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# Planning (Listed Buildings and Conservation Areas) Act 1990

## 1990 CHAPTER 9

### PART III

#### GENERAL

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

C1 Part III modified and extended (17.7.1992) by [S.I. 1992/1732](#), [art.2](#)

#### *Authorities exercising functions under Act*

#### **81 Authorities exercising functions under Act.**

In this Act “local planning authority” shall be construed in accordance with Part I of the principal Act and Schedule 4 to this Act (which makes further provision as to the exercise of functions under this Act).

VALID FROM 24/08/2005

#### *[<sup>F1</sup>Power to decline to determine application*

#### Textual Amendments

F1 Ss. 81A, 81B and cross-heading inserted (24.8.2005 for E. except so far as relates to the insertion of s. 81B, 6.4.2009 for E. for that excepted purpose, otherwise prosp.) by [Planning and Compulsory Purchase Act 2004](#) (c. 5), [ss. 43\(3\), 121\(1\)](#) (with [ss. 43\(5\), 111](#)); [S.I. 2005/2081](#), [art 2\(a\)\(iii\)](#); [S.I. 2009/384](#), [art. 2\(c\)](#)

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### **81A Power to decline to determine subsequent application**

- (1) A local planning authority may decline to determine an application for a relevant consent if—
  - (a) one or more of the conditions in subsections (2) to (4) is satisfied, and
  - (b) the authority think there has been no significant change in any material considerations since the relevant event.
- (2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application referred to him under section 12.
- (3) The condition is that in that period the Secretary of State has dismissed an appeal—
  - (a) against the refusal of a similar application, or
  - (b) under section 20(2) in respect of a similar application.
- (4) The condition is that—
  - (a) in that period the local planning authority have refused more than one similar application, and
  - (b) there has been no appeal to the Secretary of State against any such refusal.
- (5) Relevant consent is—
  - (a) listed building consent, or
  - (b) conservation area consent.
- (6) The relevant event is—
  - (a) for the purposes of subsections (2) and (4) the refusal of the similar application;
  - (b) for the purposes of subsection (3) the dismissal of the appeal.
- (7) An application for relevant consent is similar to another application if (and only if) the local planning authority think that the building and works to which the applications relate are the same or substantially the same.
- (8) For the purposes of an application for conservation area consent a reference to a provision of this Act is a reference to that provision as excepted or modified by regulations under section 74.]

### **81B Power to decline to determine overlapping application**

- (1) A local planning authority may decline to determine an application for a relevant consent which is made at a time when any of the conditions in subsections (2) to (4) applies in relation to a similar application.
- (2) The condition is that a similar application is under consideration by the local planning authority and the determination period for that application has not expired.
- (3) The condition is that a similar application is under consideration by the Secretary of State in pursuance of section 12 or on an appeal under section 20 and the Secretary of State has not issued his decision.
- (4) The condition is that a similar application—
  - (a) has been granted by the local planning authority,
  - (b) has been refused by them, or

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(c) has not been determined by them within the determination period, and the time within which an appeal could be made to the Secretary of State under section 20 has not expired.

(5) Relevant consent is—

- (a) listed building consent, or
- (b) conservation area consent.

(6) An application for relevant consent is similar to another application if (and only if) the local planning authority think that the building and works to which the applications relate are the same or substantially the same.

(7) The determination period is—

- (a) the period prescribed for the determination of the application, or
- (b) such longer period as the applicant and the authority have agreed for the determination of the application.

(8) For the purposes of an application for conservation area consent a reference to a provision of this Act is a reference to that provision as excepted or modified by regulations under section 74.

