



Planning (Listed Buildings and Conservation Areas) Act 1990

1990 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER 1

LISTING OF SPECIAL BUILDINGS

1 Listing of buildings of special architectural or historic interest

- (1) For the purposes of this Act and with a view to the guidance of local planning authorities in the performance of their functions under this Act and the principal Act in relation to buildings of special architectural or historic interest, the Secretary of State shall compile lists of such buildings, or approve, with or without modifications, such lists compiled by the Historic Buildings and Monuments Commission for England (in this Act referred to as “the Commission”) or by other persons or bodies of persons, and may amend any list so compiled or approved.
- (2) The Secretary of State shall not approve any list compiled by the Commission if the list contains any building situated outside England.
- (3) In considering whether to include a building in a list compiled or approved under this section, the Secretary of State may take into account not only the building itself but also—
 - (a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and
 - (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.

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- (4) Before compiling, approving (with or without modifications) or amending any list under this section the Secretary of State shall consult—
- (a) in relation to buildings which are situated in England, with the Commission; and
 - (b) with such other persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.
- (5) In this Act “listed building” means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; and for the purposes of this Act—
- (a) any object or structure fixed to the building;
 - (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948,
- shall be treated as part of the building.
- (6) Schedule 1 shall have effect for the purpose of making provision as to the treatment as listed buildings of certain buildings formerly subject to building preservation orders.

2 Publication of lists

- (1) As soon as possible after any list has been compiled or approved under section 1 or any amendments of such a list have been made, a copy of so much of the list as relates to any district or London borough or, as the case may be, of so much of the amendments as so relates, certified by or on behalf of the Secretary of State to be a true copy, shall be deposited—
- (a) in the case of a London borough, with the council of the borough and with the chief officer of the Commission; and
 - (b) in the case of a district—
 - (i) with the district council;
 - (ii) with the county planning authority whose area or any part of whose area includes the district, or any part of it; and
 - (iii) where the district council are not the district planning authority, with that authority.
- (2) Any copy deposited under subsection (1) shall be a local land charge, and the council with whom a copy is deposited shall be treated for the purposes of the Local Land Charges Act 1975 as the originating authority as respects the charge constituted by the deposit.
- (3) As soon as possible after the inclusion of any building in a list under section 1 (whether it is included when the list is compiled, approved or amended) or as soon as possible after any such list has been amended by the exclusion of any building from it—
- (a) the Secretary of State shall inform the council of the district or London borough in whose area the building is situated of the inclusion or exclusion; and
 - (b) the council shall serve a notice in the prescribed form on every owner and occupier of the building, stating that the building has been included in or excluded from the list.

- (4) The Secretary of State shall keep available for public inspection free of charge at reasonable hours and at a convenient place, copies of all lists and amendments of lists, compiled, approved or made by him under section 1.
- (5) Every authority with whom copies of any list or amendments are deposited under this section shall similarly keep available copies of so much of any such list or amendment as relates to buildings within their area.
- (6) For the purposes of subsection (5) the Commission shall be taken to be an authority whose area is Greater London.

3 Temporary listing: building preservation notices

- (1) If it appears to a local planning authority, other than a county planning authority, that a building in their area which is not a listed building—
 - (a) is of special architectural or historic interest; and
 - (b) is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest,they may serve on the owner and occupier of the building a notice (in this Act referred to as a “building preservation notice”).
- (2) A building preservation notice served by a local planning authority shall—
 - (a) state that the building appears to them to be of special architectural or historic interest and that they have requested the Secretary of State to consider including it in a list compiled or approved under section 1; and
 - (b) explain the effect of subsections (3) to (5) and Schedule 2.
- (3) A building preservation notice—
 - (a) shall come into force as soon as it has been served on both the owner and occupier of the building to which it relates; and
 - (b) subject to subsection (4), shall remain in force for six months from the date when it is served or, as the case may be, last served.
- (4) A building preservation notice shall cease to be in force if the Secretary of State—
 - (a) includes the building in a list compiled or approved under section 1, or
 - (b) notifies the local planning authority in writing that he does not intend to do so.
- (5) While a building preservation notice is in force with respect to a building, the provisions of this Act (other than section 59) and the principal Act shall have effect in relation to the building as if it were a listed building.
- (6) If, following the service of a building preservation notice, the Secretary of State notifies the local planning authority that he does not propose to include the building in a list compiled or approved under section 1, the authority shall immediately give notice of that decision to the owner and occupier of the building.
- (7) Following such a notification by the Secretary of State no further building preservation notice in respect of the building shall be served by the local planning authority within the period of 12 months beginning with the date of the notification.
- (8) The Commission shall, as respects any London borough, have concurrently with the council of that borough the functions of a local planning authority under this section; and references to the local planning authority shall be construed accordingly.

4 Temporary listing in urgent cases

- (1) If it appears to the local planning authority to be urgent that a building preservation notice should come into force, they may, instead of serving the notice on the owner and occupier of the building, affix the notice conspicuously to some object on the building.
- (2) The affixing of a notice under subsection (1) shall be treated for all the purposes of section 3, this section, sections 5 and 10 to 26 and Schedule 2 as service of the notice.
- (3) A notice which is so affixed must explain that by virtue of being so affixed it is treated as being served for those purposes.
- (4) The Commission shall, as respects any London borough, have concurrently with the council of that borough the functions of a local planning authority under this section; and references to the local planning authority shall be construed accordingly.

5 Provisions applicable on lapse of building preservation notice

Schedule 2 to this Act shall have effect as respects the lapse of building preservation notices.

6 Issue of certificate that building not intended to be listed

- (1) Where—
 - (a) application has been made for planning permission for any development involving the alteration, extension or demolition of a building; or
 - (b) any such planning permission has been granted;the Secretary of State may, on the application of any person, issue a certificate stating that he does not intend to list the building.
- (2) The issue of such a certificate in respect of a building shall—
 - (a) preclude the Secretary of State for a period of 5 years from the date of issue from exercising in relation to that building any of the powers conferred on him by section 1; and
 - (b) preclude the local planning authority for that period from serving a building preservation notice in relation to it.
- (3) Notice of an application under subsection (1) shall be given to the local planning authority within whose area the building is situated at the same time as the application is submitted to the Secretary of State.
- (4) In this section “local planning authority”, in relation to a building in Greater London, includes the Commission.

CHAPTER II

AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

Control of works in respect of listed buildings

7 Restriction on works affecting listed buildings

Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised.

8 Authorisation of works: listed building consent

- (1) Works for the alteration or extension of a listed building are authorised if—
 - (a) written consent for their execution has been granted by the local planning authority or the Secretary of State; and
 - (b) they are executed in accordance with the terms of the consent and of any conditions attached to it.
- (2) Works for the demolition of a listed building are authorised if—
 - (a) such consent has been granted for their execution;
 - (b) notice of the proposal to execute the works has been given to the Royal Commission;
 - (c) after such notice has been given either—
 - (i) for a period of at least one month following the grant of such consent, and before the commencement of the works, reasonable access to the building has been made available to members or officers of the Royal Commission for the purpose of recording it; or
 - (ii) the Secretary of the Royal Commission, or another officer of theirs with authority to act on their behalf for the purposes of this section, has stated in writing that they have completed their recording of the building or that they do not wish to record it; and
 - (d) the works are executed in accordance with the terms of the consent and of any conditions attached to it.
- (3) Where—
 - (a) works for the demolition of a listed building or for its alteration or extension are executed without such consent; and
 - (b) written consent is granted by the local planning authority or the Secretary of State for the retention of the works,the works are authorised from the grant of that consent.
- (4) In this section “the Royal Commission” means—
 - (a) in relation to England, the Royal Commission on the Historical Monuments of England; and
 - (b) in relation to Wales, the Royal Commission on Ancient and Historical Monuments in Wales.

- (5) The Secretary of State may by order provide that subsection (2) shall have effect with the substitution for the references to the Royal Commission of references to such other body as may be so specified.
- (6) Such an order—
 - (a) shall apply in the case of works executed or to be executed on or after such date as may be specified in the order; and
 - (b) may apply in relation to either England or Wales, or both.
- (7) Consent under subsection (1), (2) or (3) is referred to in this Act as “listed building consent”.

