



# Planning and Compensation Act 1991

## 1991 CHAPTER 34

### PART I

#### TOWN AND COUNTRY PLANNING: ENGLAND AND WALES

##### *Controls over particular matters*

#### **20 Land of interested planning authorities and development by them.**

For section 316 of the principal Act (application of certain provisions to local planning authorities) there is substituted—

**“316 Land of interested planning authorities and development by them.**

- (1) The provisions of Parts III, VII and VIII of this Act shall apply in relation to—
  - (a) land of interested planning authorities; and
  - (b) the development of any land by interested planning authorities or by such authorities jointly with any other persons,subject to regulations made by virtue of this section.
- (2) The regulations may, in relation to such land or such development—
  - (a) provide for any of those provisions to apply subject to prescribed exceptions or modifications or not to apply;
  - (b) make new provision as to any matter dealt with in any of those provisions;
  - (c) make different provision in relation to different classes of land or development.
- (3) Without prejudice to subsection (2), the regulations may provide—
  - (a) subject to subsection (5), for applications for planning permission to develop such land, or for such development, to be determined by the authority concerned, by another interested planning authority or by the Secretary of State; and

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(b) for the procedure to be followed on such applications, and, in the case of applications falling to be determined by an interested planning authority, they may regulate the authority's arrangements for the discharge of their functions, notwithstanding anything in section 101 of the <sup>M1</sup>Local Government Act 1972.

(4) The regulations shall—

- (a) provide for section 71(3), and any provision made by virtue of section 65 or 71 by a development order, to apply to applications for planning permission to develop such land, or for such development, subject to prescribed exceptions or modifications, or
- (b) make corresponding provision.

(5) In the case of any application for planning permission to develop land of an interested planning authority where—

- (a) the authority do not intend to develop the land themselves or jointly with any other person; and
- (b) if it were not such land, the application would fall to be determined by another body,

the regulations shall provide for the application to be determined by that other body, unless the application is referred to the Secretary of State under section 77.

(6) In this section “interested planning authority”, in relation to any land, means any body which exercises any of the functions of a local planning authority in relation to that land; and for the purposes of this section land is land of an authority if the authority have any interest in it.

(7) This section applies to any consent required in respect of any land as it applies to planning permission to develop land.

(8) Subsection (1) does not apply to sections 76, 90(2) and (5) and 223.”

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

**C1** S. 20 restricted (23.6.1992) by S.I. 1992/1491, **art.3**

**Commencement Information**

**II** S. 20 wholly in force; s. 20 not in force at Royal Assent see s. 84(2); s. 20 in force for certain purposes at 25.11.1991 by S.I. 1991/2728, **art. 2**; s. 20 in force at 17.7.1992 insofar as not already in force by S.I. 1992/1491, **art. 2**

**Marginal Citations**

**M1** 1972 c. 70.

**21 Mines and waste.**

Schedule 1 to this Act (which, among other things, provides for aftercare where permission is given to deposit refuse or waste materials and provides for altering the provisions relating to compensation for restrictions on mineral working and depositing mineral waste) shall have effect.

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**Commencement Information**

