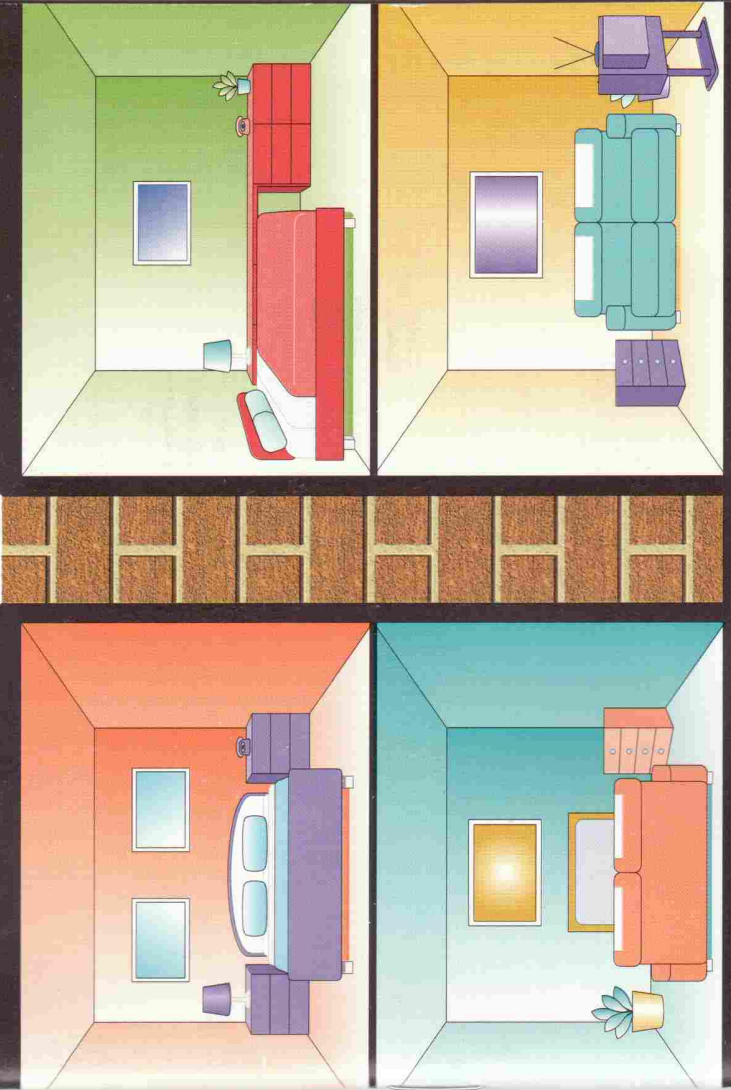




THE PARTY WALL
etc. ACT 1996:
explanatory booklet



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FURTHER INFORMATION

INTRODUCTION

The Party Wall etc. Act 1996 ("the Act") came into force on 1 July 1997 throughout England and Wales.

If you intend to carry out building work which involves one of the following categories:

- work on an existing wall or structure shared with another property (section 2 of the Act)
 - building a free standing wall or a wall of a building up to or astride the boundary with a neighbouring property (section 1 of the Act)
 - excavating near a neighbouring building (section 6 of the Act)
- you must find out whether that work falls within the Act. If it does, you must notify all affected neighbours.

This booklet aims to explain simply how the Act may affect someone who **either** wishes to carry out work covered by the Act (the "building owner") or receives notification under the Act of planned work (the "adjoining owner"). For simplicity, it is written mainly from the point of view of the person wishing to do the work. This booklet is not an authoritative interpretation of the law.

This booklet is only about the Act, which is separate from planning or building regulations control. You must remember that reaching agreement with your neighbour under the Act does not remove the possible need for planning permission or building regulations approval.





THE PARTY WALL ETC. ACT 1996

1 WHAT DOES THE ACT DO?

The Act provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings. It is based on some tried and tested provisions of the London Building Acts which applied in inner London for many decades. (This Act replaced those provisions in inner London.)

Anyone proposing to carry out work (anywhere in England and Wales) of the kinds described in the Act must give adjoining owners notice of their intentions. A notice must be given *even where that work will not extend beyond the centre line of a party wall*.

Adjoining owners can agree or disagree with what is proposed. Where there is a disagreement, the Act provides for the resolution of disputes.

2 WHAT DOES THE ACT COVER?

- Various work that is going to be carried out directly to an existing party wall or structure (see paragraphs 4 to 19)
- New building at or astride the boundary line between properties (see paragraphs 20 to 25)
- Excavation within 3 or 6 metres of a neighbouring building(s) or structure(s), depending on the depth of the hole or foundations (see paragraphs 26 to 29).