### *Special cases*

## **82 Application of Act to land and works of local planning authorities.**

- (1) In relation to land of a local planning authority, section 1(1), (2) and (4) and sections 2, [F<sup>2</sup>and 39(6)] [F<sup>3</sup>41(8)], shall have effect subject to such exceptions and modifications as may be prescribed.
- (2) The provisions mentioned in subsection (3) shall have effect for the purpose of applications by local planning authorities relating to the execution of works for the demolition, alteration or extension of listed buildings, subject to such exceptions and modifications as may be prescribed.
- (3) Those provisions are sections 1(3), (5) and (6), 3 to 5, 7 to 29, 32 to 50 (except [F<sup>4</sup>section 39(6)]), 60(1) to (4) (as it applies as respects the provisions mentioned in this subsection), 62 to 65, 67(2)(b), (6) and (7), 73(1), Schedules 1 and 2, paragraph 2 of Schedule 4 (as it applies to Schedule 1) and paragraph 4(1) of Schedule 4 (as it applies as respects the provisions mentioned in this subsection).
- (4) Regulations under this section may in particular provide—
  - (a) for the making of applications for listed building consent to the Secretary of State; and
  - (b) for the issue or service by him of notices under section 2(3) and the provisions mentioned in subsection (3).

### **Textual Amendments**

- F2** Words in s. 82(1) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. II para. 24\(a\)](#); S.I. 1991/2905, [art.3](#)
- F3** “41(8)” inserted (*temp.*) by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 6, [Sch. 4 paras. 1, 10](#) (which temp. insertion ceases to have effect (2.1.1992 for specified purposes and

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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))

**F4** Words in s. 82(3) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. II para. 24(b)**; S. I. 1991/2905, **art.3**

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

**C2** S. 82(2)–(4) applied (with modifications) by S.I. 1990/1519, reg. 12, **Sch. 3**

VALID FROM 06/08/2004

**[<sup>F5</sup>82A Application to the Crown**

- (1) This Act (except the provisions specified in subsection (2)) binds the Crown.
- (2) These are the provisions—
  - (a) section 9;
  - (b) section 11(6);
  - (c) section 21(7);
  - (d) section 42(1), (5) and (6);
  - (e) section 43;
  - (f) section 44A;
  - (g) section 54;
  - (h) section 55;
  - (i) section 59;
  - (j) section 88A.
- (3) But subsection (2)(a) does not have effect to prohibit the doing of anything by or on behalf of the Crown which falls within the circumstances described in section 9(3) (a) to (d) and the doing of that thing does not contravene section 7.]

**Textual Amendments**

**F5** S. 82A inserted (6.8.2004 for specified purposes, otherwise 7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 79(2), 121(1)** (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2(a)**

VALID FROM 06/08/2004

**[<sup>F6</sup>82B Urgent works relating to Crown land: application**

- (1) This section applies to any works proposed to be executed in connection with any building which is on Crown land if the appropriate authority certifies—
  - (a) that the works are of national importance, and
  - (b) that it is necessary that the works are carried out as a matter of urgency.

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- (2) The appropriate authority may, instead of making an application for consent to the local planning authority in accordance with this Act, make an application for consent to the Secretary of State under this section.
- (3) If the appropriate authority proposes to make the application to the Secretary of State it must publish in one or more newspapers circulating in the locality of the building a notice—
  - (a) describing the proposed works, and
  - (b) stating that the authority proposes to make the application to the Secretary of State.
- (4) For the purposes of an application under this section the appropriate authority must provide to the Secretary of State a statement of the authority's grounds for making the application.
- (5) If the appropriate authority makes an application under this section subsections (6) to (9) below apply.
- (6) The Secretary of State may require the authority to provide him with such further information as he thinks necessary to enable him to determine the application.
- (7) As soon as practicable after he is provided with any document or other matter in pursuance of subsection (4) or (6) the Secretary of State must make a copy of the document or other matter available for inspection by the public in the locality of the proposed development.
- (8) The Secretary of State must in accordance with such requirements as may be prescribed publish notice of the application and of the fact that such documents and other material are available for inspection.
- (9) The Secretary of State must consult—
  - (a) the local planning authority for the area to which the proposed development relates, and
  - (b) such other persons as may be prescribed, about the application.
- (10) Subsection (7) does not apply to the extent that the document or other matter is subject to a direction under paragraph 6(6) of Schedule 3 (matters related to national security).
- (11) Subsections (4) and (5) of section 12 apply to an application under this section as they apply to an application in respect of which a direction under section 12 has effect.]

