the Commission acquire any building or other land under section 47(1), they may make such arrangements as to its management, use or disposal as they consider appropriate for the purpose of its preservation.

(2) Where the Secretary of State acquires any building or other land under section 47(1), he may—

- (a) make such arrangements as he thinks fit as to the management, custody or use of the building or land; and
- (b) dispose of or otherwise deal with any such building or land as he may from time to time determine.

(3) The Commission may be a party to such arrangements as are mentioned in subsection (2) if they relate to property situated in England.

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

**C123** S. 53(1) extended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 13(3)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

### *Urgent preservation*

#### **54 Urgent works to preserve unoccupied listed buildings.**

(1) A local authority may execute any works which appear to them to be urgently necessary for the preservation of a listed building in their area.

(2) If it appears to the Secretary of State that any works are urgently necessary for the preservation of a listed building—

- (a) if the building is in England, he shall authorise the Commission to execute any works specified in the authorisation which appear to him to be urgently necessary for its preservation; or
- (b) if the building is in Wales, he may himself execute any works which appear to him to be urgently necessary for its preservation.

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- (3) The works which may be executed under this section may consist of or include works for affording temporary support or shelter for the building.
- (4) If the building is occupied works may be carried out only to those parts which are not in use.
- (5) The owner of the building must be given not less than seven days notice in writing of the intention to carry out the works and, in the case of works authorised under subsection (2)(a), the Commission shall give that notice.
- (6) A notice under subsection (5) shall describe the works proposed to be carried out.
- (7) As respects buildings in Greater London, the functions of a local authority under this section are exercisable concurrently by the Commission and the relevant London borough council.

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

**C124** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(b); S.I. 1993/2762, art.3.

S. 54: functions of local authority not to be responsibility of an executive of the authority (E.)

(16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1 Table A27

S. 54 extended (with modifications)(19.9.1995) by 1995 c. 25, ss. 70, 125(2), Sch. 9 para. 13(4)(a) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

**C125** S. 54: functions made exercisable concurrently (1.2.2005) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 2, 25(1)(2) (xxxii) (with art. 35)

**C126** S. 54: functions made exercisable concurrently (1.2.2005) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 2, 25(1)(2) (xxxii) (with art. 35)

**C127** S. 54 restricted (22.7.2008) by Crossrail Act 2008 (c. 18), s. 16(1), Sch. 9 paras. 1(1)(d)(3), 2(1)(d)

## **55 Recovery of expenses of works under s. 54.**

- (1) This section has effect for enabling the expenses of works executed under section 54 to be recovered by the authority who carried out the works, that is to say the local authority, the Commission or the Secretary of State or, in the case of works carried out by the Commission on behalf of the Secretary of State, the Secretary of State.
- (2) That authority may give notice to the owner of the building requiring him to pay the expenses of the works.
- (3) Where the works consist of or include works for affording temporary support or shelter for the building—
  - (a) the expenses which may be recovered include any continuing expenses involved in making available the apparatus or materials used; and
  - (b) notices under subsection (2) in respect of any such continuing expenses may be given from time to time.
- (4) The owner may within 28 days of the service of the notice represent to the Secretary of State—
  - (a) that some or all of the works were unnecessary for the preservation of the building; or

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- (b) in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time; or
  - (c) that the amount specified in the notice is unreasonable; or
  - (d) that the recovery of that amount would cause him hardship,
- and the Secretary of State shall determine to what extent the representations are justified.
- (5) The Secretary of State shall give notice of his determination, the reasons for it and the amount recoverable—
- (a) to the owner of the building; and
  - (b) if the authority who gave notice under subsection (2) is a local authority or the Commission, to them.

<sup>F65</sup>(6) .....

