



# Planning (Listed Buildings and Conservation Areas) Act 1990

## 1990 CHAPTER 9

### PART III

#### GENERAL

##### *Miscellaneous provisions*

#### **88 Rights of entry.**

- (1) Any person duly authorised in writing by the Secretary of State may at any reasonable time enter any land for the purpose of surveying any building on it in connection with a proposal to include the building in, or exclude it from, a list compiled or approved under section 1.
- (2) Any person duly authorised in writing by the Secretary of State, a local planning authority or, where the authorisation relates to a building situated in Greater London, the Commission may at any reasonable time enter any land for any of the following purposes—
  - (a) surveying it in connection with any proposal by the authority or the Secretary of State to make, issue or serve any order or notice under any of the provisions of sections 1 to 26, 38, 40, 46, 54, 55, 60, 68, 75 or 76 or under any order or regulations made under any of them, or any notice under section 48;
  - (b) ascertaining whether any such order or notice has been complied with;
  - (c) ascertaining whether an offence has been, or is being, committed with respect to any building on the land, under section 9, 11 or 43;
  - (d) ascertaining whether any such building is being maintained in a proper state of repair.
- (3) Any person duly authorised in writing by the Secretary of State, a local authority or, where the authorisation relates to a building situated in Greater London, the

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Commission may at any reasonable time enter any land for any of the following purposes—

- (a) ascertaining whether an offence has been or is being committed under section 59;
  - (b) ascertaining whether any of the functions conferred by section 54 should or may be exercised in connection with the land; or
  - (c) exercising any of those functions in connection with the land.
- (4) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local planning authority may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation payable by the authority under section 27, 28 or 29 in respect of any land.
- (5) Any person who is an officer of the Valuation Office or is duly authorised in writing by a local authority having power to acquire land under sections 47 to 52 may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land or in connection with any claim for compensation in respect of any such acquisition.
- (6) Subject to subsection (7), any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals in it.
- (7) Section 325 of the principal Act (supplementary provisions as to rights of entry) applies in relation to this section as it applies in relation to section 324 of that Act taking the reference in section 325(8) to section 324(8) as a reference to subsection (6) of this section.

**[88A F<sup>1</sup>Warrants to enter land.**

- (1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 88; and
  - (b) that—
    - (i) admission to the land has been refused, or a refusal is reasonably apprehended; or
    - (ii) the case is one of urgency,
 the justice may issue a warrant authorising any person duly authorised in writing by the appropriate authority to enter the land.
- (2) In subsection (1) “the appropriate authority” means the person who may authorise entry on the land under section 88 for the purpose in question.
- (3) For the purposes of subsection (1)(b)(i) admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.
- (4) A warrant authorises entry on one occasion only and that entry must be—
- (a) within one month from the date of the issue of the warrant; and
  - (b) at a reasonable hour, unless the case is one of urgency.]

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### Textual Amendments

- F1** Ss. 88A and 88B substituted(*prosp.*) for s. 88(7) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 25, 84(2), [Sch. 3 Pt. I para. 9\(2\)](#).

### **F2** 88B Rights of entry: supplementary provisions.

- (1) A person authorised under section 88 to enter any land shall not demand admission as of right to any land which is occupied unless twenty-four hours notice of the intended entry has been given to the occupier.
- (2) A person authorised to enter land in pursuance of a right of entry conferred under or by virtue of section 88 or 88A (referred to in this section as “a right of entry”)—
  - (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;
  - (b) may take with him such other persons as may be necessary; and
  - (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.
- (3) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If any person who enters any land, in exercise of a right of entry, discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.
- (5) Subsection (4) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.
- (6) A person who is guilty of an offence under subsection (4) shall be liable—
  - (a) on summary conviction to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.
- (7) If any damage is caused to land or chattels in the exercise of—
  - (a) a right of entry; or
  - (b) a power conferred by virtue of section 88(6) in connection with such a right, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State; and section 118 of the principal Act shall apply in relation to compensation under this subsection as it applies in relation to compensation under Part IV of that Act.
- (8) No person shall carry out any works in exercise of a power conferred under section 88 unless notice of his intention to do so was included in the notice required by subsection (1).
- (9) The authority of the appropriate Minister shall be required for the carrying out of works in exercise of a power conferred under section 88 if—
  - (a) the land in question is held by statutory undertakers; and

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- (b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to the carrying on of their undertaking.
- (10) Section 265(1) and (3) of the principal Act (meaning of “appropriate Minister”) applies for the purposes of subsection (9) as it applies for the purposes of section 325(9) of the principal Act.

#### Textual Amendments

**F2** Ss. 88A and 88B substituted(*prosp.*) for s. 88(7) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 25, 84(2), [Sch. 3 Pt. 1 para. 9\(2\)](#).

VALID FROM 07/06/2006

#### [<sup>F3</sup>88C Rights of entry: Crown land

- (1) Section 88 applies to Crown land subject to the following modifications.
- (2) A person must not enter Crown land unless he has the relevant permission.
- (3) Relevant permission is the permission of—
- a person appearing to the person seeking entry to the land to be entitled to give it, or
  - the appropriate authority.
- (4) In subsection (6) the words “Subject to section 88B(8)” must be ignored.
- (5) Section 88B does not apply to anything done by virtue of this section.
- (6) “Appropriate authority” must be construed in accordance with section 82C(6).]