#### Textual Amendments

- F6** S. 82B inserted (6.8.2004 for specified purposes, otherwise 7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 83(1)**, 121(1) (with s. 111); S.I. 2004/2097, **art. 2**; S.I. 2006/1281, **art. 2(a)**

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VALID FROM 06/08/2004

## **[<sup>F7</sup>82C Expressions relating to the Crown**

- (1) In this Act, expressions relating to the Crown must be construed in accordance with this section.
- (2) Crown land is land in which there is a Crown interest or a Duchy interest.
- (3) A Crown interest is any of the following—
  - (a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates;
  - (b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department;
  - (c) such other interest as the Secretary of State specifies by order.
- (4) A Duchy interest is—
  - (a) an interest belonging to Her Majesty in right of the Duchy of Lancaster, or
  - (b) an interest belonging to the Duchy of Cornwall.
- (5) A private interest is an interest which is neither a Crown interest nor a Duchy interest.
- (6) The appropriate authority in relation to any land is—
  - (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
  - (b) in relation to any other land belonging to Her Majesty in right of the Crown, the government department having the management of the land;
  - (c) in relation to land belonging to Her Majesty in right of Her private estates, a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Secretary of State;
  - (d) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
  - (e) in relation to land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy, appoints;
  - (f) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, the department;
  - (g) in relation to Westminster Hall and the Chapel of St Mary Undercroft, the Lord Great Chamberlain and the Speakers of the House of Lords and the House of Commons acting jointly;
  - (h) in relation to Her Majesty’s Robing Room in the Palace of Westminster, the adjoining staircase and ante-room and the Royal Gallery, the Lord Great Chamberlain.
- (7) If any question arises as to what authority is the appropriate authority in relation to any land it must be referred to the Treasury, whose decision is final.
- (8) For the purposes of an application for listed building consent made by or on behalf of the Crown in respect of land which does not belong to the Crown or in respect of which it has no interest a reference to the appropriate authority must be construed as a reference to the person who makes the application.
- (9) For the purposes of subsection (8) the Crown includes—

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- (a) the Duchy of Lancaster;
  - (b) the Duchy of Cornwall;
  - (c) a person who is an appropriate authority by virtue of subsection (6)(g) and (h).
- (10) The reference to Her Majesty’s private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862.
- (11) An order made for the purposes of paragraph (c) of subsection (3) must be made by statutory instrument.
- (12) But no such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

#### Textual Amendments

- F7** S. 82C inserted (6.8.2004 for specified purposes, otherwise 7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 79(4), 121(1), [Sch. 3 para. 7](#) (with s. 111); S.I. 2004/2097, [art. 2](#); S.I. 2006/1281, [art. 2\(c\)](#)

VALID FROM 07/06/2006

#### [<sup>F8</sup>82D Enforcement in relation to the Crown

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

#### Textual Amendments

- F8** Ss. 82D, 82E inserted (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 84(3), 121(1) (with s. 111); S.I. 2006/1281, [art. 2\(a\)](#)

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VALID FROM 07/06/2006

### **82E References to an interest in land**

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

#### **Textual Amendments**

**F8** Ss. 82D, 82E inserted (7.6.2006) by Planning and Compulsory Purchase Act 2004 (c. 5), ss. 84(3), 121(1) (with s. 111); S.I. 2006/1281, art. 2(a)

VALID FROM 06/08/2004

### **82F Applications for listed building or conservation area consent by Crown**

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

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

- (1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section—
  - (a) a building which for the time being is Crown land may be included in a list compiled or approved by the Secretary of State under section 1;
  - (b) any restrictions imposed or powers conferred by sections 1 to 26, 32 to 46, 54 to 56, 59 to 61, 66(1), 67, 68, 73 or 76 or Schedule 1, 2 or 3 shall apply and be exercisable in relation to Crown land to the extent of any interest in it for the time being held otherwise than by or on behalf of the Crown;
  - (c) any power to acquire land compulsorily under section 47 may be exercised in relation to any interest in the land which is for the time being held otherwise than by or on behalf of the Crown.
- (2) Except with the consent of the appropriate authority—
  - (a) no notice shall be issued or served under section 38 in relation to land which for the time being is Crown land;
  - (b) no interest in land which for the time being is Crown land shall be acquired compulsorily under section 47.