3 WHAT IS A PARTY WALL?

The Act recognises two main types of party wall. These are referred to as a “party wall” or a “party fence wall”.

A wall is a “party wall” if:

- it forms part of a building and stands astride the boundary of land belonging to two (or more) different owners (see diagram 1); or
- it separates buildings and it either

(a) stands astride the boundary of land belonging to two (or more) different owners (see diagram 2);

or

(b) stands wholly on one owner’s land, 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 up against it without constructing their own wall, only the part of the wall that does the separating is “party” – sections on either side or above are not “party” (see diagram 3).

A wall is a “party fence wall” if it is a wall which is not part of a building, that stands astride the boundary line between lands of different owners and is used to separate those lands (for example a garden wall) – see diagram 4. This does not include *such things as wooden fences*.

The Act also uses the expression “party structure”. This is a wider term which could be a party wall or a floor partition or other structure separating buildings or parts of buildings approached by separate staircases or entrances (for example flats) – see diagram 5.

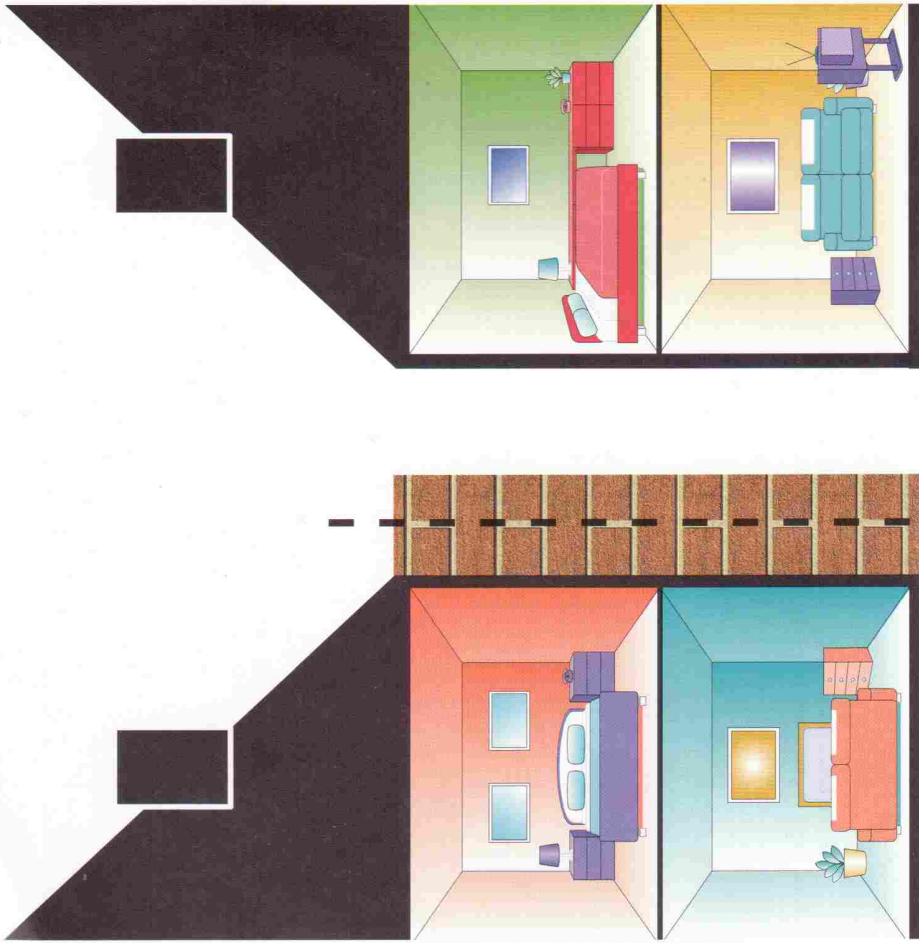


DIAGRAM 1

Boundary line

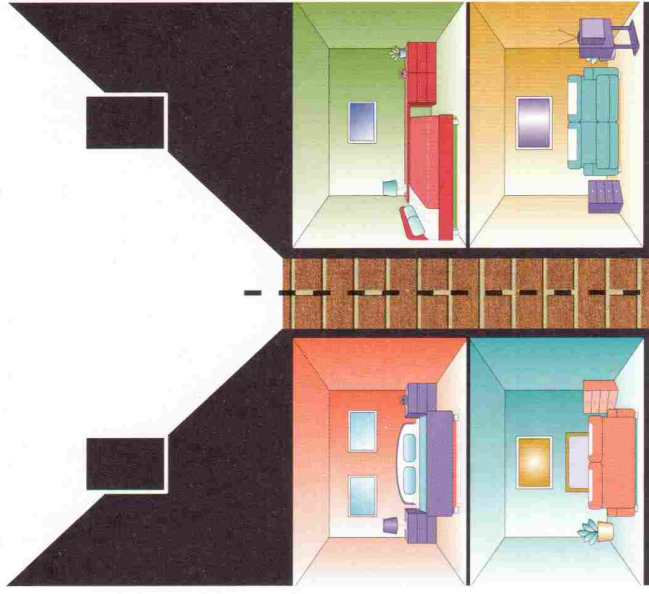


DIAGRAM 2

Boundary line

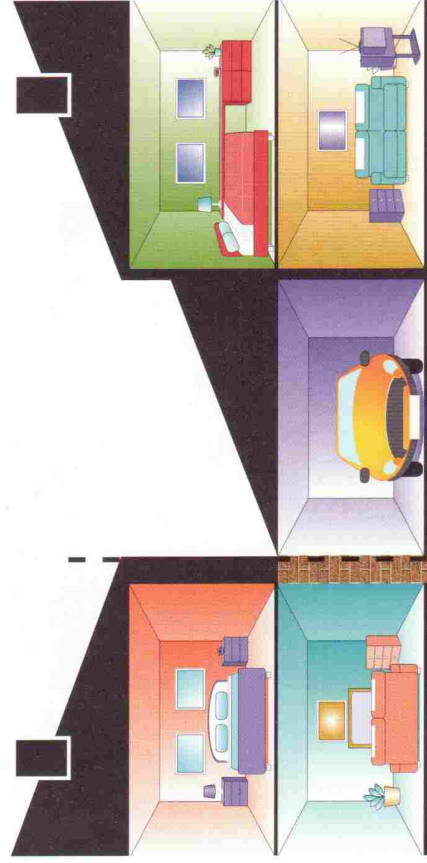
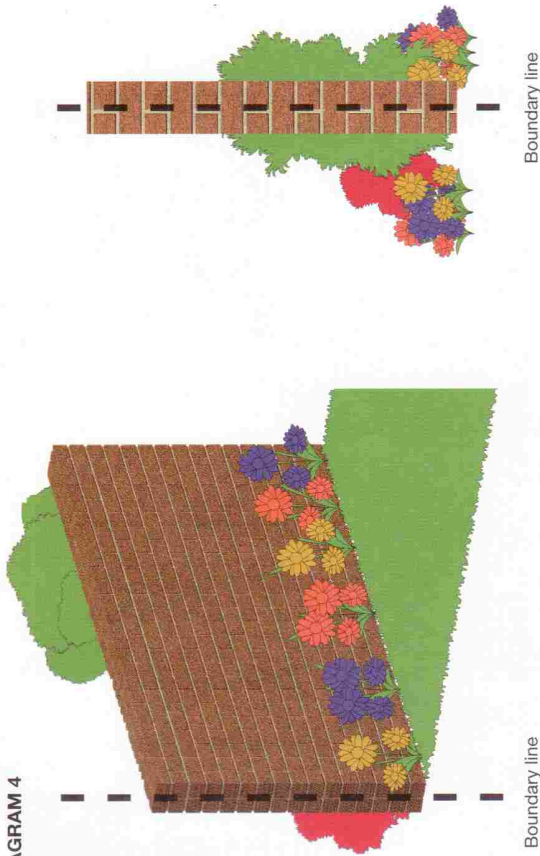


DIAGRAM 3

Boundary line

DIAGRAM 4



Boundary line

Boundary line



WORK ON EXISTING PARTY WALLS (SECTION 2 OF THE ACT)

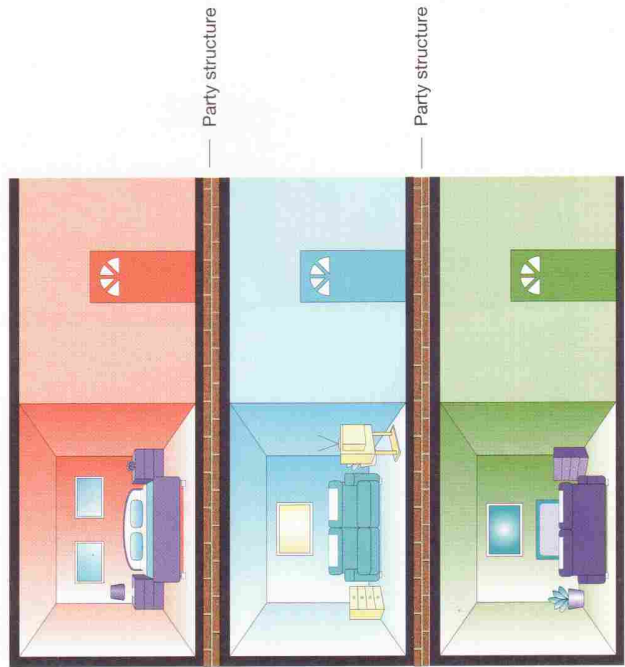
4 WHAT ARE MY RIGHTS UNDER THE ACT IF I WANT TO DO WORK ON AN EXISTING PARTY WALL?