9 Offences

- (1) If a person contravenes section 7 he shall be guilty of an offence.
- (2) Without prejudice to subsection (1), if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent, he shall be guilty of an offence.
- (3) In proceedings for an offence under this section it shall be a defence to prove the following matters—
 - (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;
 - (b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter;
 - (c) that the works carried out were limited to the minimum measures immediately necessary; and
 - (d) that notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.
- (4) A person who is guilty of an offence under this section shall be liable—
 - (a) on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both; or
 - (b) on conviction on indictment to imprisonment for a term not exceeding twelve months or a fine, or both.
- (5) In determining the amount of any fine to be imposed on a person convicted on indictment of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

Applications for listed building consent

10 Making of applications for listed building consent

- (1) Except as provided in sections 12 to 15, an application for listed building consent shall be made to and dealt with by the local planning authority.
- (2) Such an application shall be made in such form as the authority may require and shall contain—

- (a) sufficient particulars to identify the building to which it relates, including a plan;
 - (b) such other plans and drawings as are necessary to describe the works which are the subject of the application; and
 - (c) such other particulars as may be required by the authority.
- (3) Provision may be made by regulations under this Act with respect to—
- (a) the manner in which such applications are to be made;
 - (b) the manner in which they are to be advertised; and
 - (c) the time within which they are to be dealt with by local planning authorities or, as the case may be, by the Secretary of State.

11 Certificates as to applicant's status etc

- (1) Regulations under this Act may provide that an application for listed building consent shall not be entertained unless it is accompanied by one of the following certificates in the prescribed form and signed by or on behalf of the applicant—
- (a) a certificate stating that, at the beginning of the period of 21 days ending with the date of the application, no person (other than the applicant) was the owner of any of the building to which the application relates;
 - (b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than himself) who at the beginning of that period were owners of any of the building to which the application relates;
 - (c) a certificate stating—
 - (i) that the applicant is unable to issue a certificate in accordance with paragraph (a) or (b);
 - (ii) that he has given the requisite notice of the application to such one or more of the persons mentioned in paragraph (b) as are specified in the certificate; and
 - (iii) that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons but has been unable to do so;
 - (d) a certificate stating—
 - (i) that the applicant is unable to issue a certificate in accordance with paragraph (a); and
 - (ii) that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in paragraph (b) but has been unable to do so.
- (2) Where such provision is made any such certificate as is mentioned in subsection (1) (b) or (c) must set out—
- (a) the names of the persons to whom the applicant has given the requisite notice of the application;
 - (b) the addresses at which notice was given to them; and
 - (c) the date of service of each such notice.
- (3) Such regulations may require that any such certificate as is mentioned in subsection (1) (c) or (d) shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (which must not be earlier than the beginning of the period mentioned in subsection (1)(a)) been published in a local newspaper circulating in the locality in which the building is situated.

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- (4) Such regulations may also require that where an application is accompanied by such a certificate as is mentioned in subsection (1)(b),(c) or (d), the local planning authority—
- (a) shall not determine the application before the end of the period of 21 days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or, if later, the date of publication of a notice as so mentioned;
 - (b) shall in determining the application take into account any representations relating to it which are made to them before the end of that period by any person who satisfies them that he is an owner of any of the building to which the application relates; and
 - (c) shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with paragraph (b).
- (5) Such regulations may also make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision made by virtue of this section.
- (6) If any person—
- (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or
 - (b) recklessly issues a certificate which purports to comply with those requirements and contains a statement which is false or misleading in a material particular,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Subject to subsection (5), in this section “owner” means a person who is for the time being the estate owner in respect of the fee simple or is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired.

12 Reference of certain applications to Secretary of State

- (1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the local planning authority.
- (2) A direction under this section may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.
- (3) An application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.
- (4) Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant or the authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.
- (5) The decision of the Secretary of State on any application referred to him under this section shall be final.

13 Duty to notify Secretary of State of applications

- (1) If a local planning authority (other than a London borough council) to whom application is made for listed building consent, or a London borough council to whom such an application is made by the Commission, intend to grant listed building consent they shall first notify the Secretary of State of the application, giving particulars of the works for which the consent is required.
- (2) The Secretary of State may within the period of 28 days beginning with the date of such a notification—
 - (a) direct the reference of the application to him under section 12; or
 - (b) give notice to the authority that he requires further time in which to consider whether to require such a reference.
- (3) The local planning authority shall not grant listed building consent until—
 - (a) the period mentioned in subsection (2) has expired without the Secretary of State directing the reference of the application to him or giving them notice under paragraph (b) of that subsection; or
 - (b) the Secretary of State has notified them that he does not intend to require the reference of the application.

14 Duty of London borough councils to notify Commission

- (1) Where an application for listed building consent is made to a local planning authority which is a London borough council—
 - (a) unless the authority have determined to refuse it, they shall notify the Commission of the application, giving particulars of the works for which the consent is required; and
 - (b) the authority shall not grant the consent unless they are authorised or directed to do so under subsection (2)(a).
- (2) On receipt of such a notification the Commission may—
 - (a) subject to subsection (6), give the local planning authority directions as to the granting of the application or authorise them to determine the application as they think fit; or
 - (b) direct them to refuse the application.
- (3) If the Commission intend to exercise either of their powers under subsection (2)(a), they shall notify the Secretary of State of the application giving particulars of the works for which the consent is required.
- (4) Where the Commission direct the local planning authority under subsection (2)(b) to refuse listed building consent, the authority may, within 28 days from the date of the direction, notify the Secretary of State of the application giving particulars of the works for which the consent is required.
- (5) The Secretary of State may within the period of 28 days beginning with the date of a notification under subsection (3) or (4)—
 - (a) direct the reference of the application to him; or
 - (b) give notice to the authority who notified him or, as the case may be, the Commission that he requires further time in which to consider whether to require such a reference.

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- (6) The Commission shall not direct the local planning authority under subsection (2)(a) to grant the application or authorise them to determine it as they think fit unless—
- (a) the period mentioned in subsection (5) has expired without the Secretary of State directing the reference of the application to him or giving them notice under paragraph (b) of that subsection; or
 - (b) he has notified them that he does not intend to require the reference of the application.
- (7) Where the local planning authority notify the Secretary of State as mentioned in subsection (4), they shall not refuse the application unless—
- (a) a period of 28 days beginning with the date of the notification has expired without the Secretary of State directing the reference of the application to him or giving them notice under subsection (5)(b); or
 - (b) he has notified the authority that he does not intend to require the reference of the application.
- (8) Where, after receiving notification under subsection (4), the Secretary of State directs the reference of the application to him, before determining the application he shall, if either the applicant or the authority or, as the case may be, the Commission so desire, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.
- (9) Subsection (1) shall not apply where the application for listed building consent is made by the Commission.

15 Directions concerning notification of applications etc

- (1) The Secretary of State may direct that, in the case of such descriptions of applications for listed building consent as he may specify, sections 13 and 14 shall not apply.
- (2) Where a direction is in force under subsection (1) in respect of any description of application, local planning authorities may determine applications of that description in any manner they think fit, without notifying the Secretary of State or, as the case may be, the Commission.
- (3) Before giving a direction under subsection (1) in respect of any description of application for consent to the demolition of a building in England, the Secretary of State shall consult the Commission.
- (4) Where a direction is in force under subsection (1), the Secretary of State may direct a local planning authority that section 13 or, as the case may be, section 14 shall nevertheless apply—
- (a) to a particular application for listed building consent; or
 - (b) to such descriptions of application for listed building consent as are specified in the direction;
- and such a direction has effect in relation to any such application which has not been disposed of by the authority by their granting or refusing consent.
- (5) Without prejudice to sections 10 to 14, the Secretary of State may give directions to local planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify him and such other persons as may be so specified—
- (a) of any applications made to the authorities for listed building consent; and

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- (b) of the decisions taken by the authorities on those applications.
- (6) Directions under subsection (1) or (5) may be given to authorities generally or to particular authorities or descriptions of authority.

16 Decision on application

- (1) Subject to the previous provisions of this Part, the local planning authority or, as the case may be, the Secretary of State may grant or refuse an application for listed building consent and, if they grant consent, may grant it subject to conditions.
- (2) In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- (3) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested in it.