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- (3) No listed building enforcement notice shall be issued in respect of works executed by or on behalf of the Crown in respect of a building which was Crown land at the time when the works were executed.
- (4) No listed building purchase notice shall be served in relation to any interest in Crown land unless—
- (a) an offer has been previously made by the owner of that interest to dispose of it to the appropriate authority on terms that the price payable for it—
    - (i) shall be equal to the compensation which would be payable in respect of it if it were acquired in pursuance of such a notice, or
    - (ii) in default of agreement, shall be determined in a similar manner to that in which that compensation would be determined; and
  - (b) that offer has been refused by the appropriate authority.
- (5) In this section—
- “Crown land” means land in which there is a Crown interest or a Duchy interest;
- “Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;
- “Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall.
- (6) A person who is entitled to occupy Crown land by virtue of a licence in writing shall be treated as having an interest in land for the purposes of subsection (1)(b) so far as applicable to sections 1 to 26, 38 to 46, 54 to 56, 59 to 61, 66(1), 67, 68, 73 and 76 and Schedule 1, 2 or 3.
- (7) For the purposes of this section “the appropriate authority”, in relation to any land—
- (a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners;
  - (b) in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;
  - (c) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;
  - (d) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall appoints;
  - (e) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.
- (8) If any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

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

- C3 S. 83(1)(b), (3)(4) applied (with modifications) by S.I. 1990/1519, reg. 12, Sch. 3
- C4 S. 83(5) extended (23.6.1999) by S.I. 1999/1736, art. 11(1)
- C5 S. 83(7)(b) modified (17.7.1992) by S.I. 1992/1732, art. 2(4)(b)

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## **84 Application for listed building or conservation area consent in anticipation of disposal of Crown land.**

- (1) This section has effect for the purpose of enabling Crown land, or an interest in Crown land, to be disposed of with the benefit of listed building consent or conservation area consent.
- (2) Notwithstanding the interest of the Crown in the land in question, an application for any such consent may be made—
  - (a) by the appropriate authority; or
  - (b) by any person authorised by that authority in writing;
 and, subject to subsections (3) and (4), all the statutory provisions relating to the making and determination of any such application shall accordingly apply as if the land were not Crown land.
- (3) Any listed building consent or conservation area consent granted by virtue of this section shall apply only—
  - (a) to works carried out after the land in question has ceased to be Crown land; and
  - (b) so long as that land continues to be Crown land, to works carried out by virtue of a private interest in the land.
- (4) The Secretary of State may by regulations—
  - (a) modify or exclude any of the statutory provisions referred to in subsection (2) in their application by virtue of that subsection and any other statutory provisions in their application to consents granted or made by virtue of this section;
  - (b) make provision for requiring a local planning authority to be notified of any disposal of, or of an interest in, any Crown land in respect of which an application has been made by virtue of this section; and
  - (c) make such other provision in relation to the making and determination of applications by virtue of this section as he thinks necessary or expedient.
- (5) This section shall not be construed as affecting any right to apply for any listed building consent or conservation area consent in respect of Crown land in a case in which such an application can be made by virtue of a private interest in the land.
- (6) In this section—
 

“statutory provisions” means provisions contained in or having effect under any enactment;

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

and references to the disposal of an interest in Crown land include references to the grant of an interest in such land.
- (7) Subsections (5), (7) and (8) of section 83 apply for the purposes of this section as they apply for the purposes of that section.
- (8) A person who is entitled to occupy Crown land by virtue of a licence in writing shall be treated for the purposes of this section as having an interest in land and references to the disposal or grant of an interest in Crown land and to a private interest in such land shall be construed accordingly.

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## 85 British Coal.

- (1) The Secretary of State for the Environment and the Secretary of State for Energy with the consent of the Treasury may by regulations direct that any of the provisions of sections 1(1) to (5), 2(1) to (3) [<sup>F9</sup>41(8)], 51, 52, 83, 88 (except subsection (3)) and 90(1) to (6) relating to statutory undertakers and land of such undertakers and any of the other provisions of this Act as they have effect for the purposes of any of those provisions shall apply to the British Coal Corporation as if it were a statutory undertaker.
- (2) Such regulations may apply those provisions subject to such adaptations, modifications and exceptions as may be specified in the regulations.

