



Planning (Listed Buildings and Conservation Areas) Act 1990

1990 CHAPTER 9

PART I

LISTED BUILDINGS

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.

Status: This is the original version (as it was originally enacted).

- (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—
- the council of the county or district in which the building is situated, or
 - 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
 - in the case of a building situated outside Greater London, the joint planning board for the area in which the building is situated; or
 - 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”)—
- 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
 - explaining the effect of sections 47 to 50,
- and the repairs notice has not been withdrawn.
- (2) Where—
- 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
 - 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.

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- (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
 - (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.

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- (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 re-development of the site of the building; and
 - (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—

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- (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.
- (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

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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—
- (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
 - (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.

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- (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—
 - (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.