Grant of consent subject to conditions

17 Power to impose conditions on grant of listed building consent

- (1) Without prejudice to the generality of section 16(1), the conditions subject to which listed building consent may be granted may include conditions with respect to—
 - (a) the preservation of particular features of the building, either as part of it or after severance from it;
 - (b) the making good, after the works are completed, of any damage caused to the building by the works;
 - (c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.
- (2) A condition may also be imposed requiring specified details of the works (whether or not set out in the application) to be approved subsequently by the local planning authority or, in the case of consent granted by the Secretary of State, specifying whether such details are to be approved by the local planning authority or by him.
- (3) Listed building consent for the demolition of a listed building may be granted subject to a condition that the building shall not be demolished before—
 - (a) a contract for the carrying out of works of redevelopment of the site has been made; and
 - (b) planning permission has been granted for the redevelopment for which the contract provides.

18 Limit of duration of listed building consent

- (1) Subject to the provisions of this section, every listed building consent shall be granted subject to the condition that the works to which it relates must be begun not later than the expiration of—
 - (a) five years beginning with the date on which the consent is granted; or

- (b) such other period (whether longer or shorter) beginning with that date as the authority granting the consent may direct, being a period which the authority considers appropriate having regard to any material considerations.
- (2) If listed building consent is granted without the condition required by subsection (1), it shall be deemed to have been granted subject to the condition that the works to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.
- (3) Nothing in this section applies to any consent to the retention of works granted under section 8(3).

19 Application for variation or discharge of conditions

- (1) Any person interested in a listed building with respect to which listed building consent has been granted subject to conditions may apply to the local planning authority for the variation or discharge of the conditions.
- (2) The application shall indicate what variation or discharge of conditions is applied for.
- (3) Sections 10 to 15 apply to such an application as they apply to an application for listed building consent.
- (4) On such an application the local planning authority or, as the case may be, the Secretary of State may vary or discharge the conditions attached to the consent, and may add new conditions consequential upon the variation or discharge, as they or he thinks fit.

Appeals

20 Right to appeal against decision or failure to take decision

- (1) Where a local planning authority—
 - (a) refuse an application for listed building consent or grant it subject to conditions;
 - (b) refuse an application for the variation or discharge of conditions subject to which such consent has been granted or grant it and add new conditions; or
 - (c) refuse an application for approval required by a condition imposed on the granting of listed building consent with respect to details of works or grant it subject to conditions,
 the applicant, if aggrieved by the decision, may appeal to the Secretary of State.
- (2) A person who has made such an application may also appeal to the Secretary of State if the local planning authority have neither—
 - (a) given notice to the applicant of their decision on the application; nor
 - (b) in the case of such an application as is mentioned in paragraph (a) or (b) of subsection (1), given notice to the applicant that the application has been referred to the Secretary of State in accordance with directions given under section 12,
 within the relevant period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.
- (3) In this section “the relevant period” means—

- (a) in the case of such an application as is mentioned in paragraph (a) or (b) of subsection (1), such period as may be prescribed; and
 - (b) in the case of such an application for approval as is mentioned in paragraph (c) of subsection (1), the period of eight weeks from the date of the receipt of the application.
- (4) For the purposes of the application of sections 22(1) and 63(7)(b) in relation to an appeal under subsection (2) it shall be assumed that the authority decided to refuse the application in question.

21 Appeals: supplementary provisions

- (1) An appeal under section 20 must be made by notice served in the prescribed manner within such period as may be prescribed.
- (2) The period which may be prescribed under subsection (1) must not be less than—
- (a) in the case of an appeal under subsection (1) of section 20, 28 days from the receipt by the applicant of notification of the decision; or
 - (b) in the case of an appeal under subsection (2) of that section, 28 days from the end of the relevant period (within the meaning of that section) or, as the case may be, the extended period there mentioned.
- (3) The notice of appeal may include as the ground or one of the grounds of the appeal a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 1.
- (4) In the case of a building with respect to which a listed building preservation notice is in force, the notice may include a claim that the building should not be included in such a list.
- (5) Regulations under this Act may provide that an appeal in respect of an application for listed building consent or for the variation or discharge of conditions subject to which such consent has been granted shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one of those described in subsection (1) of section 11.
- (6) Any such regulations may also include provisions corresponding to those which may be included in the regulations which may be made by virtue of section 11.
- (7) If any person—
- (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of subsection (5) or (6) and contains a statement which he knows to be false or misleading in a material particular; or
 - (b) recklessly issues a certificate which purports to comply with those requirements and contains a statement which is false or misleading in a material particular,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

22 Determination of appeals

- (1) The Secretary of State may allow or dismiss an appeal under section 20 or may reverse or vary any part of the authority's decision (whether or not the appeal relates to that part), and—

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- (a) may deal with the application as if it had been made to him in the first instance; and
 - (b) may exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.
- (2) Before determining the appeal, the Secretary of State shall, if either the applicant or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (3) The decision of the Secretary of State on the appeal shall be final.
- (4) Schedule 3 applies to appeals under section 20.

Revocation and modification of consent

23 Revocation and modification of listed building consent by local planning authority

- (1) If it appears to the local planning authority that it is expedient to revoke or modify any listed building consent granted on an application under this Act, the authority may by order revoke or modify the consent to such extent as they consider expedient.
- (2) In performing their functions under subsection (1) the local planning authority shall have regard to the development plan and to any other material considerations.
- (3) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

24 Procedure for s. 23 orders: opposed cases

- (1) Except as provided in section 25, an order made by a local planning authority under section 23 shall not take effect unless it is confirmed by the Secretary of State.
- (2) Where a local planning authority submit such an order to the Secretary of State for confirmation they shall serve notice on—
 - (a) the owner of the building affected;
 - (b) the occupier of that building; and
 - (c) any other person who in their opinion will be affected by the order.
- (3) The notice shall specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) If within that period a person on whom the notice is served so requires, the Secretary of State shall give such an opportunity both to that person and to the local planning authority before he confirms the order.
- (5) The Secretary of State may confirm an order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

25 Procedure for s. 23 orders: unopposed cases

- (1) This section shall have effect where—
 - (a) the local planning authority have made an order under section 23 revoking or modifying a listed building consent granted by them; and
 - (b) the owner and occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order.
- (2) Where this section applies, instead of submitting the order to the Secretary of State for confirmation the authority shall—
 - (a) advertise in the prescribed manner the fact that the order has been made, specifying in the advertisement—
 - (i) the period within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before and being heard by a person appointed by him for the purpose; and
 - (ii) the period at the end of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section without being confirmed by him;
 - (b) serve notice to the same effect on the persons mentioned in subsection (1)(b);
 - (c) send a copy of any such advertisement to the Secretary of State not more than three days after its publication.
- (3) If—
 - (a) no person claiming to be affected by the order has given notice to the Secretary of State as mentioned in subsection (2)(a)(i) within the period referred to in that subsection; and
 - (b) the Secretary of State has not directed within that period that the order be submitted to him for confirmation,the order shall take effect at the end of the period referred to in subsection (2)(a)(ii) without being confirmed by the Secretary of State as required by section 24(1).
- (4) The period referred to in subsection (2)(a)(i) must not be less than 28 days from the date on which the advertisement first appears.
- (5) The period referred to in subsection (2)(a)(ii) must not be less than 14 days from the end of the period referred to in subsection (2)(a)(i).

26 Revocation and modification of listed building consent by the Secretary of State

- (1) If it appears to the Secretary of State that it is expedient that an order should be made under section 23 revoking or modifying any listed building consent granted on an application under this Act, he may himself make such an order revoking or modifying the consent to such extent as he considers expedient.
- (2) In performing his functions under subsection (1) the Secretary of State shall have regard to the development plan and to any other material considerations.
- (3) The Secretary of State shall not make an order under that subsection without consulting the local planning authority.
- (4) Where the Secretary of State proposes to make such an order he shall serve notice on—

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- (a) the owner of the building affected;
 - (b) the occupier of that building; and
 - (c) any other person who in his opinion will be affected by the order.
- (5) The notice shall specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (6) If within that period a person on whom it is served so requires, before the Secretary of State makes the order he shall give such an opportunity both to him and to the local planning authority.
- (7) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.
- (8) An order under this section shall have the same effect as if it had been made by the local planning authority under section 23 and confirmed by the Secretary of State under section 24.

CHAPTER III

RIGHTS OF OWNERS ETC.

