

Status: Point in time view as at 01/04/2003.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, Paragraph 9. (See end of Document for details)

SCHEDULES

SCHEDULE 3

LISTED BUILDINGS, CONSERVATION AREAS AND HAZARDOUS SUBSTANCES

PART I

CHANGES RELATING TO ENFORCEMENT

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

- 9 (1) In section 88 of that Act (rights of entry)—
- (a) in subsection (1) after “on it” there is inserted “ or any other land ”,
 - (b) in subsection (2)(a) after “surveying it” there is inserted “ or any other land ”,
 - (c) in subsection (2)(b) after “complied with” there is inserted “ in relation to the land or any other land ”,
 - (d) in subsection (2)(c) after “on the land” there is inserted “ or any other land ”,
 - (e) in subsection (2)(d) for “such building” there is substituted “ building on the land or any other land ”,
 - (f) in subsection (3)(a) after “section 59” there is inserted “ in relation to the land or any other land ”, and
 - (g) in subsection (3)(b) and (c) after “the land” there is inserted “ or any other land ”.
- (2) For subsection (7) of that section there is substituted—

“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.

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- (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.

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
 - (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—

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- (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.”

Commencement Information

II Sch. 3 para. 9 wholly in force at 2.1.1992, see s. 84(2)(3) and S.I. 1991/2905, arts. 3, 5

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