The Act provides a building owner, who wishes to carry out various sorts of work to an existing party wall, with additional rights to do so. These go beyond ordinary common law rights.

Section 2 of the Act lists what work can be done. The most commonly used rights are:

- to cut into a wall to take the bearing of a beam (for example for a loft conversion), or to insert a damp proof course all the way through the wall
- to raise the whole party wall and, if necessary, cut off any projections which prevent you from doing so
- to demolish and rebuild the party wall
- to underpin the whole wall
- to protect two adjoining walls by putting a flashing from the higher over the lower.

DIAGRAM 5



Party structure

Party structure

5 WHAT ARE MY DUTIES UNDER THE ACT?

If you intend to carry out any of the works mentioned in paragraph 4, you must inform all adjoining owners – see paragraphs 7 and 8. You must not even cut into your own half of the wall without telling the next door neighbour of your intentions – see paragraph 6.

The Act contains no enforcement procedures for failure to serve a notice. However, if you start work without having first given notice in the proper way, adjoining owners may seek to stop your work through a court injunction or seek other legal redress.

A neighbour cannot stop someone from exercising the rights given to them by the Act, but he can influence how and when the work is done – see paragraph 10.

The Act also says that a building owner must not cause unnecessary inconvenience. The building owner must provide compensation for any damage and must provide temporary protection for buildings and property where necessary.

6 WHAT ABOUT THINGS LIKE PUTTING UP SHELVES OR WALL UNITS, OR INSTALLING RECESSED ELECTRIC SOCKETS, OR REMOVING AND RENEWING PLASTER?

Minor works on a party wall are usually considered to be too trivial to come under the Act. Examples of minor works include:

- drilling into **your own half** of a party wall to fix plugs and screws for ordinary wall units or shelving
- drilling into **your own half** of a party wall to add/replace recessed electric wiring and sockets
- replastering.

The key point is whether your planned work might have consequences for the structural strength and support functions of the party wall. If you are in doubt about whether your planned work requires a notice you might wish to seek advice from a qualified building professional.

7 WHO COUNTS AS AN “ADJOINING OWNER”?

Essentially, an adjoining owner is anyone with an interest greater than a tenancy from year to year in the adjoining property. If the next door property is occupied by a long term tenant or leaseholder it will be necessary to notify the landlord as well. Where there is more than one owner of the property, or more than one adjoining property, it is your duty to notify all of them.

8 HOW DO I INFORM THE ADJOINING OWNER OR OWNERS?

It is obviously best to discuss your planned work fully with your neighbours before you (or your professional adviser) give notice, **in writing**, about what you plan to do. If you have already ironed out possible snags with your neighbours, this should mean that they will readily give consent in response to your notice. You do not need to appoint a professional adviser to give the notice on your behalf.

Whilst there is no official form for giving notice under the Act, your notice must include the following details:

- your own name and address
- the building’s address (if different)
- a clear statement that your notice is a notice under the provisions of the Act (you may want to mention the section(s) concerned)
- full details of what you propose to do (including plans where appropriate)
- when you propose to start.

You may deliver the notice in person or send it by post. Where the neighbouring property is empty or the owner is not known, you may address the notice to “the owner” of the premises and fix it to a conspicuous part of the premises. You do not need to tell the local authority about your notice.

13 — WHAT DOES THE SURVEYOR DO?

The surveyor (or surveyors) will prepare an “award” (also known as a “party wall award”). This is a document which:

- sets out the work that will be carried out
- says when and how the work is to be carried out (for example, not at weekends if the buildings are domestic properties)
- records the condition of next door before the work begins (so that any damage can be properly attributed and made good)
- allows access for the surveyors to inspect the works while they’re going on (to see that they are in accordance with the award).

It is a good idea to keep a copy of the award with your property deeds.

14 — WHO PAYS THE SURVEYOR’S FEES?

The surveyor (or surveyors) will decide who pays the fees for drawing up the award and for checking that the work has been carried out in accordance with the award. Usually the owner who first planned the work will pay **all** costs associated with drawing up the award.