Compensation

27 Compensation for refusal of consent to alteration, etc. of listed building

- (1) This section shall have effect where—
- (a) an application is made for listed building consent for the alteration or extension of a listed building;
 - (b) the works do not constitute development or they do so but the development is such that planning permission for it is granted by a development order; and
 - (c) the Secretary of State, either on appeal or on the reference of the application to him, refuses such consent or grants it subject to conditions.
- (2) If, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that the value of the interest of any person in the land is less than it would have been if listed building consent had been granted or, as the case may be, had been granted unconditionally, the local planning authority shall pay that person compensation of an amount equal to the difference.
- (3) In determining for the purposes of subsection (2) whether or to what extent the value of an interest in land is less than it would have been if listed building consent had been granted, or had been granted unconditionally—
- (a) it shall be assumed that any subsequent application for listed building consent for the alteration or extension in question would be determined in the same way; but

- (b) in the case of a refusal of listed building consent, regard shall be had to any undertaking given by the Secretary of State on that refusal to grant such consent for some other works to the building if an application were made for it.
- (4) No compensation shall be payable under this section in respect of an interest in land in respect of which a notice is served under section 32 of this Act or under section 137 of the principal Act (circumstances in which purchase notices may be served) by virtue of subsection (1)(a) or (b) of that section, being a notice which takes effect.
- (5) The local planning authority need not pay compensation under this section in respect of a building in respect of which a building preservation notice is in force unless and until the building is included in a list compiled or approved by the Secretary of State under section 1, but a claim for such compensation may be made before the building is so included.

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.

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

- (1) This section applies where a building preservation notice ceases to have effect without the building having been included in a list compiled or approved by the Secretary of State under section 1.
- (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.

30 Local planning authorities for compensation purposes

- (1) Subject to subsection (2)—
- (a) claims under section 27 shall be made to and paid by the local planning authority to whom the application for listed building consent was made;
 - (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 27, 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.

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 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 27 to 29 in respect of depreciation of the value of an interest in land.
- (3) Where an interest in land is subject to a mortgage—
- (a) 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;
 - (b) 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;
 - (c) 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
 - (d) 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, 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.

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- (4) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under sections 27 to 29 shall be referred to and determined by the Lands Tribunal.
- (5) In relation to the determination of any such question, the provisions of sections 2 and 4 of the Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Listed building purchase notices

32 Purchase notice on refusal or conditional grant of listed building consent

- (1) Where—
 - (a) listed building consent in respect of a building is refused, or granted subject to conditions, or is revoked or modified by an order under section 23 or 26; and
 - (b) any owner of the building claims—
 - (i) that the conditions mentioned in subsection (2) are satisfied with respect to it and any land comprising the building, or contiguous or adjacent to it, and owned with it; and
 - (ii) that the conditions mentioned in subsection (3) are satisfied with respect to that land,he may, within the prescribed time and in the prescribed manner, serve on the council of the district or London borough in which the building and land are situated a notice (in this Act referred to as a “listed building purchase notice”) requiring that council to purchase his interest in the building and land in accordance with sections 33 to 37.
- (2) The conditions mentioned in subsection (1)(b)(i) are—
 - (a) that the building and land in respect of which the notice is served have become incapable of reasonably beneficial use in their existing state;
 - (b) in a case where listed building consent has been granted subject to conditions with respect to the execution of the works or has been modified by the imposition of such conditions, that the land cannot be rendered capable of such use by the carrying out of the works in accordance with those conditions; and
 - (c) in any case, that the land cannot be rendered capable of such use by the carrying out of any other works for which listed building consent has been granted or for which the local planning authority or the Secretary of State has undertaken to grant such consent.
- (3) The conditions mentioned in subsection (1)(b)(ii) are that the use of the land is substantially inseparable from that of the building and that it ought to be treated, together with the building, as a single holding.
- (4) In determining for the purpose of subsection (2) what is or would in any particular circumstances be a reasonably beneficial use of land, no account shall be taken of any prospective use which would involve the carrying out of new development or any works requiring listed building consent which might be executed to the building, other than works for which the local planning authority or the Secretary of State have undertaken to grant such consent.
- (5) References in sections 33 to 37 to the land are to the building and the land in respect of which the notice under subsection (1) is served.

33 Action by council on whom listed building purchase notice served

- (1) The council on whom a listed building purchase notice is served by an owner shall serve on him a notice stating either—
- (a) that the council are willing to comply with the purchase notice; or
 - (b) that another local authority or statutory undertakers specified in the notice under this subsection have agreed to comply with it in their place; or
 - (c) that for reasons so specified the council are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place and that they have transmitted to the Secretary of State a copy of the purchase notice and of the notice under this subsection.
- (2) A notice under subsection (1) must be served before the end of the period of three months beginning with the date of service of the listed building purchase notice.
- (3) Where such a notice as is mentioned in paragraph (a) or (b) of subsection (1) has been duly served, the council or, as the case may be, the other local authority or statutory undertakers specified in the notice shall be deemed—
- (a) to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of section 47; and
 - (b) to have served a notice to treat in respect of it on the date of service of the notice under that subsection.
- (4) Where the council propose to serve such a notice as is mentioned in subsection (1)(c), they shall first send to the Secretary of State a copy of—
- (a) the proposed notice; and
 - (b) the listed building purchase notice which was served on them.

34 Procedure on reference of listed building purchase notice to Secretary of State

- (1) Where a copy of a listed building purchase notice is sent to the Secretary of State under section 33(4), he shall consider whether to confirm the notice or to take other action under section 35 in respect of it.
- (2) Before confirming such a notice or taking such other action, the Secretary of State shall give notice of his proposed action—
- (a) to the person who served the notice;
 - (b) to the council on whom it was served;
 - (c) outside Greater London—
 - (i) to the county planning authority and also, where that authority is a joint planning board, to the county council; and
 - (ii) if the district council on whom the purchase notice in question was served is a constituent member of a joint planning board, to that board; and
 - (d) if the Secretary of State proposes to substitute any other local authority or statutory undertakers for the council on whom the notice was served, to them.
- (3) A notice under subsection (2) shall specify the period (which must not be less than 28 days from its service) within which any of the persons on whom it is served may require the Secretary of State to give him an opportunity of appearing before and being heard by a person appointed by him for the purpose.

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- (4) If any of those persons so require, before the Secretary of State confirms the listed building purchase notice or takes any other action under section 35 in respect of it, he shall give such an opportunity to each of them.
- (5) If after any of those persons have appeared before and been heard by the appointed person, it appears to the Secretary of State to be expedient to take action under section 35 otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.

35 Action by Secretary of State in relation to listed building purchase notice

- (1) Subject to the following provisions of this section, if the Secretary of State is satisfied that the conditions specified in section 32(2)(a) to (c) are satisfied in the case of any listed building purchase notice, he shall confirm the notice.
- (2) If the Secretary of State is satisfied that those conditions are fulfilled only in respect of part of the land, he shall confirm the notice only in respect of that part and the notice shall have effect accordingly.
- (3) The Secretary of State shall not confirm the notice unless he is satisfied that the land comprises such land contiguous or adjacent to the building as is in his opinion required—
 - (a) for preserving the building or its amenities, or
 - (b) for affording access to it, or
 - (c) for its proper control or management.
- (4) If it appears to the Secretary of State to be expedient to do so he may, instead of confirming the notice—
 - (a) in the case of a notice served on account of the refusal of listed building consent for any works, grant such consent for those works;
 - (b) in the case of a notice served on account of such consent being granted subject to conditions, revoke or amend those conditions so far as it appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of those works;
 - (c) in the case of a notice served on account of such consent being revoked by an order under section 23 or 26, cancel the order revoking the consent; or
 - (d) in the case of a notice served on account of such consent being modified by such an order by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the works in respect of which the consent was granted.
- (5) If it appears to the Secretary of State that the land (or any part of it) could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out—
 - (a) of any other works for which listed building consent ought to be granted, or
 - (b) of any development for which planning permission ought to be granted,he may, instead of confirming the listed building purchase notice (or confirming it so far as it relates to that part), direct that if an application is made for such consent for those works or, as the case may be, for planning permission for that development, it shall be granted.

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- (6) If it appears to the Secretary of State, having regard to the probable ultimate use of the building or its site, that it is expedient to do so, he may, if he confirms the notice, modify it either in relation to the whole or any part of the land, by substituting another local authority or statutory undertakers for the council on whom the notice was served.
- (7) Any reference in section 34 to the taking of action by the Secretary of State under this section includes a reference to the taking by him of a decision not to confirm the notice on the grounds that any of the conditions referred to in subsection (1) are not satisfied.