### Textual Amendments

- F9** “41(8)” inserted (*temp.* subject to S.I. 1991/2698, **arts.3, 4**) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 6, Sch. 4 paras. 1, **10**

## 86 Ecclesiastical property.

- (1) Without prejudice to the provisions of the <sup>M1</sup>Acquisition of Land Act 1981 with respect to notices served under that Act, where under any of the provisions of this Act a notice or copy of a notice is required to be served on an owner of land, and the land is ecclesiastical property, a similar notice or copy of a notice shall be served on the Church Commissioners.
- (2) Where the fee simple of any ecclesiastical property is in abeyance—
  - (a) if the property is situated in England, then for the purposes of section 11, this subsection (other than paragraph (b)) and sections 62, 63 and 83(1) and any other provisions of this Act so far as they apply or have effect for the purposes of any of those provisions, the fee simple shall be treated as being vested in the Church Commissioners;
  - (b) in any case, the fee simple shall, for the purposes of a compulsory acquisition of the property under section 47, be treated as being vested in the Church Commissioners, and any notice to treat shall be served, or be deemed to have been served, accordingly.
- (3) Any compensation payable under section 29 in respect of land which is ecclesiastical property—
  - (a) shall [<sup>F10</sup>in the case of land which is not diocesan glebe land, be paid to the Church Commissioners; and
  - (b) shall, in the case of diocesan glebe land, be paid to the Diocesan Board of Finance in which the land is vested,

and shall (in either case)]be applied by them for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising or disposing of the proceeds of such a sale.
- (4) In this section “ecclesiastical property” means land belonging to an ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction [<sup>F11</sup>or being diocesan glebe land; and “Diocesan Board of

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Finance” and “diocesan glebe land” have the same meaning as in the Endowments and Glebe Measure 1976].

#### Textual Amendments

- F10** Words in s. 86(3) substituted (25.9.1991 subject to a saving in S.I. 1991/2067, **art. 4(3)(4)**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1, 123:1), s. 70, **Sch. 15 Pt. II para. 31(1)**; S.I. 1991/2067, **arts.3, 4(3)(4)**
- F11** Words in s. 86(4) added (25.9.1991 subject to a saving in S.I. 1991/2067, **art. 4(3)(4)**) by Planning and Compensation Act 1991 (c. 34, SIF 28:1, 123:1), s. 70, **Sch. 15 Pt. II para. 31(2)**; S.I. 1991/2067, **arts.3, 4(3)(4)**

#### Marginal Citations

- M1** 1981 c.67.

### 87 Settled land.

The classes of works specified in Part II of Schedule 3 to the <sup>M2</sup>Settled Land Act 1925 (which specifies improvements which may be paid for out of capital money, subject to provisions under which repayment out of income may be required to be made) shall include works specified by the Secretary of State as being required for properly maintaining a listed building which is settled land within the meaning of that Act.

#### Marginal Citations

- M2** 1925 c.18.

### *Miscellaneous provisions*

### 88 Rights of entry.

- (1) Any person duly authorised in writing by the Secretary of State may at any reasonable time enter any land for the purpose of surveying any building on it [<sup>F12</sup>or any other land] in connection with a proposal to include the building in, or exclude it from, a list compiled or approved under section 1.
- (2) Any person duly authorised in writing by the Secretary of State, a local planning authority or, where the authorisation relates to a building situated in Greater London, the Commission may at any reasonable time enter any land for any of the following purposes—
  - (a) surveying it [<sup>F13</sup>or any other land] in connection with any proposal by the authority or the Secretary of State to make, issue or serve any order or notice under any of the provisions of sections 1 to 26, 38, 40, 46, 54, 55, 60, 68, 75 or 76 or under any order or regulations made under any of them, or any notice under section 48;
  - (b) ascertaining whether any such order or notice has been complied with [<sup>F14</sup>in relation to the land or any other land];
  - (c) ascertaining whether an offence has been, or is being, committed with respect to any building on the land [<sup>F15</sup>or any other land], under section 9, 11 or 43;