**I2** S. 21 wholly in force at 25.09.1991 see s. 84(2)(3) and S.I. 1991/2067, art. 3.

**22 Old mining permissions.**

- (1) In this section and Schedule 2 to this Act, “old mining permission” means any planning permission for development—
  - (a) consisting of the winning and working of minerals; or
  - (b) involving the depositing of mineral waste,which was deemed to be granted under Part III of the <sup>M2</sup>Town and Country Planning Act 1947 by virtue of section 77 of that Act (development authorised under interim development orders after 21st July 1943).
- (2) An old mining permission shall, if an application under that Schedule to determine the conditions to which the permission is to be subject is finally determined, have effect as from the final determination as if granted on the terms required to be registered.
- (3) If no such development has, at any time in the period of two years ending with 1st May 1991, been carried out to any substantial extent anywhere in, on or under the land to which an old mining permission relates, that permission shall not authorise any such development to be carried out at any time after the coming into force of this section unless—
  - (a) the permission has effect in accordance with subsection (2) above; and
  - (b) the development is carried out after such an application is finally determined.
- (4) An old mining permission shall—
  - (a) if no application for the registration of the permission is made under that Schedule, cease to have effect on the day following the last date on which such an application may be made; and
  - (b) if such an application is refused, cease to have effect on the day following the date on which the application is finally determined.
- (5) An old mining permission shall, if—
  - (a) such an application is granted; but
  - (b) an application under that Schedule to determine the conditions to which the permission is to be subject is required to be served before the end of any period and is not so served,cease to have effect on the day following the last date on which the application to determine those conditions may be served.
- (6) Subject to subsection (3) above, this section—
  - (a) shall not affect any development carried out under an old mining permission before an application under that Schedule to determine the conditions to which the permission is to be subject is finally determined or, as the case may be, the date on which the permission ceases to have effect; and
  - (b) shall not affect any order made or having effect as if made under section 102 of or Schedule 9 to the principal Act (discontinuance, etc. orders).
- (7) This section and that Schedule, and the principal Act, shall have effect as if the section and Schedule were included in Part III of that Act.

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

- C2** S. 22 applied (with modifications) (7.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [s. 87\(2\)\(a\)](#) (with [s. 111](#)); [S.I. 2006/1281](#), [art. 2\(a\)](#)

**Commencement Information**

- I3** S. 22 wholly in force at 25.09.1991 see [s. 84\(2\)\(3\)](#) and [S.I. 1991/2067](#), [art. 3](#).

**Marginal Citations**

- M2** [1947 c. 51](#).

**23 Trees.**

- (1) In section 207 of the principal Act (enforcement of duties as to replacement of trees) for subsections (3) and (4) there is substituted—

“(3) A notice under subsection (1) shall specify a period at the end of which it is to take effect.

(4) The specified period shall be a period of not less than twenty-eight days beginning with the date of service of the notice.”

- (2) In section 208 (appeals against section 207 notices) in subsection (1) after paragraph (a) there is inserted—

“(aa) that in all the circumstances of the case the duty imposed by section 206(1) should be dispensed with in relation to any tree;”.

- (3) For subsections (2) and (3) of that section there is substituted—

“(2) An appeal under subsection (1) shall be made either—

- (a) by giving written notice of the appeal to the Secretary of State before the end of the period specified in accordance with section 207(3); or
- (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before the end of that period.”

- (4) For subsections (7) and (8) of that section there is substituted—

“(7) On such an appeal the Secretary of State may—

- (a) correct any defect, error or misdescription in the notice; or
- (b) vary any of its requirements,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(8) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(8A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.”

- (5) For section 209(6) there is substituted—

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“(6) Any person who wilfully obstructs a person acting in the exercise of the power under subsection (1)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

(6) In section 210 (penalties for non-compliance with tree preservation order)—

- <sup>F1</sup>(a) . . . . .
- (b) in subsection (3) “on indictment” is omitted; and
- (c) subsection (5) is omitted.

(7) After section 214 there is inserted—

*“ Injunctions*

**214A Injunctions.**

- (1) Where a local planning authority consider it necessary or expedient for an actual or apprehended offence under section 210 or 211 to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Chapter.
- (2) Subsections (2) to (4) of section 187B apply to an application under this section as they apply to an application under that section.