36 Effect of Secretary of State’s action in relation to listed building purchase notice

- (1) Where the Secretary of State confirms a listed building purchase notice, the council on whom the notice was served shall be deemed—
 - (a) to be authorised to acquire the owner’s interest in the land compulsorily in accordance with the provisions of section 47; and
 - (b) to have served a notice to treat in respect of it on such date as the Secretary of State may direct.
- (2) If before the end of the relevant period the Secretary of State has neither—
 - (a) confirmed the listed building purchase notice; nor
 - (b) notified the owner by whom it was served that he does not propose to confirm it; nor
 - (c) taken any such action in respect of it as is mentioned in subsection (4) or (5) of section 35,
 the notice shall be deemed to be confirmed at the end of that period and the council on whom it was served shall be deemed to have been authorised as mentioned in subsection (1)(a) and to have served a notice to treat in respect of the owner’s interest at the end of that period.
- (3) Where a listed building purchase notice is confirmed in respect of only part of the land, references in this section to the owner’s interest in the land are references to the owner’s interest in that part.
- (4) Where a listed building purchase notice is modified under section 35(6) by the substitution of another local authority or statutory undertakers for the council on whom the notice was served, the reference in subsection (1) to that council is to that other local authority or those statutory undertakers.
- (5) In this section “the relevant period” means, subject to subsection (6) below—
 - (a) the period of nine months beginning with the date of the service of the listed building purchase notice; or
 - (b) if it ends earlier, the period of six months beginning with the date on which a copy of the notice was sent to the Secretary of State.
- (6) The relevant period does not run if the Secretary of State has before him at the same time both—
 - (a) a copy of the listed building purchase notice sent to him under section 33(4); and
 - (b) a notice of appeal under section 20 or section 39 relating to any of the land to which the listed building purchase notice relates.
- (7) Where any decision by the Secretary of State to confirm or not to confirm a listed building purchase notice (including any decision to confirm the notice only in respect

of part of the land, or to give any direction as to the granting of listed building consent or planning permission) is quashed under section 63, the notice shall be treated as cancelled but the owner may serve a further notice in its place.

- (8) For the purposes of determining whether such a further notice has been served within the period prescribed for the service of listed building purchase notices, the decision concerning listed building consent on account of which the notice has been served shall be treated as having been made on the date on which the Secretary of State's decision was quashed.

37 Reduction of compensation on acquisition where s. 28 compensation payable

Where compensation is payable under section 28 in respect of expenditure incurred in carrying out any works to a building, any compensation which then becomes payable in respect of the acquisition of an interest in the land in pursuance of a listed building purchase notice shall be reduced by an amount equal to the value of those works.

CHAPTER IV

ENFORCEMENT

38 Power to issue listed building enforcement notice

- (1) Where it appears to the local planning authority—
- (a) that any works have been or are being executed to a listed building in their area; and
 - (b) that the works are such as to involve a contravention of section 9(1) or (2),
- they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a notice under this section (in this Act referred to as a “listed building enforcement notice”).
- (2) A listed building enforcement notice shall specify the alleged contravention and require such steps as may be specified in the notice to be taken within such period as may be so specified—
- (a) for restoring the building to its former state; or
 - (b) if the authority consider that such restoration would not be reasonably practicable or would be undesirable, for executing such further works specified in the notice as they consider necessary to alleviate the effect of the works which were carried out without listed building consent; or
 - (c) for bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with.
- (3) A listed building enforcement notice shall specify the date on which it is to take effect (in this section referred to as “the specified date”).
- (4) A copy of a listed building enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the specified date—
- (a) on the owner and on the occupier of the building to which it relates; and

- (b) on any other person having an interest in that building which in the opinion of the authority is materially affected by the notice.
- (5) The local planning authority may withdraw a listed building enforcement notice (without prejudice to their power to issue another) at any time before it takes effect.
- (6) If they do so, they shall immediately give notice of the withdrawal to every person who was served with a copy of the notice.
- (7) Where a listed building enforcement notice imposes any such requirement as is mentioned in subsection (2)(b), listed building consent shall be deemed to be granted for any works of demolition, alteration or extension of the building executed as a result of compliance with the notice.

39 Appeal against listed building enforcement notice

- (1) A person having an interest in the building to which a listed building enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice on any of the following grounds—
 - (a) that the building is not of special architectural or historic interest;
 - (b) that the matters alleged to constitute a contravention of section 9(1) or (2) do not involve such a contravention;
 - (c) that the contravention of that section alleged in the notice has not taken place;
 - (d) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;
 - (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
 - (f) that copies of the notice were not served as required by section 38(4);
 - (g) except in relation to such a requirement as is mentioned in section 38(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
 - (h) that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed;
 - (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
 - (j) that steps required to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building;
 - (k) that steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.
- (2) An appeal under this section must be made by notice in writing to the Secretary of State before the date specified in the listed building enforcement notice as that on which it is to take effect.

- (3) Where such an appeal is brought the listed building enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (4) A person who gives notice of appeal under this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed, a statement in writing—
 - (a) specifying the grounds on which he is appealing against the listed building enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in the statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.
- (6) Where any person has appealed to the Secretary of State under this section against a notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (7) In this section “relevant occupier” means a person who—
 - (a) on the date on which the listed building enforcement notice is issued occupies the building to which the notice relates by virtue of a licence in writing; and
 - (b) continues so to occupy the building when the appeal is brought.

40 Appeals: supplementary provisions

- (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 39, and in particular, but without prejudice to the generality of this subsection may—
 - (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
 - (b) specify the matters to be included in such a statement;
 - (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the building in question is situated;
 - (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) Subject to section 41(4), the Secretary of State shall, if either the appellant or the local planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) Schedule 3 applies to appeals under section 39.

41 Determination of appeals under s. 39

- (1) On the determination of an appeal under section 39, the Secretary of State shall give directions for giving effect to the determination, including where appropriate directions for quashing the listed building enforcement notice or for varying its terms.
- (2) On such an appeal if the Secretary of State is satisfied that to do so will not cause injustice to the appellant or to the local planning authority, he may—
 - (a) correct any informality, defect or error in the listed building enforcement notice, or
 - (b) give directions for varying its terms.
- (3) The Secretary of State—
 - (a) may dismiss such an appeal if the appellant fails to comply with section 39(4) within the prescribed time; and
 - (b) may allow such an appeal and quash the listed building enforcement notice if the local planning authority fail to comply within the prescribed period with any requirement imposed by regulations made by virtue of section 40(1)(a), (b) or (d).
- (4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the listed building enforcement notice under paragraph (b) of that subsection he need not comply with section 40(2).
- (5) Where it would otherwise be a ground for determining an appeal in favour of the appellant that a person required to be served with a copy of the listed building enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- (6) On the determination of an appeal the Secretary of State may—
 - (a) grant listed building consent for the works to which the listed building enforcement notice relates or for part only of those works;
 - (b) discharge any condition or limitation subject to which listed building consent was granted and substitute any other condition, whether more or less onerous;
 - (c) if he thinks fit, exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.
- (7) Any listed building consent granted by the Secretary of State under subsection (6) shall be treated as granted on an application for the same consent under section 10 and the Secretary of State's decision in relation to the grant shall be final.

42 Execution of works required by listed building enforcement notice

- (1) If any of the steps specified in the listed building enforcement notice have not been taken within the compliance period, the authority may—
 - (a) enter the land and take those steps, and
 - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
- (2) Where a listed building enforcement notice has been served in respect of a building—
 - (a) any expenses incurred by the owner or occupier of the building for the purpose of complying with it, and

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- (b) any sums paid by the owner of the building under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by it,
shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (3) Regulations under this Act may provide that all or any of the following sections of the Public Health Act 1936, namely—
- (a) section 276 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);
 - (b) section 289 (power to require the occupier of any premises to permit works to be executed by the owner of the premises);
 - (c) section 294 (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),
- shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a listed building enforcement notice.
- (4) Regulations under subsection (3) applying all or any of section 289 of that Act may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.
- (5) Regulations under subsection (3) may also provide for the charging on the land on which the building stands of any expenses recoverable by a local planning authority under subsection (1).
- (6) Where any expenses are recoverable by a local planning authority by virtue of this section, those expenses shall be recoverable as a simple contract debt in any court of competent jurisdiction.
- (7) In this section and in section 43 references to “the compliance period”, in relation to a listed building enforcement notice, are references to the period specified in the notice as that within which the steps specified in it are to be taken, or such extended period as the local planning authority may allow for the taking of those steps.

