



# Town and Country Planning Act 1968

## 1968 CHAPTER 72

### PART V

#### BUILDINGS OF ARCHITECTURAL OR HISTORIC INTEREST

##### *Other measures open to local planning authority and the Minister*

#### **48 Building preservation notice in respect of building not listed.**

- (1) If it appears to the local planning authority, in the case of a building in their area which is not a listed building, that it is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as such, they may (subject to subsection (2) below) serve on the owner and occupier of the building a notice (referred to in this section as a "building preservation notice")—
  - (a) stating that the building appears to them to be of special architectural or historic interest and that they have requested the Minister to consider including it in a list compiled or approved under section 32 of the principal Act; and
  - (b) explaining the effect of subsections (3) and (4) of this section.
- (2) A building preservation notice shall not be served in respect of—
  - (a) an ecclesiastical building which is for the time being used for ecclesiastical purposes ; or
  - (b) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments ; or
  - (c) a building for the time being included in a list of monuments published by the Minister of Public Building and Works under any such enactment.

For the purposes of this subsection, 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.

- (3) A building preservation notice 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 shall remain in force

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for six months from the date when it is served or, as the case may be, last served; but it shall cease to be in force if, before the expiration of that period, the Minister either includes the building in a list compiled or approved under section 32 of the principal Act or notifies the local planning authority in writing that he does not intend to do so.

- (4) While a building preservation notice is in force with respect to a building, the provisions of this Part of this Act shall have effect in relation to it as if the building were a listed building; and if the notice ceases to be in force (otherwise than by reason of the building being included in a list compiled or approved under the said section 32), the provisions of Part V of Schedule 5 to this Act shall have effect with respect to things done or occurring under the notice or with reference to the building being treated as listed.
- (5) If, following the service of a building preservation notice, the Minister notifies the local planning authority that he does not propose to include the building in a list compiled or approved under section 32 of the principal Act, the authority—
- (a) shall forthwith give notice of the Minister's decision to the owner and occupier of the building ; and
  - (b) shall not, within the period of twelve months beginning with the date of the Minister's notification, serve another such notice in respect of the said building.

**49 Compensation for loss or damage caused by service of building preservation notice.**

- (1) The following provisions of this section shall have effect as respects compensation where a building preservation notice is served.
- (2) The local planning authority shall not be under any obligation to pay compensation under section 43 of this Act, in respect of any refusal of listed building consent or its grant subject to conditions, unless and until the building is included in a list compiled or approved by the Minister under section 32 of the principal Act; but this subsection shall not prevent a claim for such compensation being made before the building is so included.
- (3) If the building preservation notice ceases to have effect without the building having been included in a list so compiled or approved, then, subject to a claim in that behalf being made to the local planning authority within the prescribed time and in the prescribed manner, any person who at the time when the notice was served had an interest in the building shall be entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.
- (4) The loss or damage in respect of which compensation is payable under subsection (3) above shall include a sum payable in respect of a 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 thereto.

**50 Compulsory acquisition of listed building in need of repair.**

- (1) Where it appears to the Minister, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, the Minister may authorise the council of the county, county borough or county district in which the building is situated or, in the case of a building situated in Greater London, the Greater London Council or the London borough council, to acquire compulsorily under this

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section the building and any land comprising or contiguous or adjacent to it which appears to the Minister to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

- (2) Where it appears to the Minister, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, he may be authorised under this section to acquire compulsorily the building and any land comprising or contiguous or adjacent to it which appears to him to be required for the purpose mentioned in subsection (1) of this section.
- (3) This section applies to any listed building, not being—
  - (a) an ecclesiastical building which is for the time being used for ecclesiastical purposes ; or
  - (b) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments ; or
  - (c) a building for the time being included in a list of monuments published by the Minister of Public Building and Works under any such enactment.

For the purposes of this subsection 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) The Minister shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless 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.
- (5) The Act of 1946 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect—
  - (a) as if this section had been in force immediately before the commencement of that Act; and
  - (b) as if references therein to the Minister of Transport and to the enactments specified in section 1(1)(b) of that Act included respectively references to the Minister and to the provisions of this section.
- (6) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within twenty-eight days after the service of the notice required to be served under paragraph 3 of Schedule 1 to the Act of 1946, 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; and, if the court is satisfied that reasonable steps have been taken for properly preserving the building, the court shall make an order accordingly.
- (7) Any person aggrieved by the decision of a magistrates' court on an application under subsection (6) above may appeal against that decision to a court of quarter sessions.

