



# Planning (Listed Buildings and Conservation Areas) Act 1990

## 1990 CHAPTER 9

### PART III

#### GENERAL

##### *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).

##### *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, 39(6), 42(6) and 55(6) 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 sections 39(6) and 42(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).

### **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.
- (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.

#### **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.

## **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), 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.

## **86 Ecclesiastical property**

- (1) Without prejudice to the provisions of the 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 be paid to the Church Commissioners, and
  - (b) shall 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.

## **87 Settled land**

The classes of works specified in Part II of Schedule 3 to the 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.

### *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 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 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;
  - (c) ascertaining whether an offence has been, or is being, committed with respect to any building on the land, under section 9, 11 or 43;
  - (d) ascertaining whether any such building 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;
  - (b) ascertaining whether any of the functions conferred by section 54 should or may be exercised in connection with the land; or
  - (c) exercising any of those functions in connection with the 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 27, 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 subsection (7), 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 or the presence of minerals in it.
- (7) Section 325 of the principal Act (supplementary provisions as to rights of entry) applies in relation to this section as it applies in relation to section 324 of that Act taking the reference in section 325(8) to section 324(8) as a reference to subsection (6) of this section.

## **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),
  - section 322 (orders as to costs of parties where no inquiry held),
  - section 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.

## **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 27 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), 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) and 42(6)), 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 27 to 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 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.