43 Penalties for non-compliance with listed building enforcement notice

- (1) Where a listed building enforcement notice has been served on the person who at the time when the notice was served was the owner of the building to which it relates, and any steps required by the notice have not been taken within the compliance period, then subject to the provisions of this section, that person shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.
- (2) Where proceedings have been brought under subsection (1) against a person (“the original owner”) who ceased to be the owner of the building before the end of the compliance period, if he—
- (a) duly lays information to that effect; and
 - (b) gives the prosecution not less than three clear days' notice of his intention,
- he shall be entitled to have the person who then became the owner of the building (“the subsequent owner”) brought before the court in the proceedings.

- (3) Where in such proceedings—
- (a) it is proved that any steps required by the notice have not been taken within the compliance period; and
 - (b) the original owner proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent owner,
- then—
- (i) the subsequent owner may be convicted of the offence; and
 - (ii) if the original owner also proves that he took all reasonable steps to secure compliance with the notice, he shall be acquitted of the offence.
- (4) If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and liable—
- (a) on summary conviction, to a fine not exceeding £200 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled; or
 - (b) on conviction on indictment, to a fine.

44 Effect of listed building consent on listed building enforcement notice

- (1) If, after the issue of a listed building enforcement notice, consent is granted under section 8(3)—
- (a) for the retention of any work to which the notice relates; or
 - (b) permitting the retention of works without compliance with some condition subject to which a previous listed building consent was granted,
- the notice shall cease to have effect in so far as it requires steps to be taken involving the works not being retained or, as the case may be, for complying with that condition.
- (2) The fact that such a notice has wholly or partly ceased to have effect under subsection (1) shall not affect the liability of any person for an offence in respect of a previous failure to comply with that notice.

45 Commission to have concurrent enforcement functions in London

The Commission shall, as respects any London borough, have concurrently with the council of that borough the functions of a local planning authority under sections 38 to 43; and references to the local planning authority in those provisions shall be construed accordingly.

46 Enforcement by the Secretary of State

- (1) If it appears to the Secretary of State to be expedient that a listed building enforcement notice should be issued in respect of any land, he may issue such a notice.
- (2) Before the Secretary of State serves a notice under subsection (1) he shall consult—
- (a) the local planning authority; and
 - (b) if the land is situated in England, the Commission.
- (3) A listed building enforcement notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority.

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- (4) In relation to a listed building enforcement notice issued by the Secretary of State, sections 42 and 43 shall apply as if for any reference in those sections to the local planning authority there were substituted a reference to the Secretary of State.
- (5) References in this section to the local planning authority shall in the case of an authority for an area outside Greater London be construed as references to the district planning authority.

CHAPTER V

PREVENTION OF DETERIORATION AND DAMAGE

Compulsory acquisition of listed building in need of repair

47 Compulsory acquisition of listed building in need of repair

- (1) If it appears to the Secretary of State that reasonable steps are not being taken for properly preserving a listed building he—
 - (a) may authorise the appropriate authority to acquire compulsorily under this section the building and any relevant land; or
 - (b) may himself compulsorily acquire them under this section.
- (2) The Acquisition of Land Act 1981 shall apply to compulsory acquisition under this section.
- (3) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless—
 - (a) in the case of the acquisition of a building situated in England otherwise than by the Commission, he has consulted with the Commission; and
 - (b) in any case, he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.
- (4) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within 28 days after the service of the notice required by section 12 of that Act of 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act, apply to a magistrates' court acting for the petty sessions area within which the building is situated for an order staying further proceedings on the compulsory purchase order.
- (5) If on an application under subsection (4) the court is satisfied that reasonable steps have been taken for properly preserving the building, the court shall make an order accordingly.
- (6) Any person aggrieved by the decision of a magistrates' court on an application under subsection (4) may appeal against the decision to the Crown Court.
- (7) In this section—

“the appropriate authority” means—

 - (a) the council of the county or district in which the building is situated, or
 - (b) in the case of a building situated in Greater London, the Commission or the council of the London borough in which the building is situated, or

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(c) in the case of a building situated outside Greater London, the joint planning board for the area in which the building is situated; or

(d) in the case of a building situated within the Broads, the Broads Authority;

“relevant land”, in relation to any building, means the land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

48 Repairs notice as preliminary to acquisition under s. 47

(1) The compulsory purchase of a building under section 47 shall not be started by the appropriate authority or by the Secretary of State unless at least two months previously the authority or, as the case may be, the Secretary of State has served on the owner of the building a notice under this section (in this section referred to as a “repairs notice”)—

(a) specifying the works which the appropriate authority or, as the case may be, the Secretary of State considers reasonably necessary for the proper preservation of the building; and

(b) explaining the effect of sections 47 to 50, and the repairs notice has not been withdrawn.

(2) Where—

(a) a building is demolished after a repairs notice has been served in respect of it by an appropriate authority or the Secretary of State, but

(b) the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished,

the demolition of the building shall not prevent the authority or the Secretary of State from being authorised under section 47 to acquire compulsorily the site of the building.

(3) An appropriate authority or the Secretary of State may at any time withdraw a repairs notice served by them on any person; and if they do so, they shall immediately give him notice of the withdrawal.

(4) The Secretary of State shall consult with the Commission before he serves or withdraws a repairs notice in relation to a building situated in England.

(5) Where a repairs notice has been served on a person in respect of a building, he shall not be entitled to serve a listed building purchase notice in respect of it—

(a) until the expiration of three months beginning with the date of the service of the repairs notice; or

(b) if during that period the compulsory acquisition of the building is begun under section 47, unless and until the compulsory acquisition is discontinued.

(6) For the purposes of this section a compulsory acquisition—

(a) is started when the notice required by section 12 of the Acquisition of Land Act 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act is served; and

(b) is discontinued—

(i) in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order; and

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(ii) in any other case, when the order is withdrawn or the Secretary of State decides not to confirm it.

(7) In this section “appropriate authority” has the same meaning as in section 47.

49 Compensation on compulsory acquisition of listed building

Subject to section 50, for the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which immediately before the date of the compulsory purchase order was listed, it shall be assumed that listed building consent would be granted for any works—

- (a) for the alteration or extension of the building; or
- (b) for the demolition of the building for the purpose of development of any class specified in Schedule 3 to the principal Act (development not constituting new development),

other than works in respect of which such consent has been applied for before the date of the order and refused by the Secretary of State, or granted by him subject to conditions, the circumstances having been such that on that refusal or grant compensation became payable under section 27.

50 Minimum compensation in case of listed building deliberately left derelict

(1) Where the appropriate authority within the meaning of section 47—

- (a) propose to acquire a building compulsorily under that section; and
- (b) are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or redevelopment of the site or any adjoining site,

they may include in the compulsory purchase order as submitted to the Secretary of State for confirmation a direction for minimum compensation.

(2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under section 47, he may, if he is satisfied as mentioned in subsection (1)(b), include a direction for minimum compensation in the compulsory purchase order.

(3) Without prejudice to so much of section 12 of the Acquisition of Land Act 1981 or, as the case may be, paragraph 3(1) of Schedule 1 to that Act (notices stating effect of compulsory purchase order or, as the case may be, draft order) as requires the notice to state the effect of the order, the notice required to be served in accordance with that provision shall—

- (a) include a statement that a direction for minimum compensation has been included in the order or, as the case may be, in the draft order prepared by the Secretary of State in accordance with Schedule 1 to that Act; and
- (b) explain the meaning of the expression “direction for minimum compensation”.

(4) A direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the contrary in the Land Compensation Act 1961, the principal Act, or this Act—

- (a) that planning permission would not be granted for any development or redevelopment of the site of the building; and

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- (b) that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to and maintaining it in a proper state of repair.
- (5) If a compulsory purchase order is confirmed or made with the inclusion of a direction for minimum compensation, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.
- (6) Where such a direction is included in a compulsory purchase order or, as the case may be, in a draft order prepared by the Secretary of State, any person having an interest in the building may, within 28 days after the service of the notice mentioned in subsection (3), apply to a magistrates' court acting for the petty sessions area in which the building is situated for an order that no such direction be included in the compulsory purchase order as confirmed or made by the Secretary of State.
- (7) If the court to which an application is made under subsection (6) is satisfied that the building in respect of which the application is made has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1)(b) the court shall make the order applied for.
- (8) A person aggrieved by the decision of a magistrates' court on an application under subsection (6) may appeal against the decision to the Crown Court.
- (9) The rights conferred by subsections (6) and (8) shall not prejudice those conferred by section 47(4) and (6).

