

SCHEDULES

SCHEDULE 1

Articles 30(1) and 38(1).

AMENDMENTS

PART I

AMENDMENTS RELATING TO PLANNING

The Radioactive Substances Act 1960 (c. 34)

At the end of Schedule 1 add the following paragraph—

“**28.** Articles 37A to 37K and 50AB of the Planning (Northern Ireland) Order 1972.”.

The Land Registration Act (Northern Ireland) 1970 (c. 18 (N.I.))

In Schedule 11 for entry 30A substitute—

“**30A.** Any conditions imposed on the grant of planning permission under the Planning (Northern Ireland) Order 1972—

- (a) relating to the occupancy of a dwelling house; or
- (b) requiring that a dwelling house on any land which is under the control of the applicant be demolished or cease to be used as a dwelling house.”.

In Schedule 11 after entry 30B insert—

“**30C.** Orders under Article 29A of the Planning (Northern Ireland) Order 1972.

30D. Any designation under Article 37(1) of the Planning (Northern Ireland) Order 1972.”.

The Planning (Northern Ireland) Order 1972 (NI 17)

In Article 2(2) at the appropriate places in alphabetical order insert—

““contravention of hazardous substances control” has the meaning assigned to it by Article 37I(2);

“hazardous substances consent” means consent required by Article 37A;

“hazardous substances contravention notice” has the meaning assigned to it by Article 50AB(3);

“simplified planning zone” and “simplified planning zone scheme” shall be construed in accordance with Article 13A;”.

In Article 11(2)(e) for “the use thereof” substitute “the use of the buildings or other land or, subject to the provisions of the order, of any part thereof”.

In Article 14(2)(a) for “appropriate district council” substitute “(istrict council for the area in which the land is situated”.

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In Article 17(2) after “permission” insert “for development of any class to which Article 15(1) applies”.

Article 21 shall cease to have effect.

In Article 22(2) and (4) the words “for planning permission” shall cease to have effect.

In Article 22(3) for “desires” substitute “requests in writing”.

In Article 22(4) and (5) for “has been applied” substitute “applies”.

In Article 23(6) for “18” substitute “18A”.

In Article 25(3) after sub-paragraph (bb) insert—

“(bbb) to any planning permission granted by a simplified planning zone scheme;”.

In Article 27(1) for “have begun” substitute “be begun”.

In Articles 28(3) and 29(2) for “desires” substitute “requests in writing”.

In Article 31A(3) for “appropriate district council” substitute “(istrict council for the area in which the building is situated”.

In Article 32(2)(a) and (3) the words “under Article 33” shall cease to have effect.

For Articles 34 and 35 substitute—

“Applications for listed building consent

34. Schedule 1A shall have effect in relation to applications for listed building consent and appeals against decisions on such applications.

Revocation or modification of listed building consent

35.—(1) If it appears to the Department, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify listed building consent in respect of any works to a building, being consent granted on an application made under this Part, the Department may, subject to paragraphs (2) to (4), by order revoke or modify the consent to such extent as (having regard to those matters) it considers expedient.

(2) Before making an order under this Article the Department shall serve notice on the owner and occupier of the building affected and on any other person who in its opinion would be affected by the order; and if within such period as may be specified in that behalf in the notice (not being less than twenty-eight days from the date of service thereof) any person on whom notice is served so requests in writing, the Department shall afford to him an opportunity of appearing before and being heard by the planning appeals commission.

(3) The power conferred by this Article to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

(4) Where the Department makes an order under this Article it shall serve a notice on any person mentioned in paragraph (2) stating the general effect of the order.”.

In Article 44(2) for “information duly laid” substitute “complaint duly made”.

In Article 44(6) after “allowed” insert “by the Department”.

In Article 51(2) for the reference to a fine not exceeding level 4 on the standard scale substitute a reference to a fine not exceeding level 3 on the standard scale.

In Article 55(1) for “that section” substitute “that Article”.

In Articles 73(1) and 74(1)(a) after “Article 71” insert “(1)”.

In Article 77(6) for “Part II” substitute “Part III”.

In Article 78(1) after “immediate surroundings” insert “or of providing a service for the benefit of the public or a section of the public”.

For Article 78(2) substitute—

- “(2) The powers exercisable by the Department under this Article shall extend to—
- (a) laying out any part of the road with lawns, trees, shrubs and flower beds;
 - (b) providing toilet facilities and facilities for recreation or refreshment;
 - (c) providing trading kiosks and deriving income therefrom; and
 - (d) providing directional maps or plans.”.

In Article 82(1) omit the words from “for the purpose” to the end.

In Article 82 after paragraph (1) insert—

- “(1A) The functions of the Council shall be—
- (a) to keep under review, and from time to time report to the Department on, the general state of preservation of listed buildings;
 - (b) to advise the Department on such matters relating to the preservation of buildings of special architectural or historic interest as the Department may refer to it;
 - (c) such other functions as are conferred on it by any statutory provision.”.

Articles 83(3) and 83A(2) shall cease to have effect.

In Article 95(2)(b)—

- (a) after head (iii) insert—
“(iia) Article 29A;”;
- (b) after head (iv) insert—
“(v) Article 50C;”.