15 — IS THE SURVEYOR’S AWARD FINAL?

Either side has 14 days to appeal to the county court against an award. An appeal should only be made to the county court if an owner believes that the surveyors have acted beyond their powers.

16 — WHO PAYS FOR THE BUILDING WORKS?

Your agreement with the neighbouring owner, or the award in the event of a dispute, will set this out.

The general principle in the Act is that the building owner who initiated the work pays for it. However, there are cases where the adjoining owner may pay part of the cost, for example:

- where work to a party wall is needed because of defects or lack of repair for which the adjoining owner may be responsible
- where an adjoining owner requests that additional work should be done.

Where the dispute resolution procedure is called upon, the award may deal with apportionment of the costs of the work. The dispute procedure may be used specifically to resolve the question of costs.

17 — WHAT HAPPENS IF THE NEIGHBOURS WON’T COOPERATE?

If a dispute has arisen and the neighbouring owner refuses to appoint a surveyor under the dispute resolution procedure, you can appoint a second surveyor on his behalf, so that the procedure can go ahead — see paragraph 11 and 12.

18 — WHAT ABOUT ACCESS TO NEIGHBOURING PROPERTY?

Under the Act, an adjoining occupier must, when necessary, let in your workmen, your own surveyor or architect etc., and any surveyors appointed as part of the dispute resolution procedure. You must give the adjoining owner and occupier notice of your intention to exercise these rights of entry. The Act says that 14 days' notice must usually be given.

It is an offence, which can be prosecuted in the magistrates' court, to refuse entry to or obstruct someone who is entitled to enter premises under the Act, if the offender knows that the person is entitled to be there.

If the adjoining property is empty, your workmen and your own surveyor or architect etc. may enter the premises if they are accompanied by a police officer.

19 — AS A NEIGHBOURING OWNER, WHAT CAN I DO TO GUARD AGAINST THE RISK THAT THE BUILDING OWNER MAY LEAVE WORK ON THE PARTY WALL UNFINISHED?

If there is a risk that you will be left in difficulties if the building owner stops work at an inconvenient stage, you can ask him, before he starts work, to make available an amount of money that would allow you to restore the status quo if he fails to do so. The money remains his throughout, but if, for example, you need to have a wall rebuilt, you can draw on that security to pay for the rebuilding.

NEW BUILDING ON THE BOUNDARY LINE BETWEEN NEIGHBOURING PIECES OF LAND (SECTION 1 OF THE ACT)



20 — WHAT DOES THE ACT SAY IF I WANT TO BUILD UP AGAINST OR ASTRIDE THE BOUNDARY LINE?

If you plan to build a party wall or party fence wall astride the boundary line, you must inform the adjoining owner by serving a notice – see paragraphs 7 and 8. However, there is no right to build astride the boundary if your neighbour objects – see paragraph 22. You must also inform the adjoining owner or owners if you plan to build a wall wholly on your own land but up against the boundary line.

The Act contains no enforcement procedures for failure to serve a notice. However, if you start work without having first given notice in the proper way, adjoining owners may seek to stop your work through a court injunction or seek other legal redress.

21 — HOW LONG IN ADVANCE DO I HAVE TO SERVE THE NOTICE?

At least **one month** before the planned starting date for building the wall. The notice is only valid for a year, so do not serve it too long before you wish to start.

22 — WHAT HAPPENS AFTER I SERVE NOTICE ABOUT BUILDING ASTRIDE THE BOUNDARY LINE?

If the adjoining owner agrees, in writing, within 14 days to the building of a new wall astride the boundary line, the work (as agreed) may go ahead.

The expense of building the wall may be shared between the owners, where the benefits and use of that wall will be shared.

If the adjoining owner does not respond, or objects to the proposed new wall astride the boundary line, you must build the wall wholly on your own land, and wholly at your own expense. However, you have a right to place footings for the new wall under your neighbour's land, subject to compensation – see paragraph 23. There is no right to place reinforced concrete on your neighbour's land without their express consent.

23 WHAT HAPPENS AFTER I SERVE NOTICE ABOUT BUILDING UP AGAINST THE BOUNDARY LINE?

You may start work one month after your notice was served. This work may include footings and foundations that extend under the adjoining owner's land.

The wall will be built wholly at your own expense and you will be expected to compensate any adjoining owner for any damage to his property caused by the building of the wall, or the placing of footings and foundations.

24 WHAT HAPPENS IF THERE IS A DISAGREEMENT WITH MY NEIGHBOUR?

If there is a disagreement about any work of the kinds covered in paragraphs 20 to 23, including compensation, the dispute can be settled under the procedure described in paragraphs 11 to 17.