## **51 Repairs notice as preliminary to compulsory acquisition.**

- (1) Neither a council nor the Minister shall start the compulsory purchase of a building under section 50 above unless at least two months previously they have served on the owner of the building, and not withdrawn, a notice under this section (referred to in this section as a "repairs notice")—
  - (a) specifying the works which they consider reasonably necessary for the proper preservation of the building; and

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- (b) explaining the effect of sections 50 to 53 of this Act.
- (2) Where a council or the Minister have served a repairs notice, the demolition of the building thereafter shall not prevent them from being authorised under section 50 above to acquire compulsorily the site of the building, if the Minister 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.
- (3) A council or the Minister may at any time withdraw a repairs notice served by them; and if they do so, they shall forthwith give notice of the withdrawal to the person who was served with the notice.
- (4) A person on whom there has been served a repairs notice shall not in any case be entitled to serve a purchase notice under section 129 of the principal Act or section 42 of this Act until the expiration of three months beginning with the date of the service of the repairs notice; and if during the said period of three months the council or the Minister start the compulsory acquisition of the building in the exercise of their powers under section 50 above, the person shall not be so entitled unless and until the compulsory acquisition is discontinued.
- (5) For the purposes of this section a compulsory acquisition—
  - (a) is started when the council or the Minister, as the case may be, serve the notice required by paragraph 3(1)(b) of Schedule 1 to the Act of 1946 ; and
  - (b) is discontinued, in the case of acquisition by a council, when they withdraw the compulsory purchase order or the Minister decides not to confirm it and, in the case of acquisition by the Minister, when he decides not to make the compulsory purchase order.

## **52 Compensation on compulsory acquisition.**

Subject to section 53 below, 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 for the alteration or extension of the building, or for its demolition, other than works in respect of which such consent has been applied for before the date of the order and refused by the Minister, or granted by him subject to conditions, the circumstances having been such that compensation thereupon became payable under section 43 of this Act.

## **53 Minimum compensation in case of building deliberately left derelict.**

- (1) A council proposing to acquire a building compulsorily under section 50 above, if they are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or re-development of the site or any adjoining site, may include in the compulsory purchase order as submitted to the Minister for confirmation an application for a direction for minimum compensation ; and the Minister, if he is so satisfied, may include such a direction in the order as confirmed by him.
- (2) Subject to the provisions of this section, where the Minister acquires a building compulsorily under section 50 of this Act, he may, if he is satisfied as mentioned in subsection (1) above, include a direction for minimum compensation in the compulsory purchase order.

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- (3) The notice required to be served in accordance with paragraph 3(1)(b) of Schedule 1 to the Act of 1946 (notices stating effect of compulsory purchase order or, as the case may be, draft order) shall, without prejudice to so much of that paragraph as requires the notice to state the effect of the order, include a statement that the authority have made application for a direction for minimum compensation or, as the case may be, that the Minister has included such a direction in the draft order prepared by him in accordance with paragraph 7 of that Schedule and shall in either case 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 or this Act, that planning permission would not be granted for any development or re-development of the site of the building and 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; and if a compulsory purchase order is confirmed or made with the inclusion of such a direction, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.
- (5) Where the local authority include in a compulsory purchase order made by them an application for a direction for minimum compensation, or the Minister includes such a direction in a draft compulsory purchase order prepared by him, any person having an interest in the building may, within twenty-eight days after the service of the notice required by paragraph 3(1)(b) of Schedule 1 to the Act of 1946, apply to a magistrates' court acting for the petty sessions area in which the building is situated for an order that the local authority's application for a direction for minimum compensation be refused or, as the case may be, that such a direction be not included in the compulsory purchase order as made by the Minister; and if the court is satisfied that the building has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1) of this section, the court shall make the order applied for.
- (6) A person aggrieved by the decision of a magistrates' court on an application under subsection (5) above may appeal against the decision to a court of quarter sessions.
- (7) The rights conferred by subsections (5) and (6) of this section shall not prejudice those conferred by section 50(6) and (7) of this Act.