



# Housing and Planning Act 1986

## 1986 CHAPTER 63

### PART VI

#### MISCELLANEOUS PROVISIONS

##### *England and Wales*

#### **40 Listed buildings and conservation areas.**

The enactments relating to listed buildings and conservation areas are amended in accordance with Part I of Schedule 9 with respect to the following matters—

- (a) the treatment of free-standing objects and structures within the curtilage of a listed building;
- (b) the scope of the exception for urgent works to a listed building;
- (c) the grant of listed building consent subject to the subsequent approval of detail;
- (d) applications for the variation or discharge of conditions attached to listed building consent;
- (e) the extent of the exemption accorded to ecclesiastical buildings;
- (f) dangerous structure orders in respect of listed buildings;
- (g) the power of a local authority, the Secretary of State or the Historic Buildings and Monuments Commission for England to carry out urgent works for the preservation of a building;
- (h) the control of demolition in a conservation area;
- (i) the form of an application for listed building consent; and
- (j) the powers of the Secretary of State with respect to applications for listed building consent.

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*Changes to legislation: There are currently no known outstanding effects for the Housing and Planning Act 1986, Cross Heading: England and Wales. (See end of Document for details)*

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### Textual Amendments

**F1** Ss. 25, 30–34, 41 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, Sch. 1 Pt. 1, Sch. 3 paras. 1, 2, 4, 6

## 42 Recovery of Minister’s costs in connection with inquiries.

- (1) The following provisions of this section apply where a Minister is authorised under or by virtue of any of the following statutory provisions to recover costs incurred by him in relation to an inquiry—
- (a) section 250(4) of the <sup>M1</sup>Local Government Act 1972 (general provision as to costs of inquiries),
  - <sup>F2</sup>(b) .....
  - (c) section 129(1)(d) of the <sup>M2</sup>Road Traffic Regulation Act 1984 (costs of inquiry under that Act),
  - (d) ..... <sup>F3</sup>
  - (e) any other statutory provision to which this section is applied by order of the Minister.
- (2) What may be recovered by the Minister is the entire administrative cost of the inquiry, so that, in particular—
- (a) there shall be treated as costs incurred in relation to the inquiry such reasonable sum as the Minister may determine in respect of the general staff costs and overheads of his department, and
  - (b) there shall be treated as costs incurred by the Minister holding the inquiry any costs incurred in relation to the inquiry by any other Minister or government department and, where appropriate, such reasonable sum as that Minister or department may determine in respect of general staff costs and overheads.
- (3) The cost of an inquiry which does not take place may be recovered by the Minister from any person who would have been a party to the inquiry to the same extent, and in the same way, as the cost of an inquiry which does take place.
- (4) The Minister may by regulations prescribe for any description of inquiry a standard daily amount and where an inquiry of that description does take place what may be recovered is—
- (a) the prescribed standard amount in respect of each day (or an appropriate proportion of that amount in respect of a part of a day) on which the inquiry sits or the person appointed to hold the inquiry is otherwise engaged on work connected with the inquiry,
  - (b) costs actually incurred in connection with the inquiry on travelling or subsistence allowances or the provision of accommodation or other facilities for the inquiry,
  - (c) any costs attributable to the appointment of an assessor to assist the person appointed to hold the inquiry, and
  - (d) any legal costs or disbursements incurred or made by or on behalf of the Minister in connection with the inquiry.
- (5) An order or regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (6) An order applying this section to a statutory provision may provide for the consequential repeal of so much of that provision, or any other provision, as restricts the sum recoverable by the Minister in respect of the services of any officer engaged in the inquiry or is otherwise inconsistent with the application of the provisions of this section.

#### Textual Amendments

- F2** S. 42(1)(b) repealed (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 3(1), 4(2), **Sch. 3 Pt. I**.
- F3** S. 42(1)(d) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), **Sch. 12 Pt. II**

#### Modifications etc. (not altering text)

- C1** S. 42 extended (1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#), ss. 214(7), 225(2).
- C2** S. 42 applied (1.12.1991) by [Land Drainage Act 1991 \(c. 59, SIF 73:1\)](#), ss. 69(7), 76(2).  
S. 42: functions shall be exercisable by the Assembly concurrently with any Minister of the Crown (16.2.2000) by [S.I. 2000/253](#), art. 2, **Sch. 1**
- C3** S. 42 applied by 1990 c. 8, s. 322(1D) (as inserted (1.10.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), ss. 2(2), 35(1); [S.I. 2013/2143](#), art. 2(b))
- C4** S. 42 applied by 1990 c. 8, s. 322A(5) (as inserted (1.10.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), ss. 2(3), 35(1); [S.I. 2013/2143](#), art. 2(b))
- C5** S. 42(2) applied by 1981 c. 67, s. 13B(6) (as inserted (6.8.2004 for specified purposes, 31.10.2004 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 100(6) (with s. 100(8)); [S.I. 2004/2097](#), art. 2; [S.I. 2004/2593](#), art. 2(a))

#### Marginal Citations

- M1** 1972 c. 70.
- M2** 1984 c. 27.