#### Textual Amendments

**F3** S. 88C inserted (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 79(4), 121(1), [Sch. 3 para. 14](#) (with s. 111); [S.I. 2006/1281, art. 2\(c\)](#)

VALID FROM 06/04/2009

#### [<sup>F4</sup>88D Determination of procedure for certain proceedings

- (1) The Secretary of State must make a determination as to the procedure by which proceedings to which this section applies are to be considered.
- (2) A determination under subsection (1) must provide for the proceedings to be considered in whichever of the following ways appears to the Secretary of State to be most appropriate—
- at a local inquiry;
  - at a hearing;
  - on the basis of representations in writing.

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- (3) The Secretary of State must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.
- (4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.
- (5) The Secretary of State must notify the appellant or applicant (as the case may be) and the local planning authority of any determination made under subsection (1).
- (6) The Secretary of State must publish the criteria that are to be applied in making determinations under subsection (1).
- (7) This section applies to—
  - (a) an application referred to the Secretary of State under section 12 instead of being dealt with by a local planning authority in England;
  - (b) an appeal under section 20 against a decision of a local planning authority in England; and
  - (c) an appeal under section 39 against a listed building enforcement notice issued by a local planning authority in England.
- (8) The Secretary of State may by order amend subsection (7) to—
  - (a) add proceedings under this Act to, or remove proceedings under this Act from, the list of proceedings to which this section applies, or
  - (b) otherwise modify the descriptions of proceedings under this Act to which this section applies.
- (9) An order under subsection (8) may—
  - (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
  - (b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.]

#### Textual Amendments

- F4** S. 88D inserted (6.4.2009 for specified purposes, otherwise prosp.) by [Planning Act 2008 \(c. 29\)](#), ss. 196(2), 241(8) (with s. 226); S.I. 2009/400, [art. 3\(j\)](#)

## 89 Application of certain general provisions of principal Act.

- (1) Subject to subsection (2), the following provisions of the principal Act shall apply for the purposes of this Act as they apply for the purposes of that Act, namely—
  - section 320 (local inquiries),
  - [<sup>F5</sup>section 322 (orders as to costs of parties where no inquiry held)],
  - section 323 (procedure on certain appeals and applications),
  - section 329 (service of notices),
  - section 330 (power to require information as to interests in land),
  - section 331 (offences by corporations).
- (2) Section 331 of that Act shall not apply to offences under section 59 of this Act.

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### Textual Amendments

- F5** Words from “section 322” to “held)” omitted (*temp.*) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 6, Sch. 4 paras. 1, 11](#)

## 90 Financial provisions.

- (1) Where—
- (a) compensation is payable by a local authority under this Act in consequence of any decision or order given or made under Chapters I, II or IV of Part I or sections 32 to 37, 60 or Schedule 3; and
  - (b) the decision or order in consequence of which it is payable was given or made wholly or partly in the interest of a service which is provided by a government department and the cost of which is defrayed out of money provided by Parliament,
- the Minister responsible for the administration of that service may pay that authority a contribution of such amount as he may with the consent of the Treasury determine.
- (2) Any local authority and any statutory undertakers may contribute towards any expenses incurred by a local planning authority in or in connection with the performance of any of their functions under the provisions of Chapters I to V of Part I (other than sections 27 to 31, 53, 54, 55, 57, 58) and sections 66 and 68 and Schedule 1.
- (3) Where any expenses are incurred by a local authority in the payment of compensation payable in consequence of anything done under Chapters I, II or IV of Part I or sections 32 to 37, 56, 59, 60, 66(1), 67, 68 or 73, the Secretary of State may, if it appears to him to be expedient to do so, require any other local authority to contribute towards those expenses such sum as appears to him to be reasonable, having regard to any benefit accruing to that authority by reason of the proceeding giving rise to the compensation.
- (4) For the purposes of subsections (2) and (3), contributions made by a local planning authority towards the expenditure of a joint advisory committee shall be deemed to be expenses incurred by that authority for the purposes for which that expenditure is incurred by the committee.
- (5) The council of a county may direct that any expenses incurred by them under the provisions specified in subsection (6) shall be treated as special expenses of a county council chargeable upon such part of the county as may be specified in the directions.
- (6) Those provisions are—
- (a) sections 1(1) to (5), 2(1) to (3) [<sup>F6</sup>41(8)], 51, 52, 64, 65, 66(2), 82(1) and (4)(b), 83, 86 (except subsection (2)(a)), 87, 88 (except subsection (3)) and subsections (1) to (4) of this section and any other provisions of the planning Acts in so far as they apply, or have effect for the purposes of, any of those provisions; and
  - (b) sections 1(6), 3, 4, 5, 7 to 29, 32 to 50 (except 39(6) and 42(6)), 60(1) to (4), 61, 66(1), 67(2)(b),(6) and (7), 73(1) (so far as it applies to section 67(2)(b), (6) and (7)), 82(2), (3) and (4)(a) and Schedules 1, 2 and 3.
- (7) There shall be paid out of money provided by Parliament—
- (a) any sums necessary to enable the Secretary of State to make any payments becoming payable by him under sections 27 to 29;

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- (b) any expenses incurred by any government department (including the Secretary of State) in the acquisition of land under sections 47 to 52 or in the payment of compensation under section 51(4) or 88(7) or under subsection (1);
  - (c) any administrative expenses incurred by the Secretary of State for the purposes of this Act.
- (8) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

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**Textual Amendments**

**F6** “41(8)” inserted (*temp.* subject to S.I. 1991/2698, **arts. 3, 4**) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 6, Sch. 4 paras. 1, **10**

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

**C1** [S. 90\(2\)–\(4\)](#) applied (with modifications) by [S.I. 1990/1519, reg. 12](#), **Sch. 3**

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