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- (d) ascertaining whether any [<sup>F16</sup>building on the land or any other land] is being maintained in a proper state of repair.
- (3) Any person duly authorised in writing by the Secretary of State, a local authority or, where the authorisation relates to a building situated in Greater London, the Commission may at any reasonable time enter any land for any of the following purposes—
- (a) ascertaining whether an offence has been or is being committed under section 59 [<sup>F17</sup>in relation to the land or any other land];
  - (b) ascertaining whether any of the functions conferred by section 54 should or may be exercised in connection with the land [<sup>F18</sup>or any other land]; or
  - (c) exercising any of those functions in connection with the land [<sup>F18</sup>or any other land].
- (4) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local planning authority may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation payable by the authority under section <sup>F19</sup> . . . 28 or 29 in respect of any land.
- (5) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local authority having power to acquire land under sections 47 to 52 may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land or in connection with any claim for compensation in respect of any such acquisition.
- (6) Subject to [<sup>F20</sup>section 88B(8)], any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil <sup>F21</sup> . . . .

<sup>F22</sup>(7) . . . . .

#### Textual Amendments

- F12** Words in s. 88(1) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. I para. 9(1)(a)**; S.I. 1991/2905, **art.3**
- F13** Words in s. 88(2)(a) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. I para. 9(1)(b)**; S.I. 1991/2905, **art.3**
- F14** Words in s. 88(2)(b) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. I para. 9(1)(c)**; S.I. 1991/2905, **art.3**
- F15** Words in s. 88(2)(c) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. I para. 9(1)(d)**; S.I. 1991/2905, **art.3**
- F16** Words in s. 88(2)(d) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. I para. 9(1)(e)**; S.I. 1991/2905, **art.3**
- F17** Words in s. 88(3)(a) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. I para. 9(1)(f)**; S.I. 1991/2905, **art.3**
- F18** Words in s. 88(3)(b) and (c) inserted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. I para. 9(1)(g)**; S.I. 1991/2905, **art.3**
- F19** S. 88(4): "27" repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **ss. 31(4), 84(6)** and 84(4), Schs. 6 para. 46, 19 Pt. II; S.I. 1991/2067, **art. 3**
- F20** Words in s. 88(6) substituted (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 25, **Sch. 3 Pt. II para.25**; S.I. 1991/2905, **art.3**
- F21** Words in s. 88(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. 25, 19 Pt.I; S.I. 1991/2905, **art.3 Sch. 2**

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**F22** For s. 88(7) there is substituted (2.1.1992) ss. 88A and 88B by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. I para. 9\(2\)](#); S.I. 1991/2905, [art.3](#)

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

- C6** 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. 88 extended (19.9.1995) by [1995 c. 25, ss. 70, 125\(2\)](#), [Sch. 9 para. 13\(5\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))
- C7** S. 88(5) 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](#))

**[<sup>F23</sup>88A Warrants to enter land.**

- (1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 88; and
  - (b) that—
    - (i) admission to the land has been refused, or a refusal is reasonably apprehended; or
    - (ii) the case is one of urgency,
 the justice may issue a warrant authorising any person duly authorised in writing by the appropriate authority to enter the land.
- (2) In subsection (1) “the appropriate authority” means the person who may authorise entry on the land under section 88 for the purpose in question.
- (3) For the purposes of subsection (1)(b)(i) admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.
- (4) A warrant authorises entry on one occasion only and that entry must be—
- (a) within one month from the date of the issue of the warrant; and
  - (b) at a reasonable hour, unless the case is one of urgency.]

**Textual Amendments**

**F23** Ss. 88A and 88B substituted (2.1.1992) for s. 88(7) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. I para. 9\(2\)](#); S.I. 1991/2905, [art.3](#)

**[<sup>F24</sup>88B Rights of entry: supplementary provisions.**

- (1) A person authorised under section 88 to enter any land shall not demand admission as of right to any land which is occupied unless twenty-four hours notice of the intended entry has been given to the occupier.
- (2) A person authorised to enter land in pursuance of a right of entry conferred under or by virtue of section 88 or 88A (referred to in this section as “a right of entry”)—
- (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;
  - (b) may take with him such other persons as may be necessary; and

