

Circular 6/97  
(Department of the Environment)

Circular 16/97  
Y Swyddfa Gymreig (Welsh Office)

DEPARTMENT  
OF THE  
ENVIRONMENT



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30 May 1997

## The Party Wall etc. Act 1996 The Party Wall etc. Act 1996 (Commencement) Order 1997

## The Party Wall etc. Act 1996 (Repeal of Local Enactments) Order 1997

### PURPOSE OF CIRCULAR

1. We are directed by the Secretary of State for the Environment and the Secretary of State for Wales to notify you that the Party Wall etc. Act 1996 (Commencement) Order 1997 (SI 1997 No 670(c.24)) was made on 6 March 1997. This Order brings the Party Wall etc. Act 1996 into force on 1 July 1997.
2. We are further directed to inform you that the Party Wall etc. Act 1996 (Repeal of Local Enactments) Order 1997 (SI 1997 No 671) was also made on 6 March 1997 and will come into force on 1 July 1997.

### BACKGROUND

3. The Party Wall etc. Act 1996 ('the 1996 Act') provides a framework for preventing and resolving disputes which can arise between neighbouring owners in respect of party walls and similar matters. It deals with three main issues - construction of new walls on boundaries between adjoining owners' land (section 1: "New building on line of junction"); repairs and modifications to existing party walls (section 2: "Repair etc. of party wall: rights of owner"); and excavation near to neighbouring buildings (section 6: "Adjacent excavation and construction"). **Local authorities, and their property, are not exempt from the 1996 Act.**
4. The 1996 Act applies, to the whole of England and Wales, provisions modelled closely on those in Part VI of the London Building Acts (Amendment) Act 1939. Under the 1996 Act people outside inner London will, for the first time, have to serve notices on adjoining owners if they are planning work of the kinds covered by the Act, even if that work is of a kind currently permitted under common law.
5. Outside inner London, anyone proposing to start work of the kinds covered by sections 1, 2 and 6 of the 1996 Act on or after 1 September must have given adjoining owners notice of their intentions in the way set down in the Act. Adjoining owners can agree or disagree with what is proposed. Where there is a disagreement, section 10 of the 1996 Act provides for the resolution of disputes. Transitional provisions are outlined in paragraphs 9 to 13 below.

6. Section 2 of the 1996 Act provides owners with a series of statutory rights, not previously enjoyed outside inner London, to carry out work on the whole thickness of party structures. These include: raising the whole party wall; demolishing and rebuilding a party wall; underpinning a party wall; and cutting into a party wall for example to insert a damp proof course.

### **REPEAL OF LOCAL ENACTMENTS**

7. The Party Wall etc. Act 1996 (Repeal of Local Enactments) Order 1997 will repeal the following local Act provisions from 1 July 1997:

- Part VI of the London Building Acts (Amendment) Act 1939
- Sections XXVII to XXXII of the Bristol Improvement Act 1847

8. The repealed provisions will continue to apply in respect of any notice given, work commenced or other action taken before 1 July 1997 in accordance with those provisions, notwithstanding the repeal (see paragraphs 9 to 13 below).

### **TRANSITIONAL PROVISIONS**

9. The transitional provisions contained in the Party Wall etc. Act 1996 (Commencement) Order 1997 mean that, *outside inner London*, work within the scope of the 1996 Act can be commenced before 1 September 1997 without a notice under the 1996 Act, if it is in accordance with any agreement, easement or right other than a new right conferred by the 1996 Act. This transitional provision will reduce the risk of the commencement of the 1996 Act disrupting work that people currently plan to undertake during July and August which is reliant on common law rights, for example work on a party wall not affecting any part of the wall beyond the centre line.

10. Notices under the 1996 Act will be needed in relation to work within the scope of the Act planned to begin on or after 1 September. Notice can be given once the 1996 Act comes into force on 1 July 1997.

11. *In inner London* the combined effect of the Commencement Order and the Repeal of Local Enactments Order is that anyone planning work of the relevant kinds must, up to 30 June, serve a notice under the relevant section of Part VI of the London Building Acts (Amendment) Act 1939. From 1 July onwards they must, instead, serve a notice under section 1, 3 or 6 of the 1996 Act. There is a saving in the Repeal of Local Enactments Order in respect of any notice given, work commenced or other action taken before 1 July 1997, in accordance with Part VI of the London Building Acts (Amendment) Act 1939.

12. The same saving applies in relation to notices given, work commenced or other action taken before 1 July 1997, in accordance with sections XXVII to XXXII of the Bristol Improvement Act 1847. Such work etc. will continue to be governed by those provisions. With that exception, the position under the 1996 Act in relation to the period from 1 July onwards will be the same in Bristol as elsewhere in England and Wales outside inner London.

