



Planning (Listed Buildings and Conservation Areas) Act 1990

1990 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER III

RIGHTS OF OWNERS ETC.

Compensation

^{F1}27 **Compensation for refusal of consent to alteration, etc. of listed building.**

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Textual Amendments

F1 S. 27 repealed(*for application for listed building consent made on or after 16.11.1990*) by [Planning and Compensation Act 1991](#) (c. 34, SIF 123:1), ss. 31(3)(8), 84(6),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)

C1 S. 27 modified by [S.I. 1990/1519](#), **reg. 13(1)**

C2 Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013](#) (S.I. 2013/2148), arts. 1(1), 3, **Sch. 1** (with art. 1(2))

Status: Point in time view as at 25/04/2024.

Changes to legislation: Planning (Listed Buildings and Conservation Areas) Act 1990, Cross Heading: Compensation is up to date with all changes known to be in force on or before 13 June 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)

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.
- (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)

- C2** Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, [Sch. 1](#) (with art. 1(2))
- C3** S. 28 modified by [S.I. 1990/1519](#), [reg. 13\(1\)](#); applied (with modifications) by [S.I. 1990/1519](#), [reg. 12](#), [Sch. 3](#)
- C4** 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](#)
- C5** S. 28 applied (with modifications) (E.) (6.4.2014) by [The Planning \(Listed Buildings and Conservation Areas\) \(Heritage Partnership Agreements\) Regulations 2014 \(S.I. 2014/550\)](#), [regs. 1\(1\), 7](#)

[^{F2} 28A Compensation where consent formerly granted by order is granted conditionally or refused

- (1) Section 28 also has effect (subject to subsections (2) and (3)) where—
 - (a) listed building consent granted by a listed building consent order or a local listed building consent order is withdrawn (whether by the revocation or amendment of the order or by the issue of a direction), and
 - (b) on an application for listed building consent made within the prescribed period after the withdrawal, consent for works formerly authorised by the order is refused or is granted subject to conditions other than those imposed by the order.
- (2) Section 28 does not have effect by virtue of subsection (1) if—
 - (a) the works authorised by the order were started before the withdrawal, and

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- (b) the order included provision in pursuance of section 26G permitting the works to be completed after the withdrawal.
- (3) Section 28 does not have effect by virtue of subsection (1) if—
 - (a) notice of the withdrawal was published in the prescribed manner and within the prescribed period before the withdrawal, and
 - (b) the works authorised by the order were not started before the notice was published.
- (4) Where section 28 has effect by virtue of subsection (1), references in section 28(2) and (3) to the revocation or modification of listed building consent are references to the withdrawal of the listed building consent by revocation or amendment of the order or by issue of the direction.]

Textual Amendments

F2 S. 28A inserted (25.4.2013 for specified purposes, 6.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 60(4)**, 103(1)(i)(3); S.I. 2014/416, art. 3(a)

Modifications etc. (not altering text)

C2 Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, **Sch. 1** (with art. 1(2))

[^{F3}28B Compensation for loss or damage caused by interim protection

- (1) This section applies where interim protection in respect of a building ceases to have effect as a result of the issue of a notice by the Welsh Ministers under section 2B(4)(b).
- (2) Any person who, at the time when the interim protection took effect, had an interest in the building is, on making a claim to the Welsh Ministers within the prescribed time and in the prescribed manner, entitled to be paid compensation by the Welsh Ministers in respect of any loss or damage directly attributable to the effect of the protection.
- (3) The loss or damage in respect of which compensation is payable under subsection (2) includes 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 interim protection having effect.

[Subsection (5) applies where—

- ^{F4}(4) (a) a building preservation notice was in force in respect of the building before interim protection took effect; and
- (b) the notice ceased to be in force by virtue of section 3A(4)(a).
- (5) In such a case—
 - (a) the reference in subsection (2) to the time when the interim protection took effect is to be treated as a reference to the time when the building preservation notice came into force;
 - (b) the reference in that subsection to loss or damage directly attributable to the effect of the interim protection is to be treated as including a reference to loss or damage directly attributable to the effect of the building preservation notice being in force; and

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- (c) the reference in subsection (3) to the necessity of discontinuing or countermanding works on account of the interim protection having effect is to be treated as including a reference to the necessity of discontinuing or countermanding works on account of the building preservation notice being in force.]]