25 WHAT ABOUT ACCESS TO NEIGHBOURING PROPERTY?

See paragraph 18.



EXCAVATION NEAR NEIGHBOURING BUILDINGS (SECTION 6 OF THE ACT)

26 WHAT DOES THE ACT SAY IF I WANT TO EXCAVATE NEAR NEIGHBOURING BUILDINGS?

If you plan to:

- excavate, or construct foundations for a new building or structure, within 3 metres of a neighbouring owner's building or structure where that work will go deeper than the neighbour's foundations (see diagram 6); or
- excavate, or construct foundations for a new building or structure, within 6 metres of a neighbouring owner's building or structure where that work will cut a line drawn downwards at 45° from the bottom of the neighbour's foundations (see diagram 7);

you must inform the adjoining owner by serving a notice – see paragraphs 7 and 8. The notice must also state whether you propose to strengthen or safeguard the foundations of the building or structure belonging to the adjoining owner. The notice must be accompanied by plans.

The Act contains no enforcement procedures for failure to serve a notice. However, if you start work without having first given notice in the proper way, adjoining owners may seek to stop your work through a court injunction or seek other legal redress.

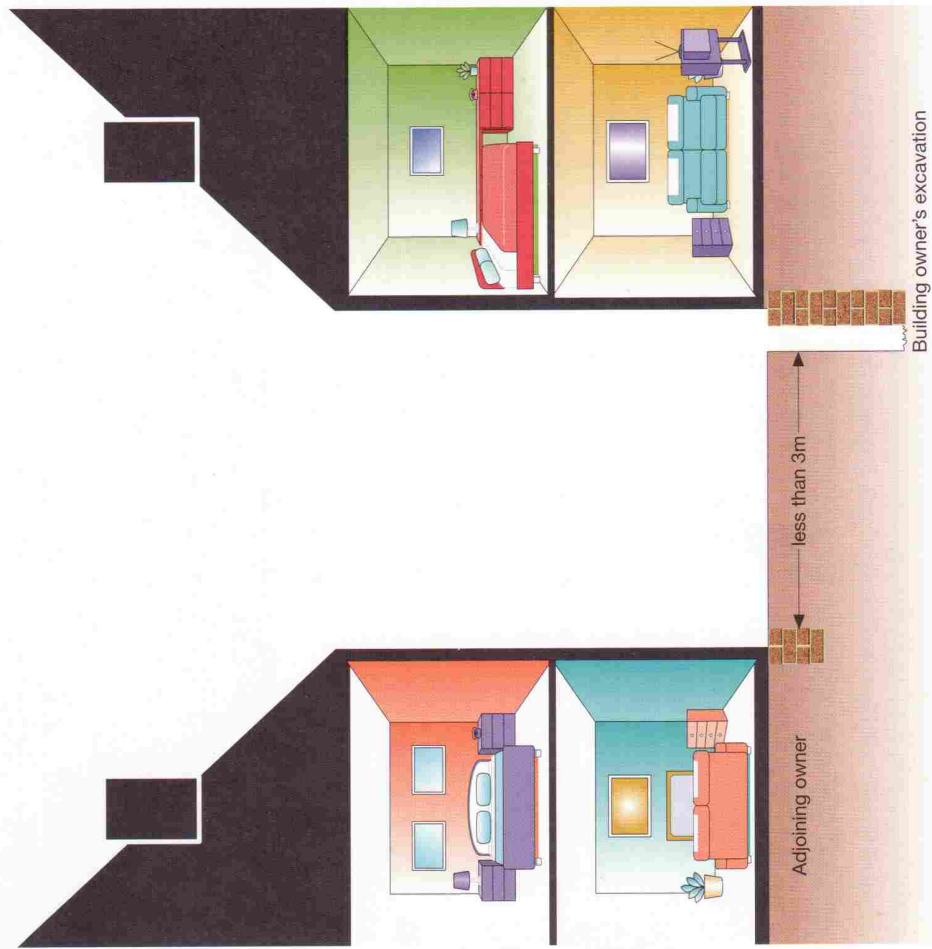


DIAGRAM 6

