

The Purpose of the Act

The Party Wall etc Act 1996 has had effect from 01 July 1997 throughout England and Wales. Similar Acts existed to cover building work in London prior to 1997.

The Act covers the following areas of work:

- Various work carried out directly to an existing party wall
- New building at or astride the boundary line between properties
- Excavation or construction of foundations for a new building within 3 metres of a neighbouring building where that work will go deeper than the neighbours foundations.
- Excavation or construction of foundations for a new building within 6 metres of a neighbouring building, where that work will cut a line drawn downwards at 45 degrees from the bottom of the neighbours foundations.

If your proposed building works fall within the above categories, the works will be subject to the Act, and action is required by yourself as the building owner to serve notice.

Serving the notice

The Act requires that a notice is served by the person undertaking the work. The notice is to be served on the owner of the adjoining property. If the adjoining property is occupied by a long term tenant or leaseholder it will be necessary to notify the landlord as well. Where there are more than one owners of the property, or where there is more than one property affected, it is necessary to advise and notify them all.

At least two months notice must be given in respect of work to an existing party wall.

At least one months notice must be given for a planned new wall or for excavations within the 3 or 6 metre specified distances.

The notice must include the following information:

- Your own name and address
- The building address (if different)
- A clear statement that your notice is given under the provisions of the Party Wall etc Act 1996
- Full details of what you propose to do (including plans if appropriate)
- When you propose to start

- If the building of a new wall astride or adjacent to a boundary wall involves special foundations or reinforced concrete, these must be identified and specifically agreed with the adjoining owner.
- In the case of excavations, the notice must also state if it is or is not proposed to carry out any strengthening , underpinning or other safeguards to the adjoining property.

You may deliver the notice in person or sent it by post. Where a neighbouring property is empty, you may address the notice to “The Owner” of the premises and fix it to a conspicuous part of the premises.

Response to the notice

You should ensure that the response of the adjoining owner is in writing , dated, specifically consents to the work as detailed in your notice and accompanying drawings, and specifically consents to special foundations / reinforced concrete if applicable.

The adjoining owners are required to respond to the notice in writing within 14 days. If the owner refuses to agree to the work, or **if they fail to respond to the notice within 14 days**, a dispute is deemed to have arisen, and both parties must appoint a party wall surveyor to resolve the dispute. The adjoining owner can also issue a counter notice, asking for modifications to the proposed work to be agreed.

Details of how the disputes are resolved, how surveyors are appointed and who pays fees are complex. They are procedures are detailed in the Act and explanatory booklets produced by the Government, and are not repeated in detail here. However clients should be aware that, should a dispute arise, it will normally be the person instigating the work who would pay the fees of the party wall surveyors for both sides, which can be substantial.

Avoiding a Dispute

Should informal negotiations with your adjoining owners have been successful there will be no dispute arising when you serve the notice. The preferred option is always to have discussed the proposals with your neighbours before formally serving the legal notice required.

Clients should note that a neighbour’s failure to respond to a notice within 14 days is deemed to be a refusal, and therefore a dispute. Some neighbours will not appreciate the legal implications of their delay in responding to your notice.

Further Information

These notes are intended as general guidance only and are not exhaustive. Their purpose is to alert our clients to the type of projects to which the Act may apply. A full copy of the Act is available from The Stationery Office and some free explanatory booklets have been produced by the Department of Environment.