



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.

Status: This is the original version (as it was originally enacted).

41 Local plans and unitary development plans

- (1) In Part II of the Town and Country Planning Act 1971 (development plans), the sections set out in Part I of Schedule 10 are substituted, except as to Greater London, for sections 10C to 15B (local plans), the main changes being—
- (a) to provide for the coordination by county planning authorities, in conjunction with the district planning authorities, of the process of making, altering, repealing or replacing local plans ;
 - (b) to provide a short procedure for altering a local plan where the issues are not of sufficient importance to warrant the full procedure : and
 - (c) to enable the Secretary of State to direct a local planning authority to reconsider proposals for making, altering, repealing or replacing a local plan ; and
 - (d) to omit provisions which are spent in consequence of the approval of structure plans for the whole of England and Wales.
- (2) The substituted sections have effect in relation to metropolitan counties until the coming into force of Part I of Schedule 1 to the Local Government Act 1985 (unitary development plans), but subject to the provisions of Part II of that Schedule.
- (3) Part I of Schedule 1 to the Local Government Act 1985 (unitary development plans) is amended in accordance with Part II of Schedule 10 to this Act, so as to—
- (a) provide a short procedure for altering a unitary development plan where the issues are not of sufficient importance to warrant the full procedure ; and
 - (b) enable the Secretary of State to direct a local planning authority to reconsider proposals for making, altering or replacing a unitary development plan.

42 Recovery of Ministers' 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 Local Government Act 1972 (general provision as to costs of inquiries),
 - (b) section 96(5) of the Land Drainage Act 1976 (cost of inquiry under that Act),
 - (c) section 129(1)(d) of the Road Traffic Regulation Act 1984 (costs of inquiry under that Act),
 - (d) paragraph 9(2) of Schedule 22 to the Housing Act 1985 (costs of inquiry in connection with acquisition of land for clearance),
 - (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.

Status: This is the original version (as it was originally enacted).

- (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.
- (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.

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

For section 125 of the 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—
 - (a) the purpose specified in section 124(1)(b) above, or
 - (b) 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.

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

- (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.”.

44 Overhead electricity lines

- (1) For section 21 of the Electricity (Supply) Act 1919 (overhead wires) substitute—

“21 Overhead wires.

- (1) The Secretary of State shall before giving consent or authorisation for the placing of an electric line above ground give the local planning authority an opportunity of being heard.
- (2) In subsection (1) " local planning authority " has the same meaning as in the Town and Country Planning Act 1971, except that in relation to a non-metropolitan county it includes the county planning authority only—
 - (a) where the line is to be placed in a National Park; or

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- (b) where the line is a high voltage line, that is, a line for conveying or transmitting electricity at or above a voltage of 132,000 volts.”.
- (2) In section 34 of the Electricity Act 1975 (public inquiries), after subsection (1) (inquiry to be held if local planning authority object) insert—
 - “(1A) In subsection (1) "local planning authority"—
 - (a) in relation to an application for consent or authorisation under section 10(b) of the Schedule to the Act of 1899, means a local planning authority required to be given an opportunity of being heard under section 21 of the Electricity (Supply) Act 1919;
 - (b) in relation to an application for consent under section 2 of the Electric Lighting Act 1909, means a local planning authority required to be given an opportunity of stating an objection under that section.”.
- (3) Section 149(3)(a) of the Local Government, Planning and Land Act 1980 (power of Secretary of State to confer functions of local planning authority on urban development corporation) has effect in relation to—
 - section 21 of the Electricity (Supply) Act 1919, and
 - section 34 of the Electricity Act 1957, so far as applying to an application for consent or authorisation under section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899, as it has effect in relation to the provisions listed in Part I of Schedule 29 to the 1980 Act.

45 Control of advertisements: experimental areas

In section 63 of the Town and Country Planning Act 1971 (control of advertisements), for subsection (3) (power to make different provision for different areas) substitute—

- “(3) Regulations made for the purposes of this section may make different provision with respect to different areas, and in particular may make special provision—
 - (a) with respect to conservation areas.
 - (b) with respect to areas defined for the purposes of the regulations as experimental areas, and
 - (c) with respect to areas defined for the purposes of the regulations as areas of special control.
- (3A) An area may be defined as an experimental area for a prescribed period for the purpose of assessing the effect on amenity or public safety of advertisements of a prescribed description.
- (3B) An area may be defined as an area of special control if it is—
 - (a) a rural area, or
 - (b) an area which appears to the Secretary of State to require special protection on grounds of amenity ;and, without prejudice to the generality of subsection (3), the regulations may prohibit the display in an area of special control of all advertisements except advertisements of such classes (if any) as may be prescribed.”.