#### Textual Amendments

**F65** S. 55(6) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 25, 84(6), Schs. 3 Pt. II para. 23, 19 Pt.I; S.I. 1991/2905, **art.3 sch. 2**

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

**C128** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(b)**; S.I. 1993/2762, **art.3**.

S. 55 extended (with modifications) (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9**, para. 13(4)(a) (with ss. 7(6), 115, 117, **Sch. 8** para. 7)

**C129** S. 55: functions made exercisable concurrently (1.2.2005) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), **arts. 2**, 25(1)(2) (xxxii) (with art. 35)

**C130** S. 55: functions made exercisable concurrently (1.2.2005) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), **arts. 2**, 25(1)(2) (xxxii) (with art. 35)

## 56 Dangerous structure orders in respect of listed buildings.

Before taking any steps with a view to—

- (a) the making of an order in respect of a listed building under section 77(1)(a) of the <sup>M11</sup>Building Act 1984 or section 65 or 69(1) of the London Building Acts (Amendment) Act 1939; or
- (b) the <sup>M12</sup>service of a notice under section 79(1) of that Act of 1984 or section 62(2) of that Act of 1939,

a local planning authority shall consider whether they should instead exercise their powers under sections 47 and 48 or section 54.

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

**C131** S. 56 applied (with modifications) by S.I. 1990/1519, reg. 12, **Sch. 3**

**C132** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(b)**; S.I. 1993/2762, **art.3**.

**C133** S. 56 modified (W.) (30.4.2012) by The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793), regs. 1, 16, **Sch. 3**

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#### Marginal Citations

**M11** 1984 c. 55.

**M12** 1939 c. xcvi.

### *Grants for repair and maintenance*

#### **57 Power of local authority to contribute to preservation of listed buildings etc.**

- (1) A local authority may contribute towards the expenses incurred or to be incurred in the repair or maintenance—
  - (a) of a listed building which is situate in or in the vicinity of their area; or
  - (b) of a building in their area which is not listed but appears to them to be of architectural or historic interest.
- (2) At the time of making such a contribution the local authority may also contribute towards the expenses incurred, or to be incurred, in the upkeep of any garden occupied with the building and contiguous or adjacent to it.
- (3) A contribution under this section may be made by grant or loan.
- (4) A contribution by way of loan may be made upon such terms and conditions as the local authority may determine including (but without prejudice to the foregoing) a term that the loan shall be free of interest.
- (5) A local authority—
  - (a) may renounce their right to repayment of such a loan or any interest for the time being outstanding, and
  - (b) by agreement with the borrower may otherwise vary any of the terms and conditions on which such a loan is made.
- (6) A local authority may require as a condition of the making by them of a contribution under this section by way of grant towards the expenses of the repair or maintenance or upkeep of any property that the person to whom the grant is made shall enter into an agreement with them for the purpose of enabling the public to have access to the property or part of it during such period and at such times as the agreement may provide.
- (7) In this section and in section 58 “local authority” means—
  - (a) the council of a county, [<sup>F66</sup>county borough,] borough or district,
  - (b) a joint planning board constituted under section 2 of the principal Act, and
  - (c) in relation to a building or land in the Broads, the Broads Authority.

#### Textual Amendments

**F66** Words in s. 57(7)(a) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 25(8)** (with ss. 54(5)(7), 55(5), 66(7), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

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

**C134** S. 57 extended (with modifications) (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 13(4)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

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- C135** S. 57: functions made exercisable concurrently (1.2.2005) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), **arts. 2, 25(1)(2) (xxxiii)** (with art. 35)
- C136** S. 57: functions made exercisable concurrently (1.2.2005) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), **arts. 2, 25(1)(2) (xxxiii)** (with art. 35)

## 58 Recovery of grants under s. 57.

- (1) If, during the period of three years beginning with the day on which a grant is made under section 57 towards the repair or maintenance or upkeep of any property (“the grant property”), the grantee disposes of the interest held by him in the property on that day or any part of that interest, by way of sale or exchange or lease for a term of not less than 21 years, the local authority may recover the amount of the grant, or such part of it as they think fit, from the grantee in any court of competent jurisdiction.
- (2) If the grantee gives the whole of that interest to any person (whether directly or indirectly, but otherwise than by will) subsection (1) shall have effect as if the donee were the grantee.
- (3) If the grantee gives part of that interest to any person (whether directly or indirectly, but otherwise than by will) subsection (1) shall have effect as if any disposal or part disposal of that interest by the donee were a disposal by the grantee.
- (4) If any condition imposed on the making of a grant to which this section applies is contravened or not complied with, the grantor may recover the amount of the grant, or such part of it as he thinks fit, from the grantee.
- (5) Nothing in this section entitles a grantor to recover amounts in the aggregate exceeding the amount of the grant (for example by virtue of a breach of more than one condition or disposals of several parts of an interest in the grant property).