Textual Amendments

- F3** S. 28B inserted (21.3.2016 for specified purposes, 31.5.2017 in so far as not already in force) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 24(3)**, 41(1)(c)(3); S.I. 2017/633, art. 5(c) (with art. 6(2))
- F4** S. 28B(4)(5) inserted (31.5.2017) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 25(4)**, 41(3); S.I. 2017/633, art. 4(b) (with art. 6(3))

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

- (1) This section applies where a building preservation notice [^{F5}in respect of a building situated in England] ceases to have effect without the building having been included in a list compiled or approved by the Secretary of State under section 1.
- [^{F6}(1A) This section also applies where a building preservation notice in respect of a building situated in Wales ceases to have effect by virtue of section 3A(3)(b) or (4)(b).]
- (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.

Textual Amendments

- F5** Words in s. 29(1) inserted (31.5.2017) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 25(5)(a)**, 41(3); S.I. 2017/633, art. 4(b) (with art. 6(3))
- F6** S. 29(1A) inserted (31.5.2017) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 25(5)(b)**, 41(3); S.I. 2017/633, art. 4(b) (with art. 6(3))

Modifications etc. (not altering text)

- C2** Ss. 7-29 applied (Isles of Scilly) (with modifications) (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), arts. 1(1), 3, **Sch. 1** (with art. 1(2))
- C6** S. 29 modified by S.I. 1990/1519, **reg. 13(1)**

30 Local planning authorities for compensation purposes.

- (1) Subject to subsection (2)—
^{F7}(a)

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- (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 ^{F8} . . . 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.
- (3) This section does not apply in Greater London.

Textual Amendments

F7 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](#)

F8 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](#)

Modifications etc. (not altering text)

C7 S. 30 applied (with modifications) (E.) (6.4.2014) by [The Planning \(Listed Buildings and Conservation Areas\) \(Heritage Partnership Agreements\) Regulations 2014 \(S.I. 2014/550\)](#), regs. 1(1), 7

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 ^{M1}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 [^{F9}28][^{F10}, 28B][^{F11}, 29 [^{F12}, 44AC] and 44D] 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,

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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 [^{F9}28 and] 29 shall be referred to and determined by the [^{F13}Upper Tribunal].
- (5) In relation to the determination of any such question, the provisions of [^{F14}section] 4 of the ^{M2}Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Textual Amendments

- F9** 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
- F10** Word in s. 31(2) inserted (31.5.2017) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), [ss. 26\(8\)](#), [41\(3\)](#); S.I. 2017/633, art. 4(c) (with art. 6(2)(3))
- F11** Words in s. 31(2) substituted (21.5.2016) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), [ss. 29\(2\)](#), [41\(2\)](#)
- F12** Word in s. 31(2) inserted (25.4.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), [ss. 103\(3\)](#), [255\(3\)\(b\)](#) (with s. 247); S.I. 2024/452, reg. 3(a)
- F13** 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)
- F14** 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)

Modifications etc. (not altering text)

- C8** S. 31 applied (with modifications) (E.) (6.4.2014) by [The Planning \(Listed Buildings and Conservation Areas\) \(Heritage Partnership Agreements\) Regulations 2014 \(S.I. 2014/550\)](#), [regs. 1\(1\)](#), [7](#)
- C9** S. 31 applied (with modifications) (1.1.2022) by [The Listed Buildings \(Heritage Partnership Agreements\) \(Wales\) Regulations 2021 \(S.I. 2021/1177\)](#), [reg. 1](#), [Sch.](#)

Marginal Citations

- M1** 1961 c.33.
- M2** 1961 c.33.

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