



The Party Wall etc. Act 1996 - Explanatory Notes

Building Control, Environmental Services

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General Comments

These notes are not an authoritative interpretation of the law. The information provided is intended only to draw attention to the existence and principal requirements of The Party Wall etc. Act 1996. The enforcement and interpretation of the Act is not a duty imposed on this authority.

Scope of the Act

The basic principle of the Act is that, if it is planned to carry out building work on an existing wall shared with another property, or build on the boundary with a neighbouring property, or excavate near a neighbouring building, the owner instigating the work, must find out whether that work falls within the scope of the Act. If it does, the owners of the work, must serve the statutory notice on all affected owners.

The Act covers:-

- * New building on or astride the boundary line between properties;
- * Various building work directly affecting an existing party wall including extending, underpinning, rebuilding, repairing or reducing the size of the wall;
- * Excavating, or constructing foundations for a new building, within three metres of a neighbouring owner's building where that work will go deeper than the neighbour's foundations;
- * Excavating, or constructing foundations for a new building, within six metres of a neighbouring owner's building where that work will cut a line drawn downwards at 45% from the bottom of the neighbour's foundations.

Definitions

A wall is a party wall if:-

- * It stands astride the boundary of land belonging to two (or more) different owners; or
- * It belongs totally to one owner, but is used by two (or more) owners to separate their buildings. *Where one person has built the wall in the first place, and another has butted their building against it without constructing their own wall, only the part of the wall that does the separating is deemed the party wall.*

The owner is defined by the Act as anyone (other than a mortgagee) with an interest greater than a tenancy from year to year. This means there may be several owners of one property.

Statutory Notices

A building owner intending to carry out work covered by the Act must give notice in writing of the intended works to all relevant adjoining owners. This notice must provide details of the name and address of the owner instigating the work, the building's address, full details of what is proposed and the anticipated starting date of the work. In the case of excavations, the notice must also state whether the owner proposes to strengthen or safeguard the foundations of the building or structure belonging to the adjoining owner. The notice must be accompanied by plans.

At least two months notice is required in respect of works to an existing party wall, and one months notice for a planned new wall or for excavations within the three and six metre specified distances.

Work to an existing party wall

An adjoining owner cannot stop someone from exercising the rights given to them by the Act, but can influence how and when the work is done. Under the Act, a person who receives a notice about intended work may give consent to the proposals within 14 days of receipt, or give a counter-notice setting out what additional or modified work he/she would like to be carried out. If an adjoining owner does not do either of these a dispute is regarded as having arisen.

A new wall astride the boundary line

Where the adjoining owner gives notice within 14 days of receipt of the statutory notice, agreeing to the building of a new wall astride the boundary line, the work (as agreed) may go ahead. If the adjoining owner does not respond to the notice, or objects to the proposed new wall, the building owner may only build the new wall wholly on his own land. The footings and foundations may, however, be placed under the adjoining owner's land (subject to compensation). The footings may not be of reinforced concrete without the specific agreement of the adjoining owners.

New wall up against the boundary line

The building owner may start work, including placing footings and foundations that extend under the adjoining owner's land, (subject to compensation), one month after the notice is served. The footings may not be of reinforced concrete without the specific agreement of the adjoining owners.

Excavation near neighbouring buildings

If the adjoining owner does not give notice within 14 days of receipt of the statutory notice unconditionally agreeing to the proposed work, a dispute is regarded as having arisen.

Disputes and Procedures

The Act envisages that, in most cases, there will be an amicable agreement about the proposed works between the relevant owners; this agreement must be in writing. However, where an agreement cannot be reached, the dispute resolution procedures of the Act apply.

The preferred solution is for the respective owners to agree upon the appointment of one surveyor to draw up a statement as to what work is to be done and how, and when, it will be carried out. If agreement cannot be reached as to the employment of one surveyor, each party must appoint separate surveyors who in turn may need to call on the services of a third. The surveyors appointed under the dispute procedures must act impartially, taking into account the interests of both owners. The relationship should not be that of client and agent.

Costs

The general principle of the Act is that the building owner who initiates the work pays for it and any associated strengthening work etc required to the neighbouring owner's foundations or building structure. In addition, the building owner must pay compensation to an adjoining owner for any damage caused as a consequence of undertaking the work.

Further Information

More information about the Act is contained in "The Party Wall etc Act 1996: Explanatory Booklet" (product code 97 PBD 008). This is also available, free of charge, from: ODPM Free Literature, PO Box 236, Wetherby, West Yorkshire LS23 7NB (Tel: 0870 1226236, Fax: 0870 1226237, Textphone: 0870 1207405, E-mail: detr@twoten.press.net).

The Act and related Statutory Instruments

The Party Wall etc. Act 1996

The Party Wall etc. Act 1996(Commencement) Order 1997 (SI 1997/670(c.24)

The Party Wall etc. Act 1996 (Repeal of Local Enactments) Order 1997 (SI 1997/671)

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