### Modifications etc. (not altering text)

- C137** S. 58 extended (with modifications) (19.9.1995) by [1995 c. 25, ss. 70, 125\(2\), Sch. 9 para. 13\(4\)\(b\)](#) (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7](#))
- C138** S. 58: functions made exercisable concurrently (1.2.2005) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), **arts. 2, 25(1)(2) (xxxiii)** (with art. 35)
- C139** S. 58: functions made exercisable concurrently (1.2.2005) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), **arts. 2, 25(1)(2) (xxxiii)** (with art. 35)
- C140** S. 58(4) restricted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 5, **Sch. 3 para. 17**

## *Damage to listed buildings*

## 59 Acts causing or likely to result in damage to listed buildings.

- (1) If, with the intention of causing damage to a listed building, any relevant person does or permits the doing of any act which causes or is likely to result in damage to the

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building, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (2) A person is a relevant person for the purpose of subsection (1) if apart from that subsection he would be entitled to do or permit the act in question.
- (3) Subsection (1) does not apply to an act for the execution—
  - (a) of works authorised by planning permission granted or deemed to be granted in pursuance of an application under the principal Act; or
  - (b) of works for which listed building consent has been given under this Act<sup>F67</sup>; or
  - (c) of works for which development consent has been granted under the Planning Act 2008.]
- (4) If a person convicted of an offence under this section fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding [<sup>F68</sup>one-tenth of level 3 on the standard scale] for each day on which the failure continues.

#### Textual Amendments

**F67** S. 59(3)(c) and preceding word inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), ss. 36, 248(1), [Sch. 2 para. 40](#) (with s. 226); S.I. 2010/101, [art. 2](#) (with art. 6)

**F68** Words in s. 59(4) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123: 1\)](#), s. 32, [Sch. 7 para.58](#); S.I. 1991/2905, [art.3 Sch. 1](#)

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

**C141** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(b\)](#); S.I. 1993/2762, [art.3](#).

S. 59 excluded (18.12.1996) by [1996 c. 61, s. 12, Sch. 7 para. 3](#)

S. 59 restricted (1.10.1994) by S.I. 1994/1771, [art. 5\(5\)](#)

**C142** S. 59 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), s. 16(1), [Sch. 9 para. 3](#)

## CHAPTER VI

### MISCELLANEOUS AND SUPPLEMENTAL

#### *Exceptions for church buildings and ancient monuments*

#### **60 Exceptions for ecclesiastical buildings and redundant churches.**

- (1) The provisions mentioned in subsection (2) shall not apply to any ecclesiastical building which is for the time being used for ecclesiastical purposes.
- (2) Those provisions are sections 3, 4, 7 to 9, 47, 54 and 59.
- (3) For the purposes of subsection (1), a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.
- (4) For the purposes of sections 7 to 9 a building shall be taken to be used for the time being for ecclesiastical purposes if it would be so used but for the works in question.

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- (5) The Secretary of State may by order provide for restricting or excluding the operation of subsections (1) to (3) in such cases as may be specified in the order.
- (6) An order under this section may—
- (a) make provision for buildings generally, for descriptions of building or for particular buildings;
  - (b) make different provision for buildings in different areas, for buildings of different religious faiths or denominations or according to the use made of the building;
  - (c) make such provision in relation to a part of a building (including, in particular, an object or structure falling to be treated as part of the building by virtue of section 1(5)) as may be made in relation to a building and make different provision for different parts of the same building;
  - (d) make different provision with respect to works of different descriptions or according to the extent of the works;
  - (e) make such consequential adaptations or modifications of the operation of any other provision of this Act or the principal Act, or of any instrument made under either of those Acts, as appear to the Secretary of State to be appropriate.
- (7) Sections 7 to 9 shall not apply to the execution of works for the demolition, in pursuance of a pastoral or redundancy scheme (within the meaning of the <sup>M13</sup>Pastoral Measure 1983), of a redundant building (within the meaning of that Measure) or a part of such a building.