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- (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.
- (3) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If any person who enters any land, in exercise of a right of entry, discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.
- (5) Subsection (4) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.
- (6) A person who is guilty of an offence under subsection (4) shall be liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.
- (7) If any damage is caused to land or chattels in the exercise of—
- (a) a right of entry; or
  - (b) a power conferred by virtue of section 88(6) in connection with such a right,
- compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State; and section 118 of the principal Act shall apply in relation to compensation under this subsection as it applies in relation to compensation under Part IV of that Act.
- (8) No person shall carry out any works in exercise of a power conferred under section 88 unless notice of his intention to do so was included in the notice required by subsection (1).
- (9) The authority of the appropriate Minister shall be required for the carrying out of works in exercise of a power conferred under section 88 if—
- (a) the land in question is held by statutory undertakers; and
  - (b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to the carrying on of their undertaking.
- (10) Section 265(1) and (3) of the principal Act (meaning of “appropriate Minister”) applies for the purposes of subsection (9) as it applies for the purposes of section 325(9) of the principal Act.

#### Textual Amendments

- F24** Ss. 88A and 88B substituted (2.1.1992) for s. 88(7) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 25, [Sch. 3 Pt. I para. 9\(2\)](#); S.I. 1991/2905, [art.3](#)

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VALID FROM 07/06/2006

### **[<sup>F25</sup>88C Rights of entry: Crown land**

- (1) Section 88 applies to Crown land subject to the following modifications.
- (2) A person must not enter Crown land unless he has the relevant permission.
- (3) Relevant permission is the permission of—
  - (a) a person appearing to the person seeking entry to the land to be entitled to give it, or
  - (b) the appropriate authority.
- (4) In subsection (6) the words “Subject to section 88B(8)” must be ignored.
- (5) Section 88B does not apply to anything done by virtue of this section.
- (6) “Appropriate authority” must be construed in accordance with section 82C(6).]

#### **Textual Amendments**

- F25** S. 88C inserted (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 79(4), 121(1), [Sch. 3 para. 14](#) (with s. 111); [S.I. 2006/1281](#), [art. 2\(c\)](#)

VALID FROM 06/04/2009

### **[<sup>F26</sup>88D Determination of procedure for certain proceedings**

- (1) The Secretary of State must make a determination as to the procedure by which proceedings to which this section applies are to be considered.
- (2) A determination under subsection (1) must provide for the proceedings to be considered in whichever of the following ways appears to the Secretary of State to be most appropriate—
  - (a) at a local inquiry;
  - (b) at a hearing;
  - (c) on the basis of representations in writing.
- (3) The Secretary of State must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.
- (4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.
- (5) The Secretary of State must notify the appellant or applicant (as the case may be) and the local planning authority of any determination made under subsection (1).
- (6) The Secretary of State must publish the criteria that are to be applied in making determinations under subsection (1).
- (7) This section applies to—



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- (a) an application referred to the Secretary of State under section 12 instead of being dealt with by a local planning authority in England;
  - (b) an appeal under section 20 against a decision of a local planning authority in England; and
  - (c) an appeal under section 39 against a listed building enforcement notice issued by a local planning authority in England.
- (8) The Secretary of State may by order amend subsection (7) to—
- (a) add proceedings under this Act to, or remove proceedings under this Act from, the list of proceedings to which this section applies, or
  - (b) otherwise modify the descriptions of proceedings under this Act to which this section applies.
- (9) An order under subsection (8) may—
- (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
  - (b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.]

#### Textual Amendments

**F26** S. 88D inserted (6.4.2009 for specified purposes, otherwise prosp.) by [Planning Act 2008 \(c. 29\)](#), ss. 196(2), 241(8) (with s. 226); S.I. 2009/400, [art. 3\(j\)](#)

## 89 Application of certain general provisions of principal Act.

- (1) Subject to subsection (2), the following provisions of the principal Act shall apply for the purposes of this Act as they apply for the purposes of that Act, namely—
- section 320 (local inquiries),
  - [<sup>F27</sup>section 322 (orders as to costs of parties where no inquiry held)],
  - section [<sup>F28</sup>322A (orders as to costs: supplementary)] 323 (procedure on certain appeals and applications),
  - section 329 (service of notices),
  - section 330 (power to require information as to interests in land),
  - section 331 (offences by corporations).

- (2) Section 331 of that Act shall not apply to offences under section 59 of this Act.

[<sup>F29</sup>(3) In the application of section 330 by virtue of this section, references to a local authority include the Commission.]