51 Ending of rights over land compulsorily acquired

- (1) Subject to the provisions of this section, upon the completion of a compulsory acquisition of land under section 47—
 - (a) all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished, and
 - (b) any such apparatus shall vest in the acquiring authority.
- (2) Subsection (1) shall not apply—
 - (a) to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking, or
 - (b) to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system, or
 - (c) to any telecommunication apparatus kept installed for the purposes of any such system.
- (3) In respect of any right or apparatus not falling within subsection (2), subsection (1) shall have effect subject—
 - (a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) shall not apply to any right or apparatus specified in the direction; and
 - (b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.

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- (4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.
- (5) Any compensation payable under this section shall be determined in accordance with the Land Compensation Act 1961.

Acquisition by agreement

52 Acquisition of land by agreement

- (1) The council of any county, district or London borough or a joint planning board for an area outside Greater London may acquire by agreement—
 - (a) any building appearing to them to be of special architectural or historic interest; and
 - (b) any land comprising or contiguous or adjacent to such a building which appears to the Secretary of State to be required—
 - (i) for preserving the building or its amenities, or
 - (ii) for affording access to it, or
 - (iii) for its proper control or management.
- (2) The provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8, 10 and 31, shall apply in relation to the acquisition of land under subsection (1), but references in that Part to the execution of the works shall be construed as including references to—
 - (a) any erection, construction or carrying out of buildings or works authorised by section 237 of the principal Act; and
 - (b) any erection, construction or carrying out of buildings or works on behalf of a Minister or statutory undertakers on land acquired by that Minister or those undertakers, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

Management of acquired buildings

53 Management of listed buildings acquired under this Act

- (1) Where—
 - (a) a local authority or joint planning board acquire any building or other land under section 47(1) or 52(1)(a) or (b); or
 - (b) the Commission acquire any building or other land under section 47(1),they may make such arrangements as to its management, use or disposal as they consider appropriate for the purpose of its preservation.
- (2) Where the Secretary of State acquires any building or other land under section 47(1), he may—
 - (a) make such arrangements as he thinks fit as to the management, custody or use of the building or land; and
 - (b) dispose of or otherwise deal with any such building or land as he may from time to time determine.

- (3) The Commission may be a party to such arrangements as are mentioned in subsection (2) if they relate to property situated in England.

Urgent preservation

54 Urgent works to preserve unoccupied listed buildings

- (1) A local authority may execute any works which appear to them to be urgently necessary for the preservation of a listed building in their area.
- (2) If it appears to the Secretary of State that any works are urgently necessary for the preservation of a listed building—
- (a) if the building is in England, he shall authorise the Commission to execute any works specified in the authorisation which appear to him to be urgently necessary for its preservation; or
 - (b) if the building is in Wales, he may himself execute any works which appear to him to be urgently necessary for its preservation.
- (3) The works which may be executed under this section may consist of or include works for affording temporary support or shelter for the building.
- (4) If the building is occupied works may be carried out only to those parts which are not in use.
- (5) The owner of the building must be given not less than seven days notice in writing of the intention to carry out the works and, in the case of works authorised under subsection (2)(a), the Commission shall give that notice.
- (6) A notice under subsection (5) shall describe the works proposed to be carried out.
- (7) As respects buildings in Greater London, the functions of a local authority under this section are exercisable concurrently by the Commission and the relevant London borough council.

55 Recovery of expenses of works under s. 54

- (1) This section has effect for enabling the expenses of works executed under section 54 to be recovered by the authority who carried out the works, that is to say the local authority, the Commission or the Secretary of State or, in the case of works carried out by the Commission on behalf of the Secretary of State, the Secretary of State.
- (2) That authority may give notice to the owner of the building requiring him to pay the expenses of the works.
- (3) Where the works consist of or include works for affording temporary support or shelter for the building—
- (a) the expenses which may be recovered include any continuing expenses involved in making available the apparatus or materials used; and
 - (b) notices under subsection (2) in respect of any such continuing expenses may be given from time to time.
- (4) The owner may within 28 days of the service of the notice represent to the Secretary of State—

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- (a) that some or all of the works were unnecessary for the preservation of the building; or
 - (b) in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time; or
 - (c) that the amount specified in the notice is unreasonable; or
 - (d) that the recovery of that amount would cause him hardship,
- and the Secretary of State shall determine to what extent the representations are justified.
- (5) The Secretary of State shall give notice of his determination, the reasons for it and the amount recoverable—
- (a) to the owner of the building; and
 - (b) if the authority who gave notice under subsection (2) is a local authority or the Commission, to them.
- (6) Any expenses recoverable by virtue of this section shall be recoverable as a simple contract debt in any court of competent jurisdiction.

56 Dangerous structure orders in respect of listed buildings

Before taking any steps with a view to—

- (a) the making of an order in respect of a listed building under section 77(1)(a) of the Building Act 1984 or section 65 or 69(1) of the London Building Acts (Amendment) Act 1939; or
- (b) the service of a notice under section 79(1) of that Act of 1984 or section 62(2) of that Act of 1939,

a local planning authority shall consider whether they should instead exercise their powers under sections 47 and 48 or section 54.

Grants for repair and maintenance

57 Power of local authority to contribute to preservation of listed buildings etc

- (1) A local authority may contribute towards the expenses incurred or to be incurred in the repair or maintenance—
- (a) of a listed building which is situate in or in the vicinity of their area; or
 - (b) of a building in their area which is not listed but appears to them to be of architectural or historic interest.
- (2) At the time of making such a contribution the local authority may also contribute towards the expenses incurred, or to be incurred, in the upkeep of any garden occupied with the building and contiguous or adjacent to it.
- (3) A contribution under this section may be made by grant or loan.
- (4) A contribution by way of loan may be made upon such terms and conditions as the local authority may determine including (but without prejudice to the foregoing) a term that the loan shall be free of interest.
- (5) A local authority—
- (a) may renounce their right to repayment of such a loan or any interest for the time being outstanding, and

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- (b) by agreement with the borrower may otherwise vary any of the terms and conditions on which such a loan is made.
- (6) A local authority may require as a condition of the making by them of a contribution under this section by way of grant towards the expenses of the repair or maintenance or upkeep of any property that the person to whom the grant is made shall enter into an agreement with them for the purpose of enabling the public to have access to the property or part of it during such period and at such times as the agreement may provide.
- (7) In this section and in section 58 “local authority” means—
 - (a) the council of a county, borough or district,
 - (b) a joint planning board constituted under section 2 of the principal Act, and
 - (c) in relation to a building or land in the Broads, the Broads Authority.

58 Recovery of grants under s. 57

- (1) If, during the period of three years beginning with the day on which a grant is made under section 57 towards the repair or maintenance or upkeep of any property (“the grant property”), the grantee disposes of the interest held by him in the property on that day or any part of that interest, by way of sale or exchange or lease for a term of not less than 21 years, the local authority may recover the amount of the grant, or such part of it as they think fit, from the grantee in any court of competent jurisdiction.
- (2) If the grantee gives the whole of that interest to any person (whether directly or indirectly, but otherwise than by will) subsection (1) shall have effect as if the donee were the grantee.
- (3) If the grantee gives part of that interest to any person (whether directly or indirectly, but otherwise than by will) subsection (1) shall have effect as if any disposal or part disposal of that interest by the donee were a disposal by the grantee.
- (4) If any condition imposed on the making of a grant to which this section applies is contravened or not complied with, the grantor may recover the amount of the grant, or such part of it as he thinks fit, from the grantee.
- (5) Nothing in this section entitles a grantor to recover amounts in the aggregate exceeding the amount of the grant (for example by virtue of a breach of more than one condition or disposals of several parts of an interest in the grant property).

Damage to listed buildings

59 Acts causing or likely to result in damage to listed buildings

- (1) If, with the intention of causing damage to a listed building, any relevant person does or permits the doing of any act which causes or is likely to result in damage to the building, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) A person is a relevant person for the purpose of subsection (1) if apart from that subsection he would be entitled to do or permit the act in question.
- (3) Subsection (1) does not apply to an act for the execution—

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- (a) of works authorised by planning permission granted or deemed to be granted in pursuance of an application under the principal Act; or
 - (b) of works for which listed building consent has been given under this Act.
- (4) If a person convicted of an offence under this section fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which the failure continues.