### 43 Compulsory acquisition of land on behalf of parish or community councils.

For section 125 of the <sup>M3</sup>Local Government Act 1972 (compulsory acquisition of land on behalf of parish or community councils) substitute—

#### “125 Compulsory acquisition of land on behalf of parish or community councils.

- (1) If a parish or community council are unable to acquire by agreement under section 124 above and on reasonable terms suitable land for a purpose for which they are authorised to acquire land other than—
- the purpose specified in section 124(1)(b) above, or
  - a purpose in relation to which the power of acquisition is by an enactment expressly limited to acquisition by agreement,
- they may represent the case to the council of the district in which the parish or community is situated.
- (2) If the district council are satisfied that suitable land for the purpose cannot be acquired on reasonable terms by agreement, they may be authorised by the Secretary of State to purchase compulsorily the land or part of it; and the Acquisition of Land Act 1981 shall apply in relation to the purchase.

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- (3) The district council in making and the Secretary of State in confirming an order for the purposes of this section shall have regard to the extent of land held in the neighbourhood by an owner and to the convenience of other property belonging to the same owner and shall, as far as practicable, avoid taking an undue or inconvenient quantity of land from any one owner.
- (4) The order shall be carried into effect by the district council but the land when acquired shall be conveyed to the parish or community council; and accordingly in construing for the purposes of this section and of the order any enactment applying in relation to the compulsory acquisition, the parish or community council or the district council, or the two councils jointly, shall, as the case may require, be treated as the acquiring authority.
- (5) The district council may recover from the parish or community council the expenses incurred by them in connection with the acquisition of land under this section.
- (6) If a parish or community council make representations to a district council with a view to the making of an order under this section and the district council—
- (a) refuse to make an order, or
  - (b) do not make an order within 8 weeks from the making of the representations or such longer period as may be agreed between the two councils,
- the parish or community council may petition the Secretary of State who may make the order, and this section and the provisions of the Acquisition of Land Act 1981 shall apply as if the order had been made by the district council and confirmed by the Secretary of State.
- (7) In the application of this section to a parish or community council for a group of parishes or communities—
- (a) references to the parish or community shall be construed as references to the area of the group, and
  - (b) if different parts of the area of the group lie in different districts, references to the council of the district in which the parish or community is situated shall be construed as references to the councils of each of the districts acting jointly.”.

**Modifications etc. (not altering text)**

**C6** S. 43 restricted by [S.I. 1990/614, art. 3](#)

**Marginal Citations**

**M3** 1972 c. 70.

**44** ..... **F4**

**Textual Amendments**

**F4** S. 44 repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), [Sch. 18](#) (with s. 112(3), Sch. 17 para. 35(1))

*Changes to legislation:* There are currently no known outstanding effects for the Housing and Planning Act 1986, Cross Heading: England and Wales. (See end of Document for details)

**45, 46.** ..... F5

**Textual Amendments**

**F5** Ss. 45, 46 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6

**F6 47** **Areas which may be designated urban development areas.**  
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**Textual Amendments**

**F6** S. 47 repealed (21.7.2008) by [Statute Law \(Repeals\) Act 2008 \(c. 12\)](#), **Sch. 1 Pt. 9**

**48** **Repeal of unnecessary enactments.**

(1) The following enactments are repealed—

- (a) section 52 of the <sup>M4</sup>Requisitioned Land and War Works Act 1945 and paragraph 10 of the Schedule to the <sup>M5</sup>Requisitioned Land and War Works Act 1948 (reimbursement of expense of restoring land affected by war works, &c.);
- (b) sections 66 to 72 of the <sup>M6</sup>Town and Country Planning Act 1971 (special control over industrial development);
- (c) sections 250 to 252 of that Act (grants to local authorities for development of land, &c.).

(2) The repeal does not affect the operation—

- (a) of section 52 of the Requisitioned Land and War Works Act 1945 or paragraph 10 of the Schedule to the Requisitioned Land and War Works Act 1948 in relation to undertakings given before the repeal;
- (b) of sections 250 to 252 of the 1971 Act in relation to land for which approval for the purposes of regulations under section 250 was sought before 1st April 1986.

**Marginal Citations**

**M4** 1945 c. 43.  
**M5** 1948 c. 17.  
**M6** 1971 c. 78.

**49** **Minor and consequential amendments; repeals.**

(1) The Town and Country Planning Act 1971, and certain related enactments, are amended in accordance with Part I of Schedule 11 with respect to the following matters—

- (a) the operation of the Use Classes Order on the subdivision of the planning unit;
- (b) the provision which may be made by development orders;

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- (c) the construction of references to certain documents relating to access for the disabled;
- (d) applications to vary or revoke conditions attached to planning permission;
- (e) the procedure on appeals and applications disposed of without a local inquiry or hearing;
- (f) purchase notices;
- (g) local inquiries;
- (h) the determination of appeals by inspectors; and
- (i) daily penalties for offences;

and that Part also contains amendments consequential on the provisions of this Part.

- (2) The enactments specified in Part III of Schedule 12 are repealed to the extent specified.

**Changes to legislation:**

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Heading: England and Wales.