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

**C143** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(b\)](#); [S.I. 1993/2762, art.3](#).

**C144** S. 60(1)–(4) modified by [S.I. 1990/1519, reg. 13\(1\)](#)

**Marginal Citations**

**M13** 1983 No. 1.

**61 Exceptions for ancient monuments etc.**

- (1) The provisions mentioned in subsection (2) shall not apply to any building for the time being included in the schedule of monuments compiled and maintained under section 1 of the <sup>M14</sup>Ancient Monuments and Archaeological Areas Act 1979.
- (2) Those provisions are sections 3, 4, 7 to 9, 47, 54 and 59.

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

**C145** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(b\)](#); [S.I. 1993/2762, art.3](#).

**Marginal Citations**

**M14** 1979 c.46.



*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

### *Validity of instruments, decisions and proceedings*

## **62 Validity of certain orders and decisions.**

- (1) Except as provided by section 63, the validity of—
  - (a) any order under section 23 or 26 (whether before or after it has been confirmed); or
  - (b) any such decision by the Secretary of State as is mentioned in subsection (2), shall not be questioned in any legal proceedings whatsoever.
- (2) Those decisions are—
  - (a) any decision on an application referred to the Secretary of State under section 12 or on an appeal under section 20;
  - (b) any decision to confirm or not to confirm a listed building purchase notice including—
    - (i) any decision not to confirm such a notice in respect of part of the land to which it relates, and
    - (ii) any decision to grant any consent, or give any direction, in lieu of confirming such a notice, either wholly or in part;
  - (c) any decision to grant listed building consent under paragraph (a) of section 41(6) or to discharge a condition or limitation under paragraph (b) of that section;
  - [<sup>F69</sup>(d) any decision on an application for listed building consent under section 82B.]
- (3) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any such decision as is mentioned in subsection (2).

#### **Textual Amendments**

**F69** S. 62(2)(d) inserted (6.8.2004 for specified purposes, otherwise 7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 83(2)**, 121(1) (with s. 111); [S.I. 2004/2097](#), **art. 2**; [S.I. 2006/1281](#), **art. 2(a)**

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

**C146** Ss. 62–65 modified by [S.I. 1990/1519](#), **reg. 13(1)**; applied (with modifications) by [S.I. 1990/1519](#), **reg. 12**, **Sch. 3**

**C147** Ss. 62–65 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), **regs. 1, 16**, **Sch. 3**

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

- (1) If any person is aggrieved by any such order or decision as is mentioned in section 62(1) and wishes to question its validity on the grounds—
  - (a) that it is not within the powers of this Act, or
  - (b) that any of the relevant requirements have not been complied with in relation to it,he may make an application to the High Court under this section.

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- (2) Without prejudice to subsection (1), if the authority directly concerned with any such order or decision wish to question its validity on any of those grounds, the authority may make an application to the High Court under this section.
- (3) An application under this section must be made within six weeks from the date on which the order is confirmed (or, in the case of an order under section 23 which takes effect under section 25 without confirmation, the date on which it takes effect) or, as the case may be, the date on which the action is taken.
- (4) On any application under this section the High Court—
- (a) may by interim order suspend the operation of the order or decision, the validity of which is questioned by the application, until the final determination of the proceedings; and
  - (b) if satisfied—
    - (i) that the order or decision is not within the powers of this Act, or
    - (ii) that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to it,
 may quash that order or decision.
- (5) References in this section to the confirmation of an order include the confirmation of an order subject to modifications.
- (6) In this section “the relevant requirements”, in relation to any order or decision, means any requirements of this Act or of the <sup>M15</sup>Tribunals and Inquiries Act [<sup>F70</sup>1992] or of any order, regulations or rules made under either of those Acts which are applicable to that order or decision.
- (7) For the purposes of subsection (2) the authority directly concerned with an order or decision is—
- (a) in relation to any such decision as is mentioned in section 62(2)(b)—
    - (i) the council on whom the listed building purchase notice was served, and
    - (ii) in a case where the Secretary of State has modified the notice wholly or in part by substituting another local authority or statutory undertakers for that council, also that authority or those statutory undertakers; and
  - (b) otherwise, the authority who—
    - (i) made the order or decision to which the proceedings in question relate, or
    - (ii) referred the matter to the Secretary of State, or
    - (iii) if the order was made by him, are the authority named in it.