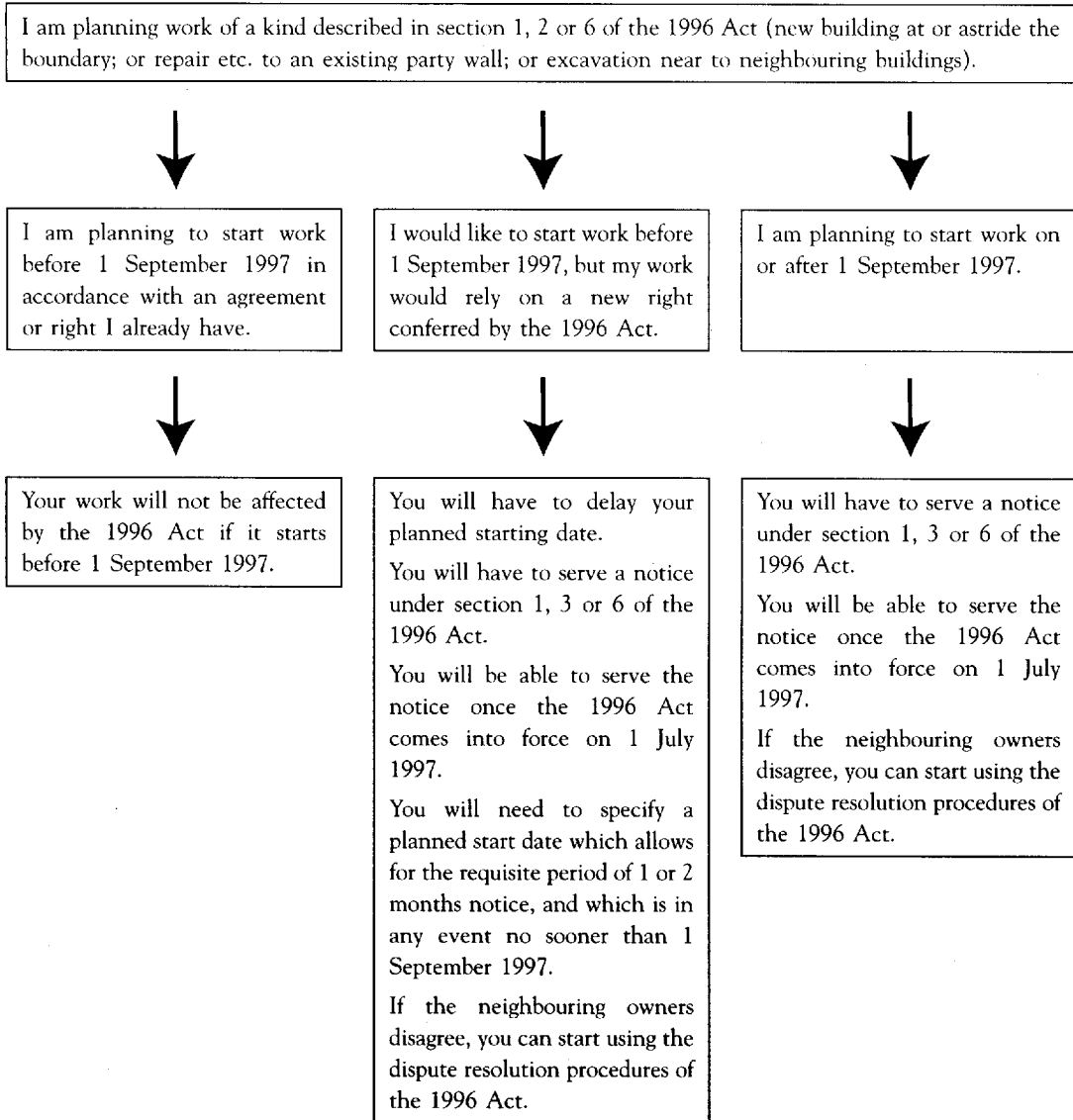
13. A flow chart summarising the transitional position for England and Wales (except inner London) is at Annex A to this Circular. A flow chart summarising the transitional position for inner London is at Annex B.

### **RESOLUTION OF DISPUTES**

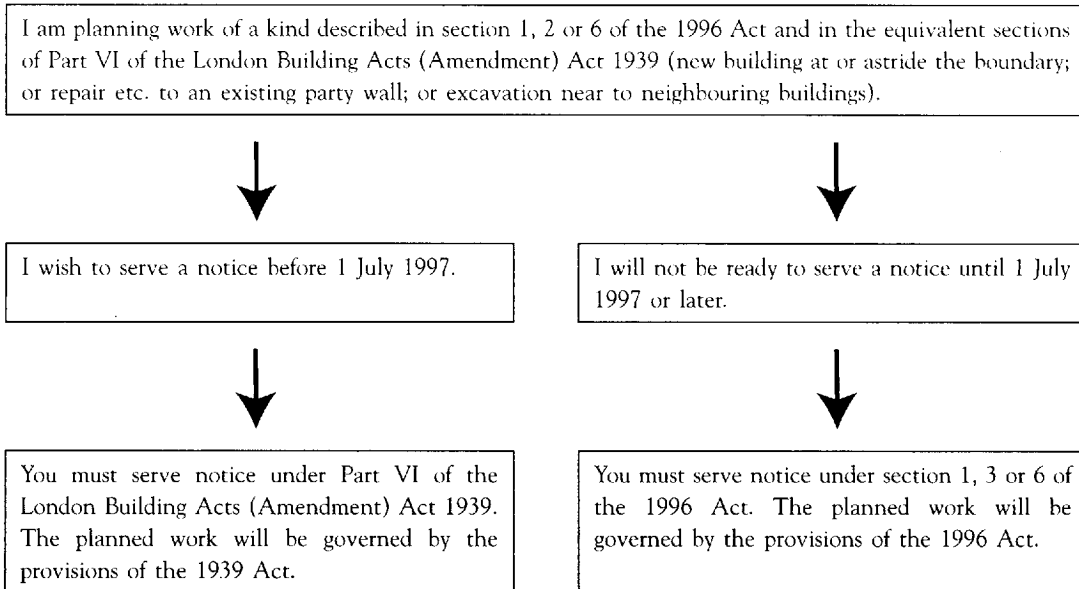
14. Under section 10 of the 1996 Act, in the event of a dispute, the parties may appoint a single "agreed surveyor" to draw up an "award" to settle the dispute. Alternatively each party may appoint a surveyor and the two surveyors forthwith select a third surveyor. In this



## The Party Wall etc. Act 1996: Transitional Position for England and Wales (except inner London)



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