46 Land adversely affecting amenity of neighbourhood

For section 65 of the Town and Country Planning Act 1971 (proper maintenance of waste land), and the heading preceding it, substitute—

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

“Land adversely affecting amenity of neighbourhood

65 Power to require proper maintenance of land.

- (1) If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under this section.
- (2) The notice shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified.
- (3) Subject to the provisions of Part V of this Act, the notice shall take effect at the end of such period (not being less than 28 days after the service of the notice) as may be specified in the notice.
- (4) In non-metropolitan counties the functions of the local planning authority under this section are exercisable by the district planning authorities.”.

47 Areas which may be designated, urban development areas

In section 134 of the Local Government, Planning and Land Act 1980 (power to designate urban development areas), omit subsection (2) (which restricts the power to land in metropolitan districts and certain land in or adjacent to inner London).

48 Repeal of unnecessary enactments

- (1) The following enactments are repealed—
 - (a) section 52 of the Requisitioned Land and War Works Act 1945 and paragraph 10 of the Schedule to the 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 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.

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;
- (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.

Scotland

50 Listed buildings and conservation areas

The enactments relating to listed buildings and conservation areas are amended in accordance with Part II 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) late applications for listed building consent;
- (c) defence to proceedings under section 53 ;
- (d) the grant of listed building consent subject to subsequent approval of detail;
- (e) applications for the variation or discharge of conditions attached to listed building consent;
- (f) the extent of the exemption accorded to ecclesiastical buildings;
- (g) the effect of a listed building enforcement notice ;
- (h) the power of a local authority or the Secretary of State to carry out urgent works for the preservation of a building;
- (i) the control of demolition in a conservation area ;
- (j) the form of an application for listed building consent;
- (k) the calling in of applications for listed building consent; and
- (l) the application to planning authorities of provisions relating to listed buildings.

51 Grants for repair of buildings in town schemes

After section 10B of the Town and Country Planning (Amendment) Act 1972 there shall be inserted the following section

“10C Grants for repair of buildings in town schemes.

- (1) The Secretary of State may make grants for the purpose of defraying in whole or in part any expenditure incurred or to be incurred in the repair of a building which—
 - (a) is comprised in a town scheme ; and

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- (b) appears to him to be of architectural or historic interest.
- (2) For the purposes of this section a building is comprised in a town scheme if—
- (a) it is in an area—
 - (i) designated as a conservation area under section 262 of the Act of 1972; and
 - (ii) appearing to the Secretary of State to be of outstanding architectural or historic interest; and
 - (b) it is included in a town scheme list or shown on a town scheme map.
- (3) In subsection (2) above—
- "town scheme list", means a list, compiled, after consultation with the Historic Buildings Council for Scotland, by the Secretary of State and one or more local authorities, of buildings which are to be the subject of a repair grant agreement; and
 - "town scheme map" means a map, prepared after such consultation by the Secretary of State and one or more local authorities, showing buildings which are to be the subject of such an agreement.
- (4) In subsection (3) above—
- "repair grant agreement" means an agreement between the Secretary of State and any authority who have participated in the compilation of a town scheme list or the preparation of a town scheme map under which the Secretary of State and the authority or authorities who have so participated have agreed that a specified sum of money shall be set aside for a specified period of years for the purpose of making grants for the repair of the buildings included in the town scheme list or shown on the town scheme map.
- (5) A grant under this section may be made subject to conditions imposed by the Secretary of State for such purposes as he may think fit.
- (6) Subject to subsection (7) below, before making any grant under this section the Secretary of State may consult with the Council, both as to the making of the grant and as to the conditions subject to which it should be made.
- (7) Subsection (6) above shall not apply where the making of a grant appears to the Secretary of State to be a matter of immediate urgency.
- (8) The Secretary of State may pay any grant under this section to an authority participating in a town scheme and may make arrangements with any such authority for the way in which the scheme is to be administered.
- (9) Arrangements under subsection (8) above may include such arrangements for the offer and payment of grants under this section as may be agreed between the Secretary of State and any authority or authorities participating in a town scheme.
- (10) Section 2 of the Local Authorities (Historic Buildings) Act 1962 (recovery of grants made by local authorities on disposal of property within three years) shall apply to a grant made by the Secretary of State under this section as it applies to a grant for the repair of property made by a local authority under that Act; and any reference to a local authority in that section shall accordingly be construed, in relation to a grant under this section, as a reference to the Secretary of State.