#### Textual Amendments

**F70** Words in s. 63(6) substituted (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53, SIF 123:1\)](#), ss. 18(1), 19(2), [Sch. 3 para.31](#)

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

**C147** Ss. 62-65 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\)](#), regs. 1, 16, [Sch. 3](#)

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

**C148** Ss. 62–65 modified by [S.I. 1990/1519, reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519, reg. 12, Sch. 3](#)

**C149** S. 63 applied (28.9.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), ss. 58\(5\), 121\(1\)](#) (with s. 111); [S.I. 2004/2202, art. 3\(a\)](#)

#### Marginal Citations

**M15** 1971 c.62.

### 64 Validity of listed building enforcement notices.

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

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

**C147** Ss. 62–65 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\), regs. 1, 16, Sch. 3](#)

**C150** Ss. 62–65 modified by [S.I. 1990/1519, reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519, reg. 12, Sch. 3](#)

### 65 Appeals to High Court relating to listed building enforcement notices.

- (1) Where the Secretary of State gives a decision in proceedings on an appeal under section 39 against a listed building enforcement notice, the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.
- (2) At any stage of the proceedings on any such appeal, the Secretary of State may state any question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court.
- (3) A decision of the High Court on a case stated by virtue of subsection (2) shall be deemed to be a judgment of the court within the meaning of section 16 of the <sup>M16</sup>[<sup>F71</sup>Senior Courts Act 1981] (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).

[<sup>F72</sup>(3A) In proceedings brought by virtue of this section, the High Court or, as the case may be, the Court of Appeal may, on such terms, if any, as the Court thinks fit (which may include terms requiring the local planning authority to give an undertaking as to damages or any other matter), order that the listed building enforcement notice shall have effect, or have effect to such extent as may be specified in the order, pending the final determination of those proceedings and any re-hearing and determination by the Secretary of State.]

- (4) In relation to any proceedings in the High Court or the Court of Appeal brought by virtue of this section the power to make rules of court shall include power to make rules—

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- (a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the Secretary of State; and
  - (b) providing for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.
- [<sup>F73</sup>(5) No proceedings in the High Court shall be brought by virtue of this section except with the leave of that Court and no appeal to the Court of Appeal shall be so brought except with the leave of the Court of Appeal or of the High Court.]
- (6) In this section “decision” includes a direction or order, and references to the giving of a decision shall be construed accordingly.
  - (7) In the case of a listed building enforcement notice issued by the Commission subsection (1) shall apply as if the reference to the local planning authority were a reference to the Commission.

#### Textual Amendments

- F71** Words in s. 65(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59\(5\), 148\(1\), Sch. 11 para. 1\(2\); S.I. 2009/1604, art. 2\(d\)](#)
- F72** S. 65(3A) added (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 25, Sch. 3 Pt. I para. 8\(2\); S.I. 1991/2905, art.3](#)
- F73** S. 65(5) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 25, Sch. 3 Pt. I para. 8\(3\); S.I. 1991/2905, art.3](#)

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

- C147** Ss. 62–65 modified (W.) (30.4.2012) by [The Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012 \(No. 793\), regs. 1, 16, Sch. 3](#)
- C151** Ss. 62–65 modified by [S.I. 1990/1519, reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519, reg. 12, Sch. 3](#)

#### Marginal Citations

- M16** 1981 c.54.

### *Special considerations affecting planning functions*

#### **66 General duty as respects listed buildings in exercise of planning functions.**

- (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- (2) Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provisions of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings.

*Status: Point in time view as at 01/10/2012.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Part I is up to date with all changes known to be in force on or before 21 May 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)*

(3) The reference in subsection (2) to a local authority includes a reference to a joint planning board<sup>F74</sup> . . .