CHAPTER VI

MISCELLANEOUS AND SUPPLEMENTAL

Exceptions for church buildings and ancient monuments

60 Exceptions for ecclesiastical buildings and redundant churches

- (1) The provisions mentioned in subsection (2) shall not apply to any ecclesiastical building which is for the time being used for ecclesiastical purposes.
- (2) Those provisions are sections 3, 4, 7 to 9, 47, 54 and 59.
- (3) For the purposes of subsection (1), a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.
- (4) For the purposes of sections 7 to 9 a building shall be taken to be used for the time being for ecclesiastical purposes if it would be so used but for the works in question.
- (5) The Secretary of State may by order provide for restricting or excluding the operation of subsections (1) to (3) in such cases as may be specified in the order.
- (6) An order under this section may—
 - (a) make provision for buildings generally, for descriptions of building or for particular buildings;
 - (b) make different provision for buildings in different areas, for buildings of different religious faiths or denominations or according to the use made of the building;
 - (c) make such provision in relation to a part of a building (including, in particular, an object or structure falling to be treated as part of the building by virtue of section 1(5)) as may be made in relation to a building and make different provision for different parts of the same building;
 - (d) make different provision with respect to works of different descriptions or according to the extent of the works;
 - (e) make such consequential adaptations or modifications of the operation of any other provision of this Act or the principal Act, or of any instrument made under either of those Acts, as appear to the Secretary of State to be appropriate.
- (7) Sections 7 to 9 shall not apply to the execution of works for the demolition, in pursuance of a pastoral or redundancy scheme (within the meaning of the Pastoral Measure 1983), of a redundant building (within the meaning of that Measure) or a part of such a building.

61 Exceptions for ancient monuments etc

- (1) The provisions mentioned in subsection (2) shall not apply to any building for the time being included in the schedule of monuments compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979.
- (2) Those provisions are sections 3, 4, 7 to 9, 47, 54 and 59.

*Validity of instruments, decisions and proceedings***62 Validity of certain orders and decisions**

- (1) Except as provided by section 63, the validity of—
 - (a) any order under section 23 or 26 (whether before or after it has been confirmed); or
 - (b) any such decision by the Secretary of State as is mentioned in subsection (2), shall not be questioned in any legal proceedings whatsoever.
- (2) Those decisions are—
 - (a) any decision on an application referred to the Secretary of State under section 12 or on an appeal under section 20;
 - (b) any decision to confirm or not to confirm a listed building purchase notice including—
 - (i) any decision not to confirm such a notice in respect of part of the land to which it relates, and
 - (ii) any decision to grant any consent, or give any direction, in lieu of confirming such a notice, either wholly or in part;
 - (c) any decision to grant listed building consent under paragraph (a) of section 41(6) or to discharge a condition or limitation under paragraph (b) of that section.
- (3) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any such decision as is mentioned in subsection (2).

63 Proceedings for questioning validity of other orders, decisions and directions

- (1) If any person is aggrieved by any such order or decision as is mentioned in section 62(1) and wishes to question its validity on the grounds—
 - (a) that it is not within the powers of this Act, or
 - (b) that any of the relevant requirements have not been complied with in relation to it,
 he may make an application to the High Court under this section.
- (2) Without prejudice to subsection (1), if the authority directly concerned with any such order or decision wish to question its validity on any of those grounds, the authority may make an application to the High Court under this section.
- (3) An application under this section must be made within six weeks from the date on which the order is confirmed (or, in the case of an order under section 23 which takes effect under section 25 without confirmation, the date on which it takes effect) or, as the case may be, the date on which the action is taken.

- (4) On any application under this section the High Court—
- (a) may by interim order suspend the operation of the order or decision, the validity of which is questioned by the application, until the final determination of the proceedings; and
 - (b) if satisfied—
 - (i) that the order or decision is not within the powers of this Act, or
 - (ii) that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to it,may quash that order or decision.
- (5) References in this section to the confirmation of an order include the confirmation of an order subject to modifications.
- (6) In this section “the relevant requirements”, in relation to any order or decision, means any requirements of this Act or of the Tribunals and Inquiries Act 1971 or of any order, regulations or rules made under either of those Acts which are applicable to that order or decision.
- (7) For the purposes of subsection (2) the authority directly concerned with an order or decision is—
- (a) in relation to any such decision as is mentioned in section 62(2)(b)—
 - (i) the council on whom the listed building purchase notice was served, and
 - (ii) in a case where the Secretary of State has modified the notice wholly or in part by substituting another local authority or statutory undertakers for that council, also that authority or those statutory undertakers; and
 - (b) otherwise, the authority who—
 - (i) made the order or decision to which the proceedings in question relate, or
 - (ii) referred the matter to the Secretary of State, or
 - (iii) if the order was made by him, are the authority named in it.

64 Validity of listed building enforcement notices

The validity of a listed building enforcement notice shall not, except by way of an appeal under section 39, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

65 Appeals to High Court relating to listed building enforcement notices

- (1) Where the Secretary of State gives a decision in proceedings on an appeal under section 39 against a listed building enforcement notice, the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.

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- (2) At any stage of the proceedings on any such appeal, the Secretary of State may state any question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court.
- (3) A decision of the High Court on a case stated by virtue of subsection (2) shall be deemed to be a judgment of the court within the meaning of section 16 of the Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).
- (4) In relation to any proceedings in the High Court or the Court of Appeal brought by virtue of this section the power to make rules of court shall include power to make rules—
 - (a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the Secretary of State; and
 - (b) providing for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.
- (5) No appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.
- (6) In this section “decision” includes a direction or order, and references to the giving of a decision shall be construed accordingly.
- (7) In the case of a listed building enforcement notice issued by the Commission subsection (1) shall apply as if the reference to the local planning authority were a reference to the Commission.

Special considerations affecting planning functions

66 General duty as respects listed buildings in exercise of planning functions

- (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- (2) Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provisions of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings.
- (3) The reference in subsection (2) to a local authority includes a reference to a joint planning board and a board reconstituted in pursuance of Schedule 17 to the Local Government Act 1972.

67 Publicity for applications affecting setting of listed buildings

- (1) This section applies where an application for planning permission for any development of land is made to a local planning authority and the development would, in the opinion of the authority, affect the setting of a listed building.
- (2) The local planning authority shall—
 - (a) publish in a local newspaper circulating in the locality in which the land is situated; and
 - (b) for not less than seven days display on or near the land, a notice indicating the nature of the development in question and naming a place within the locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice under paragraph (a).
- (3) In a case where the land is situated in England, the local planning authority shall send a copy of the notice to the Commission.
- (4) Where the Secretary of State, after consulting with the Commission, notifies a local planning authority in writing that subsection (3) shall not affect the authority as regards any notice relating to any kind of application specified in the notification, then that subsection shall not affect the authority as regards any such notice.
- (5) The Secretary of State shall send the Commission a copy of any notification made under subsection (4).
- (6) The application shall not be determined by the local planning authority before—
 - (a) the expiry of the period of 21 days referred to in subsection (2); or
 - (b) if later, the expiry of the period of 21 days beginning with the date on which the notice required by that subsection to be displayed was first displayed.
- (7) In determining any application for planning permission to which this section applies, the local planning authority shall take into account any representations relating to the application which are received by them before the periods mentioned in subsection (6) have elapsed.
- (8) Subsection (3) of section 63 of the principal Act (references to applications for planning permission to include applications for permission to retain existing works and uses) does not apply to the construction of this section.

68 Reference to Commission of planning applications involving listed buildings in Greater London

- (1) Without prejudice to his powers by virtue of section 74(1) of the principal Act, the Secretary of State may by regulations provide for any application for planning permission to which this section applies to be referred to the Commission before it is dealt with by the local planning authority.
- (2) This section applies to an application for planning permission for any development in Greater London which would, in the opinion of the local planning authority to which the application is made, involve the demolition, in whole or in part, or a material alteration, of a listed building.
- (3) Regulations under this section may—

Status: This is the original version (as it was originally enacted).

- (a) provide for the Commission to give the referring authority directions as to the manner in which an application is to be dealt with; and
- (b) provide that an application which satisfies such conditions as may be specified in the regulations need not be referred to the Commission.