



# Planning and Compensation Act 1991

## 1991 CHAPTER 34

### PART I

#### TOWN AND COUNTRY PLANNING: ENGLAND AND WALES

##### *Controls over particular matters*

#### **23** Trees.

- (1) In section 207 of the principal Act (enforcement of duties as to replacement of trees) for subsections (3) and (4) there is substituted—

“(3) A notice under subsection (1) shall specify a period at the end of which it is to take effect.

(4) The specified period shall be a period of not less than twenty-eight days beginning with the date of service of the notice.”

- (2) In section 208 (appeals against section 207 notices) in subsection (1) after paragraph (a) there is inserted—

“(aa) that in all the circumstances of the case the duty imposed by section 206(1) should be dispensed with in relation to any tree;”

- (3) For subsections (2) and (3) of that section there is substituted—

“(2) An appeal under subsection (1) shall be made either—

- (a) by giving written notice of the appeal to the Secretary of State before the end of the period specified in accordance with section 207(3); 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 the end of that period.”

- (4) For subsections (7) and (8) of that section there is substituted—

“(7) On such an appeal the Secretary of State may—

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*Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, Section 23. (See end of Document for details)*

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- (a) correct any defect, error or misdescription in the notice; or
  - (b) vary any of its requirements,
- if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
- (8) Where the Secretary of State determines to allow the appeal, he may quash the notice.
- (8A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.”
- (5) For section 209(6) there is substituted—
- “(6) Any person who wilfully obstructs a person acting in the exercise of the power under subsection (1)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
- (6) In section 210 (penalties for non-compliance with tree preservation order)—
- (a) in subsection (2) for paragraph (a) there is substituted—
    - “(a) on summary conviction to a fine not exceeding £20,000;”
  - (b) in subsection (3) “on indictment” is omitted; and
  - (c) subsection (5) is omitted.
- (7) After section 214 there is inserted—

*“ Injunctions*

**214A Injunctions.**

- (1) Where a local planning authority consider it necessary or expedient for an actual or apprehended offence under section 210 or 211 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 Chapter.
- (2) Subsections (2) to (4) of section 187B apply to an application under this section as they apply to an application under that section.

*Rights of entry*

**214B Rights to enter without warrant.**

- (1) Any person duly authorised in writing by a local planning authority may enter any land for the purpose of—
  - (a) surveying it in connection with making or confirming a tree preservation order with respect to the land;
  - (b) ascertaining whether an offence under section 210 or 211 has been committed on the land; or
  - (c) determining whether a notice under section 207 should be served on the owner of the land,
 if there are reasonable grounds for entering for the purpose in question.

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- (2) Any person duly authorised in writing by the Secretary of State may enter any land for the purpose of surveying it in connection with making, amending or revoking a tree preservation order with respect to the land, if there are reasonable grounds for entering for that purpose.
- (3) Any person who is duly authorised in writing by a local planning authority may enter any land in connection with the exercise of any functions conferred on the authority by or under this Chapter.
- (4) Any person who is an officer of the Valuation Office may enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of any land which is payable by the local planning authority under this Chapter (other than section 204).
- (5) Any person who is duly authorised in writing by the Secretary of State may enter any land in connection with the exercise of any functions conferred on the Secretary of State by or under this Chapter.
- (6) The Secretary of State shall not authorise any person as mentioned in subsection (2) without consulting the local planning authority.
- (7) Admission shall not be demanded as of right—
  - (a) by virtue of subsection (1) or (2) to any building used as a dwellinghouse; or
  - (b) by virtue of subsection (3), (4) or (5) to any land which is occupied, unless twenty-four hours' notice of the intended entry has been given to the occupier.
- (8) Any right to enter by virtue of this section shall be exercised at a reasonable hour.

#### **214C Right to enter under warrant.**

- (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 214B(1) or (2); 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 a local planning authority or, as the case may be, the Secretary of State to enter the land.
- (2) 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.
- (3) 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.

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### **214D Rights of entry: supplementary provisions.**

- (1) Any power conferred under or by virtue of section 214B or 214C to enter land (referred to in this section as “a right of entry”) shall be construed as including power to take samples from any tree and samples of the soil.
- (2) A person authorised to enter land in the exercise of 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 damage is caused to land or chattels in the exercise of a right of entry, 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.
- (5) The provisions of section 118 shall apply in relation to compensation under subsection (4) as they apply in relation to compensation under Part IV.”
- (8) In section 324 (rights of entry)—
  - (a) in subsection (1), in paragraph (b) “198 to 200” is omitted;
  - (b) in paragraph (c) of that subsection for “or Part VIII” there is inserted “ or Chapter 2 or 3 of Part VIII ”;
  - (c) subsection (2) is omitted; and
  - (d) in subsection (5) for “Part VIII (other than section 204)” there is substituted “ Chapter 2 or 3 of Part VIII ”.

#### **Commencement Information**

- II** S. 23 wholly in force: s.23(7) in force for certain purposes at 25.11.1991, see s. 84(2)(3) and S.I. 1991/2728, art. 2; s. 23 (so far as not already in force) in force at 2.1.1992 by S.I. 1991/2905, arts. 3, 5.

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