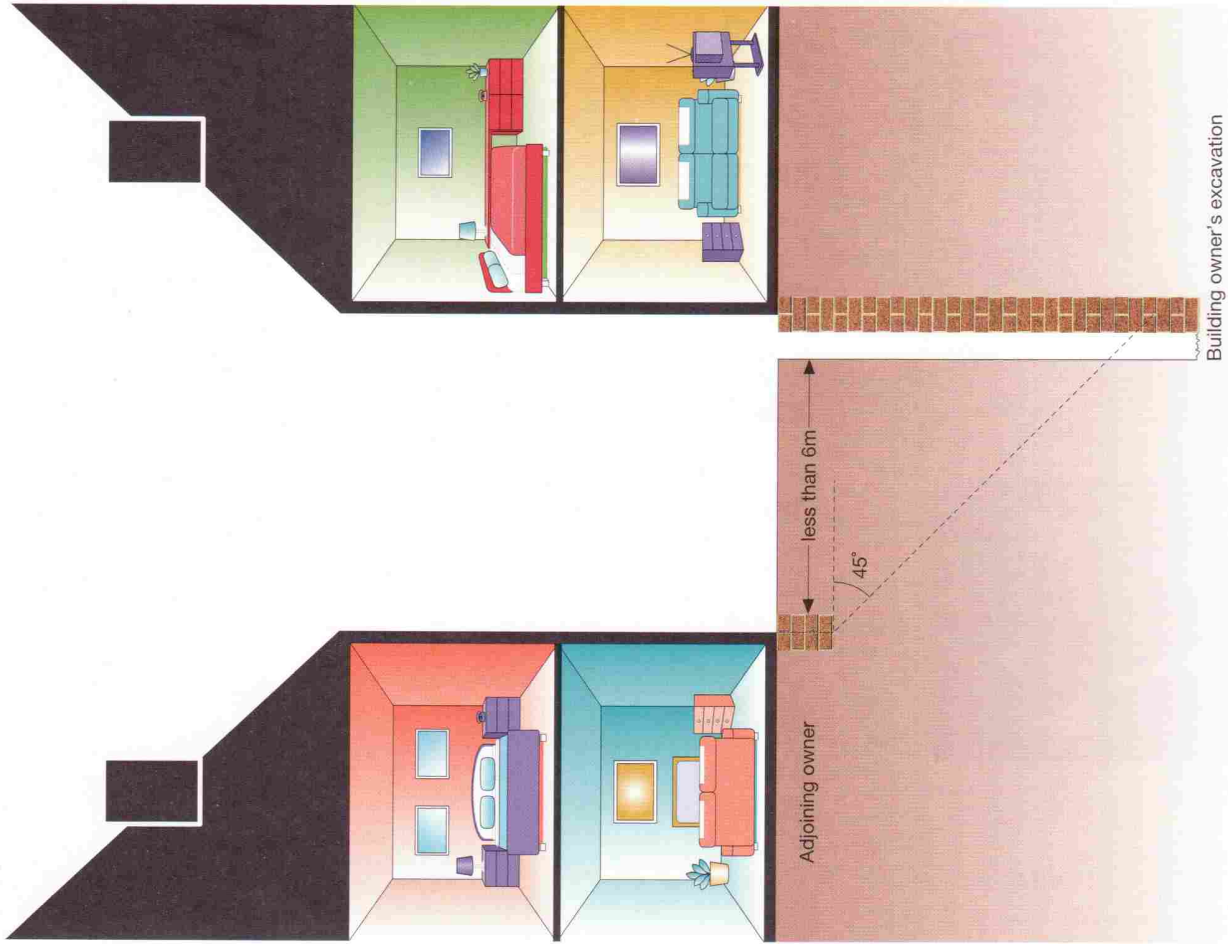


DIAGRAM 7

27 — HOW LONG IN ADVANCE DO I HAVE TO SERVE THE NOTICE?

At least **one month** before the planned starting date for the excavation. The notice is only valid for a year, so do not serve it too long before you wish to start.

28 — WHAT HAPPENS AFTER I SERVE NOTICE?

If the adjoining owner gives a notice within 14 days agreeing to the excavation, the work (as agreed) may go ahead. If the adjoining owner does not respond, or objects to the proposed work, a dispute is regarded as having arisen – see paragraphs 11 to 17. After the work has been completed, the adjoining owner may request particulars of the work, including plans and sections.

29 — WHAT ABOUT ACCESS TO NEIGHBOURING PROPERTY?

See paragraph 18.



SOME COMMON
QUESTIONS ABOUT
THE ACT

30 — DOES THE ACT CHANGE WHO OWNS THE PARTY WALL?

No. The Act does not change the ownership of any wall, nor does it change the position of any boundary. Boundaries can still run through the centre of a wall; and each owner may technically own half of a wall. What the Act does do is set out clearly what rights an owner has in relation to works to a party wall and what he is obliged to do before he can exercise those rights.

31 — CAN THE ACT BE USED TO RESOLVE A BOUNDARY DISPUTE?