*Rights of entry*

**214B Rights to enter without warrant.**

- (1) Any person duly authorised in writing by a local planning authority may enter any land for the purpose of—
  - (a) surveying it in connection with making or confirming a tree preservation order with respect to the land;
  - (b) ascertaining whether an offence under section 210 or 211 has been committed on the land; or
  - (c) determining whether a notice under section 207 should be served on the owner of the land,if there are reasonable grounds for entering for the purpose in question.
- (2) Any person duly authorised in writing by the Secretary of State may enter any land for the purpose of surveying it in connection with making, amending or revoking a tree preservation order with respect to the land, if there are reasonable grounds for entering for that purpose.
- (3) Any person who is duly authorised in writing by a local planning authority may enter any land in connection with the exercise of any functions conferred on the authority by or under this Chapter.
- (4) Any person who is an officer of the Valuation Office may enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of any land which is payable by the local planning authority under this Chapter (other than section 204).

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- (5) Any person who is duly authorised in writing by the Secretary of State may enter any land in connection with the exercise of any functions conferred on the Secretary of State by or under this Chapter.
- (6) The Secretary of State shall not authorise any person as mentioned in subsection (2) without consulting the local planning authority.
- (7) Admission shall not be demanded as of right—
  - (a) by virtue of subsection (1) or (2) to any building used as a dwellinghouse; or
  - (b) by virtue of subsection (3), (4) or (5) to any land which is occupied, unless twenty-four hours' notice of the intended entry has been given to the occupier.
- (8) Any right to enter by virtue of this section shall be exercised at a reasonable hour.

#### **214C Right to enter under warrant.**

- (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 214B(1) or (2); 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 a local planning authority or, as the case may be, the Secretary of State to enter the land.
- (2) 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.
- (3) 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.

#### **214D Rights of entry: supplementary provisions.**

- (1) Any power conferred under or by virtue of section 214B or 214C to enter land (referred to in this section as “a right of entry”) shall be construed as including power to take samples from any tree and samples of the soil.
- (2) A person authorised to enter land in the exercise of 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.

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- (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 damage is caused to land or chattels in the exercise of a right of entry, 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.
- (5) The provisions of section 118 shall apply in relation to compensation under subsection (4) as they apply in relation to compensation under Part IV.”
- (8) In section 324 (rights of entry)—
- (a) in subsection (1), in paragraph (b) “198 to 200” is omitted;
  - (b) in paragraph (c) of that subsection for “or Part VIII” there is inserted “ or Chapter 2 or 3 of Part VIII ”;
  - (c) subsection (2) is omitted; and
  - (d) in subsection (5) for “Part VIII (other than section 204)” there is substituted “ Chapter 2 or 3 of Part VIII ”.

#### Textual Amendments

- F1** S. 23(6)(a) omitted (12.3.2015) by virtue of [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 96(2)** (with reg. 5(1))

#### Commencement Information

- I4** S. 23 wholly in force: s.23(7) in force for certain purposes at 25.11.1991, see s. 84(2)(3) and [S.I. 1991/2728](#), **art. 2**; s. 23 (so far as not already in force) in force at 2.1.1992 by [S.I. 1991/2905](#), **arts. 3, 5**.

## 24 Advertisements.

In section 336(1) of the principal Act (interpretation) in the definition of “advertisement”—

- (a) after “notice” there is inserted “ awning, blind ”;
- (b) after “used,” there is inserted “ or designed ”; and
- (c) after “use” there is inserted “ and anything else principally used, or designed or adapted principally for use, ”.

#### Commencement Information

- I5** S. 24 wholly in force at 6.4.1992 see s. 84(2) and [S.I. 1992/665](#), **art. 2**

## 25 Listed buildings, conservation areas and hazardous substances.

Schedule 3 to this Act (which makes amendments in relation to the enforcement of the enactments about listed buildings, conservation areas and hazardous substances) shall have effect.

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#### Commencement Information

- 16** S. 25 wholly in force: s. 25 in force for certain purposes at 25.9.1991, see s.84(2)(3) and S.I. 1991/2067, **art. 3**; s. 25 in force for certain purposes at 25.11.1991 by S.I. 1991/2728, **art. 2**; s. 25 wholly in force at 2.1.1992 so far as not already in force by S.I. 1991/2905, **arts. 3,5**



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