(11) In this section "local authority" means a regional, islands or district council.”.

52 Termination of grants for redevelopment etc.

- (1) No payment of grant under—
- (a) sections 237 to 239 of the Town and Country Planning (Scotland) Act 1972,
 - (b) section 14 of the Housing and Town Development (Scotland) Act 1957, and
 - (c) section 9 of the Local Government (Scotland) Act 1966
- shall be made for the financial year 1986-87 or for any subsequent financial year.
- (2) No claim for grant under the enactments mentioned in subsection (1)(a) and (b) above in respect of financial years prior to 1986-87 shall be entertained by the Secretary of State unless—
- (a) it is received by him before this Act is passed, and
 - (b) any information reasonably required by him in relation to any such claim is received by him before the expiry of the period of two months after this Act is passed.

53 Minor and consequential amendments; repeals

- (1) The Town and Country Planning (Scotland) Act 1972, the Local Government (Scotland) Act 1973 and certain related enactments are amended in accordance with Part II of Schedule 11 with respect to the following matters—
- (a) directions as to modifications of local plans;
 - (b) the operation of the Use Classes Order on the subdivision of the planning unit;
 - (c) the provision that may be made by development orders ;
 - (d) applications to vary or revoke conditions attached to planning permission;
 - (e) land adversely affecting the amenity of the neighbourhood ;
 - (f) purchase notices;
 - (g) National Scenic Areas ;
 - (h) local inquiries;
 - (i) procedure on applications and appeals disposed of without an inquiry or hearing;
 - (j) the determination of appeals by appointed persons ;
 - (k) daily penalties for offences ;
- and that Part also contains other minor amendments and amendments consequential on the provisions of this Part.
- (2) The enactments mentioned in Part IV of Schedule 12 to this Act are repealed to the extent specified.

Provisions common to England and Wales and Scotland

54 Effect of modification or termination of enterprise zone scheme

- (1) In Schedule 32 to the Local Government, Planning and Land Act 1980 (enterprise zones), for paragraphs 21 and 22 (effect of modification or termination of scheme on planning permission) substitute—

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

“Effect on planning permission of modification or termination of scheme

- 21 Modifications to a scheme do not affect planning permission under the scheme in any case where the development authorised by it has been begun before the modifications take effect.
- 22 (1) Upon an area ceasing to be an enterprise zone planning permission under the scheme shall cease to have effect except in a case where the development authorised by it has been begun.
- (2) The following provisions (which provide for the termination of planning permission if the completion of development is unreasonably delayed) apply to planning permission under the scheme where development has been begun but not completed by the time the area ceases to be an enterprise zone—
- (a) in England and Wales, subsections (2) to (6) of section 44 of the 1971 Act;
- (b) in Scotland, subsections (2) to (6) of section 41 of the 1972 Act.”.
- (2) In paragraph 26 of that Schedule (interpretation of Part III of the Schedule), after subparagraph (1) insert—
- “(1A) The following provisions apply in determining for the purposes of this Schedule when development shall be taken to be begun—
- (a) in England and Wales, subsections (1) to (3) of section 43 of the 1971 Act;
- (b) in Scotland, subsections (1) to (3) of section 40 of the 1972 Act.”.

55 Discrimination in exercise of planning functions

—In Part III of the Race Relations Act 1976 (discrimination in fields other than employment), after section 19 insert—

“Planning

19A Discrimination by planning authorities.

- (1) It is unlawful for a planning authority to discriminate against a person in carrying out their planning functions.
- (2) In this section " planning authority " means—
- (a) in England and Wales, a county, district or London borough council, a joint planning board, a special planning board or a National Park Committee, and
- (b) in Scotland, a planning authority or regional planning authority,
- and includes an urban development corporation and a body having functions (whether as an enterprise zone authority or a body invited to prepare a scheme) under Schedule 32 to the Local Government, Planning and Land Act 1980.
- (3) In this section " planning functions " means—
- (a) in England and Wales, functions under the Town and Country Planning Act 1971, and such other functions as may be prescribed, and

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

(b) in Scotland, functions under the Town and Country Planning (Scotland) Act 1972 or Part IX of the Local Government (Scotland) Act 1973, and such other functions as may be prescribed, and includes, in relation to an urban development corporation, planning functions under Part XVI of the Local Government, Planning and Land Act 1980 and, in relation to an enterprise zone authority or body invited to prepare an enterprise zone scheme, functions under Part XVIII of that Act.”.