



# Access to Neighbouring Land Act 1992

## 1992 CHAPTER 23

### 1 Access orders

- (1) A person—
  - (a) who, for the purpose of carrying out works to any land (the “dominant land”), desires to enter upon any adjoining or adjacent land (the “servient land”), and
  - (b) who needs, but does not have, the consent of some other person to that entry, may make an application to the court for an order under this section (“an access order”) against that other person.
- (2) On an application under this section, the court shall make an access order if, and only if, it is satisfied—
  - (a) that the works are reasonably necessary for the preservation of the whole or any part of the dominant land; and
  - (b) that they cannot be carried out, or would be substantially more difficult to carry out, without entry upon the servient land;but this subsection is subject to subsection (3) below.
- (3) The court shall not make an access order in any case where it is satisfied that, were it to make such an order—
  - (a) the respondent or any other person would suffer interference with, or disturbance of, his use or enjoyment of the servient land, or
  - (b) the respondent, or any other person (whether of full age or capacity or not) in occupation of the whole or any part of the servient land, would suffer hardship, to such a degree by reason of the entry (notwithstanding any requirement of this Act or any term or condition that may be imposed under it) that it would be unreasonable to make the order.
- (4) Where the court is satisfied on an application under this section that it is reasonably necessary to carry out any basic preservation works to the dominant land, those works shall be taken for the purposes of this Act to be reasonably necessary for the preservation of the land; and in this subsection “basic preservation works” means any of the following, that is to say—

- (a) the maintenance, repair or renewal of any part of a building or other structure comprised in, or situate on, the dominant land;
- (b) the clearance, repair or renewal of any drain, sewer, pipe or cable so comprised or situate;
- (c) the treatment, cutting back, felling, removal or replacement of any hedge, tree, shrub or other growing thing which is so comprised and which is, or is in danger of becoming, damaged, diseased, dangerous, insecurely rooted or dead;
- (d) the filling in, or clearance, of any ditch so comprised;

but this subsection is without prejudice to the generality of the works which may, apart from it, be regarded by the court as reasonably necessary for the preservation of any land.

- (5) If the court considers it fair and reasonable in all the circumstances of the case, works may be regarded for the purposes of this Act as being reasonably necessary for the preservation of any land (or, for the purposes of subsection (4) above, as being basic preservation works which it is reasonably necessary to carry out to any land) notwithstanding that the works incidentally involve—
- (a) the making of some alteration, adjustment or improvement to the land, or
  - (b) the demolition of the whole or any part of a building or structure comprised in or situate upon the land.
- (6) Where any works are reasonably necessary for the preservation of the whole or any part of the dominant land, the doing to the dominant land of anything which is requisite for, incidental to, or consequential on, the carrying out of those works shall be treated for the purposes of this Act as the carrying out of works which are reasonably necessary for the preservation of that land; and references in this Act to works, or to the carrying out of works, shall be construed accordingly.
- (7) Without prejudice to the generality of subsection (6) above, if it is reasonably necessary for a person to inspect the dominant land—
- (a) for the purpose of ascertaining whether any works may be reasonably necessary for the preservation of the whole or any part of that land,
  - (b) for the purpose of making any map or plan, or ascertaining the course of any drain, sewer, pipe or cable, in preparation for, or otherwise in connection with, the carrying out of works which are so reasonably necessary, or
  - (c) otherwise in connection with the carrying out of any such works,
- the making of such an inspection shall be taken for the purposes of this Act to be the carrying out to the dominant land of works which are reasonably necessary for the preservation of that land; and references in this Act to works, or to the carrying out of works, shall be construed accordingly.