



# Planning Act 2008

## 2008 CHAPTER 29

### PART 5

#### APPLICATIONS FOR ORDERS GRANTING DEVELOPMENT CONSENT

### CHAPTER 3

#### ASSISTANCE FOR APPLICANTS AND OTHERS

#### **51 Advice for potential applicants and others**

- (1) The Commission may give advice to an applicant or potential applicant, or to others, about—
  - (a) applying for an order granting development consent;
  - (b) making representations about an application, or a proposed application, for such an order.
- (2) The Commission may not under subsection (1) give advice about the merits of any particular application, or proposed application, for such an order.
- (3) The Secretary of State may, if the Secretary of State thinks it appropriate to do so in connection with securing propriety in the giving of advice under subsection (1), by regulations make provision about the giving of advice under that subsection (but not about what the advice is to be).
- (4) In particular, regulations under subsection (3) may make provision that has the effect that—
  - (a) a person's request for advice under subsection (1), or
  - (b) advice given under subsection (1) to a person,must be, or may be, disclosed by the Commission to persons other than that person or to the public generally.

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*Status: This is the original version (as it was originally enacted).*

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## **52 Obtaining information about interests in land**

- (1) Where a person is applying, or proposes to apply, for an order granting development consent, subsection (2) applies for the purpose of enabling the person (“the applicant”) to comply with provisions of, or made under, Chapter 2 of this Part or Chapter 1 of Part 6.
- (2) The Commission may authorise the applicant to serve a notice on a person mentioned in subsection (3) requiring the person (“the recipient”) to give to the applicant in writing the name and address of any person the recipient believes is one or more of the following—
  - (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of the land;
  - (b) a person interested in the land;
  - (c) a person having power—
    - (i) to sell and convey the land, or
    - (ii) to release the land.
- (3) The persons are—
  - (a) an occupier of the land;
  - (b) a person who has an interest in the land as freeholder, mortgagee or lessee;
  - (c) a person who directly or indirectly receives rent for the land;
  - (d) a person who, in pursuance of an agreement between that person and a person interested in the land, is authorised to manage the land or to arrange for the letting of it.
- (4) A notice under subsection (2) must—
  - (a) be in writing,
  - (b) state that the Commission has authorised the applicant to serve the notice,
  - (c) specify or describe the land to which the application, or proposed application, relates,
  - (d) specify the deadline by which the recipient must give the required information to the applicant, and
  - (e) draw attention to the provisions in subsections (6) to (9).
- (5) A deadline specified under subsection (4)(d) in a notice must not be earlier than the end of the 14 days beginning with the day after the day on which the notice is served on the recipient of the notice.
- (6) A person commits an offence if the person fails without reasonable excuse to comply with a notice under subsection (2) served on the person.
- (7) A person commits an offence if, in response to a notice under subsection (2) served on the person—
  - (a) the person gives information which is false in a material particular, and
  - (b) when the person does so, the person knows or ought reasonably to know that the information is false.
- (8) If an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) a director, manager, secretary or other similar officer of the body,
  - (b) a person purporting to act in any such capacity, or

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- (c) in a case where the affairs of the body are managed by its members, a member of the body,  
that person, as well as the body, is guilty of that offence and liable to be proceeded against accordingly.
- (9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) In subsections (2) and (3) “the land” means—
  - (a) the land to which the application, or proposed application, relates, or
  - (b) any part of that land.
- (11) Any other expression that appears in either of paragraphs (b) and (c) of subsection (2) and also in section 5(1) of the Compulsory Purchase Act 1965 (c. 56) has in those paragraphs the meaning that it has in section 5(1) of that Act.

### **53 Rights of entry**

- (1) Any person duly authorised in writing by the Commission may at any reasonable time enter any land for the purpose of surveying and taking levels of it in connection with—
  - (a) an application for an order granting development consent, whether in relation to that or any other land, that has been accepted by the Commission,
  - (b) a proposed application for an order granting development consent, or
  - (c) an order granting development consent that includes provision authorising the compulsory acquisition of that land or of an interest in it or right over it.
- (2) Authorisation may be given by the Commission under subsection (1)(b) in relation to any land only if it appears to the Commission that—
  - (a) the proposed applicant is considering a distinct project of real substance genuinely requiring entry onto the land,
  - (b) the proposed application is likely to seek authority to compulsorily acquire the land or an interest in it or right over it, and
  - (c) the proposed applicant has complied with section 42 in relation to the proposed application.
- (3) Subject to subsections (9) and (10), power conferred by subsection (1) to survey land includes power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals or other matter in it.
- (4) A person authorised under subsection (1) to enter any land—
  - (a) must, if so required, produce evidence of the person’s authority, and state the purpose of the person’s entry, before so entering,
  - (b) may not demand admission as of right to any land which is occupied unless 14 days’ notice of the intended entry has been given to the occupier, and
  - (c) must comply with any other conditions subject to which the Commission’s authorisation is given.
- (5) A person commits an offence if the person wilfully obstructs a person acting in the exercise of power under subsection (1).
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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- (7) Where any damage is caused to land or chattels—
- (a) in the exercise of a right of entry conferred under subsection (1), or
  - (b) in the making of any survey for the purpose of which any such right of entry has been conferred,
- compensation may be recovered by any person suffering the damage from the person exercising the right of entry.
- (8) Any question of disputed compensation under subsection (7) must be referred to and determined by the Lands Tribunal.
- (9) No person may carry out under subsection (1) any works authorised by virtue of subsection (3) unless notice of the person’s intention to do so was included in the notice required by subsection (4)(b).
- (10) The authority of the appropriate Minister is required for the carrying out under subsection (1) of works authorised by virtue of subsection (3) if—
- (a) the land in question is held by statutory undertakers, and
  - (b) they object to the proposed works on the ground that execution of the works would be seriously detrimental to the carrying-on of their undertaking.
- (11) In subsection (10)—
- “the appropriate Minister” means—
- (a) in the case of land in Wales held by water or sewerage undertakers, the Welsh Ministers, and
  - (b) in any other case, the Secretary of State;
- “statutory undertakers” means persons who are, or who are deemed to be, statutory undertakers for the purposes of any provision of Part 11 of TCPA 1990.

#### **54 Rights of entry: Crown land**

- (1) Subsections (1) to (3) of section 53 apply to Crown land subject to subsections (2) and (3) of this section.
- (2) A person must not enter Crown land unless the person (“P”) has the permission of—
  - (a) a person appearing to P to be entitled to give it, or
  - (b) the appropriate Crown authority.
- (3) In section 53(3), the words “Subject to subsections (9) and (10)” must be ignored.
- (4) Subsections (4) to (6) and (9) to (11) of section 53 do not apply to anything done by virtue of subsections (1) to (3) of this section.