

Party Wall etc Act 1996

The Party Wall Act was brought into force on the 1 July 1997 and 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")
- Excavation near to neighbouring buildings (Section 6 : "Adjacent excavation and construction")

People proposing to carry out work of the kinds covered by these sections must give notice to adjoining owners in the way set down in the Act. Adjoining owners can agree or disagree with what is proposed and where there is disagreement, Section 10 of the Act provides for the resolution of disputes.

Example of the Party Wall Act in Action

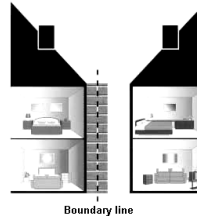
New Walls

An owner intends to build a wall adjacent to the boundary but entirely on his own land. He can put his foundations on his neighbour's land as long as he has served notice one month before starting the work and compensates for any consequential damage.

Where an owner intends to build a party wall, the same procedure applies. However, the notice must inform the neighbour of the desire to build on their boundary. If the neighbour gives consent for this work the cost of the work will be met by both parties proportional to the use made by each of them. However, if the neighbour objects to the work the owner has no rights under the Act to encroach on the neighbour's land except to provide foundations to a wall adjacent to the boundary, with any necessary compensation.

Repairs to party walls.

The Act gives rights to both owners to use the wall as if each of them had exclusive ownership including to demolish and rebuild, underpin, thicken, cut into it, insert a DPC etc, as long as the neighbour is notified. However, an owner cannot reduce its height without consent even though the adjoining owner makes no overt use of it.



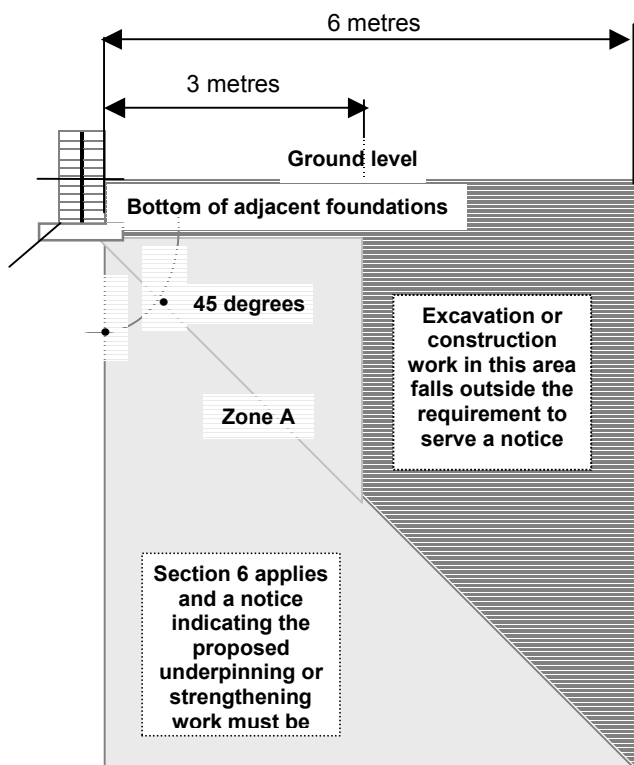
Where an owner wishes to carry out repairs or alterations to a wall under Section 2 of the Act a "Party Structure Notice" must be served on the neighbour with any relevant information about the proposed work at least two months prior to undertaking the work. The neighbour on receipt of the notice can either:

- Give consent within 14 days to the work being done;
- Object to the work being done (failing to reply is deemed to be an objection.)
- Serve counter notice requiring additional work to be carried out for their convenience.

Resolving disputes

Where either of them have objected to the other's notice a dispute arises which should be resolved by the appointment of a surveyor in accordance with Section 10 of the Act. It is hoped in most cases that the parties will agree to the appointment of one surveyor to act on their behalf. However, if they cannot agree, they should each appoint a surveyor to act on their behalf with a third surveyor to arbitrate where necessary. The surveyor or surveyors will draw up an agreement which describes the work to be undertaken. Any damage caused by the work will be agreed by the surveyors with the cost being paid by the respective neighbour.

Continued overleaf



Construction close to boundary

Where an owner is planning to excavate within 6 metres of his neighbour's building and any part of the excavations will impinge on an area below a 45 degree angle from the bottom of the foundation (Zone A on diagram above) he must inform his neighbour one month before the work starts. The neighbour is entitled to request that the owner underpins the party wall at his own expense.

Conclusion

As most buildings are built within 6 metres of each other, new construction or extensions will certainly be covered by the Act. It is therefore essential that all professionals who are involved in the construction process understand the purpose and effects of the Act.

Further Information

For any further information or names of Chartered Surveyors who may be able to assist you contact:

RICS KENT GUIDE LINE
Tel: 01634 888917

Two free pamphlets are also available from:

DOE Publications Despatch Centre,
Blackhorse
Road, London SE99 6TT

Tel: 0181 6919191, Fax: 0181 694 0099

"**A Short Guide to the Party Wall etc Act 1996**" aimed mainly at owners and occupiers of commercial premises.

"**The Party Wall etc Act 1996 : Explanatory Booklet**" aimed mainly at householders and small businesses.