No. The Act does not contain any provision that could be used to settle a boundary line dispute.

Such disputes can be resolved through the courts or through alternative dispute resolution procedures (which may be simpler, quicker and cheaper), for example mediation, decision by an independent expert or arbitration.

32 — DOES THE ACT SUPERSEDE COMMON LAW RIGHTS?

Yes, but only in relation to works covered by the Act.

DOES THE BUILDING OWNER HAVE TO WAIT FOR THE FULL ONE OR TWO MONTHS AFTER SERVING A NOTICE BEFORE STARTING WORK?

No, so long as the adjoining owner agrees, in writing, to the work starting earlier than as stated in the notice.

WHAT HAPPENS IF AN OWNER WANTS TO BUILD UP TO AN EXISTING BOUNDARY WALL WHICH DOES NOT CURRENTLY FORM PART OF A BUILDING AND WHICH IS WHOLLY ON THEIR OWN LAND?

Under the Act the existing wall is not a party fence wall because it does not stand astride the boundary line between different properties. Nor is it a party wall because it does not separate buildings of different owners. If a building owner wants to build a new wall to replace the existing one, this work would be covered by the Act; and he would have to serve a notice. If a building owner wants to extend a building up to the existing wall, then this will not come under the Act (unless any proposed excavations will go deeper than neighbouring foundations). In either event, the building owner will not have created a new party wall.



FURTHER INFORMATION

If you are not sure whether the Act applies to the work that you are planning, you should seek professional advice.

The following professional body is willing to provide general and informal advice about the Act. (Any advice given should not be seen as being endorsed by the Department for Transport, Local Government and the Regions.)

The Royal Institution of Chartered Surveyors (RICS)

Technical Services Unit
12 Great George Street
London SW1P 3AD

Tel: 020 7222 7000 (extension 492)

Fax: 020 7222 9430

The following bodies hold lists of their members who may be willing to provide professional advice or act as a "surveyor" under the Act. (Any advice given, or services provided, should not be seen as being endorsed by the Department of the Environment, Transport and the Regions.)

Architecture and Surveying Institute

Register of Party Wall Surveyors

St Mary House

15 St Mary Street

Chippenham

Wiltshire SN15 3WD

Tel: 01249 444505

Fax: 01249 443602

The Association of Building Engineers (ABE)

Private Practice Register
Lutyens House
Billing Brook Road, Weston Favell
Northampton, NN3 8NW
Tel: 01604 404121
Fax: 01604 784220

The Pyramus & Thisbe Club

Florence House
53 Acton Lane
London, NW10 8UX
Tel: 020 8961 3311
Fax: 020 8963 1689
email: p&t@florencce.co.uk
www.partywalls.org.uk

The Royal Institute of British Architects (RIBA)

Clients' Advisory Service
66 Portland Place
London, W1N 4AD
Tel: 020 7307 3700
Fax: 020 7436 9112

The Royal Institution of Chartered Surveyors (RICS)

Information Centre
12 Great George Street
London, SW1P 3AD
Tel: 020 7222 7000
Fax: 020 7222 9430

Further copies of this booklet and copies of "Planning: a Guide for Householders", and "Building Regulations: Explanatory Booklet" are available, free of charge, from:

DTLR Free Literature
PO Box 236
Wetherby, L23 7NB
Tel: 0870 1226 236
Fax: 0870 1226 237

This booklet is also available in Welsh.

THE ACT AND RELATED STATUTORY INSTRUMENTS

- The Party Wall etc. Act 1996 (published by HMSO, ISBN 0-10-544096-5, £3.80)
- The Party Wall etc. Act 1996 (Commencement) Order 1997 (SI 1997/670 (c.24)) (published by TSO, ISBN 011-064-2139, £0.65)
- The Party Wall etc. Act 1996 (Repeal of Local Enactments) Order 1997 (SI 1997/671) (published by TSO, ISBN 011-064-2120, £1.10)

OTHER PUBLICATIONS

The Department for Transport, Local Government and the Regions is aware of (but does not necessarily endorse) the following publications:

- "Party Walls & What To Do With Them" (5th edition), published by RICS Books, ISBN 085-406-868, £16.00
- "The Party Wall Act Explained", published by The Pyramus & Thisbe Club, ISBN 0-9520704-1-3, £15.00
- "Party Walls: The New Law", published by Jordans, ISBN 0-85308-401-7, £40.00
- "An Introduction to the Party Wall etc. Act 1996", published by Lark Productions Ltd, ISBN 1-898383-55-3, £25.00
- "The Party Wall etc. Act 1996", Owlion audio cassette available from RICS

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