#### Textual Amendments

**F27** Words from “section 322” to “held)” omitted (*temp.*) by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 6, Sch. 4 paras. 1, 11 (which temp. omission 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](#)))

**F28** Words in s. 89(1) inserted (2.1.1992 subject to saving in S.I. 1991/2728, [art. 4](#)) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 30(2); S.I. 1991/2728, [arts. 3, 4](#)

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**F29** S. 89(3) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 29\(2\)](#); [S.I. 1991/2067, art. 3](#)

## 90 Financial provisions.

### (1) Where—

- (a) compensation is payable by a local authority under this Act in consequence of any decision or order given or made under Chapters I, II or IV of Part I or sections 32 to 37, 60 or Schedule 3; and
- (b) the decision or order in consequence of which it is payable was given or made wholly or partly in the interest of a service which is provided by a government department and the cost of which is defrayed out of money provided by Parliament,

the Minister responsible for the administration of that service may pay that authority a contribution of such amount as he may with the consent of the Treasury determine.

### (2) Any local authority and any statutory undertakers may contribute towards any expenses incurred by a local planning authority in or in connection with the performance of any of their functions under the provisions of Chapters I to V of Part I (other than sections <sup>F30</sup>28] to 31, 53, 54, 55, 57, 58) and sections 66 and 68 and Schedule 1.

### (3) Where any expenses are incurred by a local authority in the payment of compensation payable in consequence of anything done under Chapters I, II or IV of Part I or sections 32 to 37, 56, 59, 60, 66(1), 67, 68 or 73, the Secretary of State may, if it appears to him to be expedient to do so, require any other local authority to contribute towards those expenses such sum as appears to him to be reasonable, having regard to any benefit accruing to that authority by reason of the proceeding giving rise to the compensation.

### (4) For the purposes of subsections (2) and (3), contributions made by a local planning authority towards the expenditure of a joint advisory committee shall be deemed to be expenses incurred by that authority for the purposes for which that expenditure is incurred by the committee.

### (5) The council of a county may direct that any expenses incurred by them under the provisions specified in subsection (6) shall be treated as special expenses of a county council chargeable upon such part of the county as may be specified in the directions.

### (6) Those provisions are—

- (a) sections 1(1) to (5), 2(1) to (3) [<sup>F31</sup>41(8)], 51, 52, 64, 65, 66(2), 82(1) and (4)(b), 83, 86 (except subsection (2)(a)), 87, 88 (except subsection (3)) and subsections (1) to (4) of this section and any other provisions of the planning Acts in so far as they apply, or have effect for the purposes of, any of those provisions; and
- (b) sections 1(6), 3, 4, 5, 7 to 29, 32 to 50 (except 39(6) <sup>F32</sup> . . .), 60(1) to (4), 61, 66(1), 67(2)(b),(6) and (7), 73(1) (so far as it applies to section 67(2)(b), (6) and (7)), 82(2), (3) and (4)(a) and Schedules 1, 2 and 3.

### (7) There shall be paid out of money provided by Parliament—

- (a) any sums necessary to enable the Secretary of State to make any payments becoming payable by him under sections [<sup>F33</sup>28 or] 29;
- (b) any expenses incurred by any government department (including the Secretary of State) in the acquisition of land under sections 47 to 52 or

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in the payment of compensation under section 51(4) or 88(7) or under subsection (1);

- (c) any administrative expenses incurred by the Secretary of State for the purposes of this Act.

- (8) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

#### Textual Amendments

- F30** Word in s. 90(2) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31(4) Sch. 6 para. 47(1); S.I. 1991/2067, art. 3
- F31** “41(8)” inserted (*temp.*) by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, Sch. 4 paras. 1, 10 (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))
- F32** Words in s. 90(6)(b) repealed (2.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 25, 84(6) Schs. 3 Pt. II para. 26, 19 Pt.I; S.I. 1991/2905, art.3, sch. 2
- F33** Words in s. 90(7)(a) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 31(4) Sch. 6 para. 47(2); S.I. 1991/2067, art. 3

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

- C8** S. 90(1)-(4) extended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), Sch. 9 para. 13(6) (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C9** S. 90(2)-(4) applied (with modifications) by S.I. 1990/1519, reg. 12, Sch. 3

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