<sup>F75</sup>[<sup>F76</sup>(4) Nothing in this section applies in relation to neighbourhood development orders.]

#### Textual Amendments

- F74** Words in s. 66(3) repealed (1.4.1997) by 1995 c. 25, ss. 120(3), **Sch. 24** (with ss. 7(6), 115, 117, **Sch. 8** para. 7); S.I. 1996/2560, art. 2, **Sch.**
- F75** S. 66(4) inserted (15.11.2011 for specified purposes, 6.4.2012 for specified purposes, 3.8.2012 for specified purposes, 6.4.2013 in so far as not already in force) by **Localism Act 2011 (c. 20)**, s. 240(2)(5)(j), **Sch. 12 para. 25** (with s. 144); S.I. 2012/628, art. 8(a) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by S.I. 2012/2029, arts. 2, 4); S.I. 2012/2029, arts. 2, 3(a) (with art. 5) (as amended (6.4.2013) by S.I. 2013/797, art. 4); S.I. 2013/797, arts 1(2), 2
- F76** S. 66(4) inserted (15.11.2011 for specified purposes, 6.4.2012 for further specified purposes, 3.8.2012 for further specified purposes, otherwise prosp.) by **Localism Act 2011 (c. 20)**, ss. 121, 240(2)(5)(j), **Sch. 12 para. 25** (with s. 144); S.I. 2012/628, **art. 8(a)** (subject to arts. 9, 12, 13, 16, 18-20); S.I. 2012/2029, **art. 3(a)** (subject to art. 5)

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

- C152** Chs. I, II (ss. 1-26) and IV (ss. 38-44) of Pt. I, ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(b); S.I. 1993/2762, **art. 3.**
- C153** S. 66(1) excluded by S.I. 1990/1519, reg. 12, **Sch. 3**
- C154** S. 66(1) modified (W.) (30.4.2012) by **The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (No. 793)**, regs. 1, 16, **Sch. 3**
- C155** S. 66(2) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(4)**(with ss. 7(6), 115, 117, **Sch. 8** para. 7)

## 67 Publicity for applications affecting setting of listed buildings.

[<sup>F77</sup>(1) The Secretary of State may prescribe requirements as to publicity for applications for planning permission in cases where the local planning authority think that the development of land would affect the setting of a listed building.]

<sup>F78</sup>(2) . . . . .

<sup>F78</sup>(3) . . . . .

<sup>F78</sup>(4) . . . . .

<sup>F78</sup>(5) . . . . .

<sup>F78</sup>(6) . . . . .

<sup>F78</sup>(7) . . . . .

[<sup>F79</sup>(8) In this section references to planning permission do not include references to planning permissions falling within section 73A of the principal Act.]

*Status: Point in time view as at 01/10/2012.*

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#### Textual Amendments

- F77** S. 67(1) substituted for s. 67(1)-(7) (6.8.2004 for specified purposes, otherwise 28.9.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 118(1), 121(1), [Sch. 6 para. 23](#) (with s. 111); S.I. 2004/2097, [art. 2](#); S.I. 2004/2202, [art. 3\(e\)](#)
- F78** S. 67(2)-(7) repealed (28.9.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 120, 121(1)-(3), [Sch. 9](#) (with s. 111); S.I. 2004/2202, art. 3(f), Sch. 1 Pt. 2
- F79** S. 67(8) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para.59](#); S.I. 1991/2905, [art.3](#), [Sch. 1](#)

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

- C156** [Ss. 67 and 73](#): power to modify conferred (10.11.1993) by [1993 c. 28, s. 171\(1\)\(a\)](#); S.I. 1993/2762, [art.3](#).

### 68 Reference to Commission of planning applications involving listed buildings in Greater London.

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

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

- C157** [Chs. I, II \(ss. 1-26\) and IV \(ss. 38-44\) of Pt. I](#), ss. 54-56, 59-61, 66, 68-72, 74-76 and 88: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(b\)](#); S.I. 1993/2762, [art.3](#).

**Status:**

Point in time view as at 01/10/2012.

**Changes to legislation:**

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