For Article 101 substitute—

“Rights of entry

101.—(1) Any person duly authorised in writing by the Department may at any reasonable time enter any land for the purpose—

- (a) of surveying it in connection with—
 - (i) the making, altering, repealing or replacing of a development plan relating to the land under Part III;
 - (ii) the making or altering of a simplified planning zone scheme relating to the land;
 - (iii) the preparation, adoption or amendment of a development scheme relating to the land under Part VII;
 - (iv) any application under Part IV or V, or under any order or regulations made thereunder, for any permission, consent, agreement, approval or determination to be given or made in connection with that land or any other land under Part IV or V or under any such order or regulations;
 - (v) any proposal by the Department to make, issue or serve any order or notice under Part IV, V or VI, or under any order or regulations made thereunder, or any notice under Article 86(4);

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- (b) of surveying any building on the land in connection with a proposal to include the building in, or exclude it from, a list compiled under Article 31;
- (c) of ascertaining—
 - (i) whether an offence has been or is being committed on the land under Article 32, 36 or 37I;
 - (ii) whether any listed building on the land is being maintained in a proper state of repair;
 - (iii) whether the functions conferred by Article 50AA should or may be exercised in connection with the land;
 - (iv) whether any order or notice made, issued or served as mentioned in subparagraph (a)(iv) in respect of the land has been complied with;
- (d) of displaying a notice in accordance with Article 45(5) or (6);
- (e) of exercising any of the functions conferred by Article 50AA.

(2) Any member of the planning appeals commission may at any reasonable time enter any land for the purpose of surveying it in connection with the exercise of the functions of the commission under this Order.

(3) Any person, being an officer of the Valuation Office of the Department of Finance and Personnel or a person duly authorised in writing by the Department may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with—

- (a) any proposal to acquire that land or any other land under this Order or any claim for compensation in respect of any such acquisition;
- (b) any claim for compensation in respect of that land under Article 37H(12) or 65A.

(4) Any power conferred by this Article to survey land shall be construed as conferring power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein, but a person shall not carry out any works authorised by virtue of this paragraph unless notice of his intention to do so was included in the notice required by Article 102(1)(b).”.

After Article 103 insert—

“Planning register

103A.—(1) The Department shall keep, in such manner as may be specified by a development order, one or more registers containing such information as may be so specified with respect to—

- (a) applications made, or deemed to be made, under the Planning (Northern Ireland) Orders 1972 to 1990, to the Department or to the planning appeals commission for any permission, consent, approval or determination;
- (b) the manner in which such applications have been dealt with;
- (c) the revocation or modification of any permission or consent granted under those Orders;
- (d) enforcement notices, listed building enforcement notices or hazardous substances contravention notices;
- (e) stop notices;
- (f) orders under Article 29A;

- (g) hazardous substances consent deemed to be granted under paragraph 4 of Schedule 2 to the Planning and Building Regulations (Amendment) (Northern Ireland) Order 1990;
- (h) simplified planning zones and enterprise zones;
- (i) directions given by the Department under—
 - (i) Article 37J;
 - (ii) Article 4(4) of the Planning (Amendment) (Northern Ireland) Order 1978; and
 - (iii) any provision included in a development order by virtue of Article 13(4).

(2) Every register kept under paragraph (1) shall be available for inspection by the public at all reasonable hours.

(3) The Department may provide a copy of, or of an extract from, any register kept under this Article to any person on payment of such reasonable charge as the Department may specify.”.

In Article 106(2) for “and 13” substitute “13 and 13E(3)”.

In Schedule 1 in paragraph 4 before sub-paragraph (a) insert—

“(aa) for the words “notice of the application” substitute the words “notice of the Department’s intention to acquire the land compulsorily”.”.

After Schedule 1 insert the following Schedule—

“SCHEDULE 1A

Article 34.

LISTED BUILDING CONSENT—APPLICATIONS AND APPEALS

Form and content of applications

- 1.—(1) Any application to the Department for listed building consent—
- (a) shall be made in such manner as may be prescribed; and
 - (b) shall include such particulars, and be verified by such evidence, as may be required by the regulations or by any directions given by the Department thereunder.
- (2) Provision shall be made by regulations for regulating the manner in which applications for listed building consent are to be dealt with by the Department and in particular—
- (a) for requiring the Department before granting or refusing listed building consent to consult with the district council for the area in which the building is situated and with such authorities or persons as may be prescribed;
 - (b) for requiring the Department to give to any applicant for listed building consent within such time as may be prescribed such notice as may be prescribed as to the manner in which his application has been dealt with.
- (3) Sub-paragraphs (1) and (2)(b) shall apply to applications to the Department for any approval of the Department required by a condition imposed on a grant of listed building consent as they apply to applications for listed building consent.

Publication of notices of applications

2. Where an application for listed building consent is made to the Department, it—

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- (a) shall publish notice of the application in at least one newspaper circulating in the locality in which the building to which the application relates is situated; and
- (b) shall not determine the application before the expiration of fourteen days from the date on which notice of the application is first published in a newspaper in pursuance of sub-paragraph (a).

Notification of applications to certain persons

3.—(1) Article 16 shall, with appropriate modifications, apply to applications for listed building consent in relation to any building as it applies to applications for planning permission in relation to any land.

(2) In the application of Article 16(7) by virtue of sub-paragraph (1) for the words “specified in a development order” and “form so specified” there shall be substituted the words “prescribed” and “prescribed form”.

(3) References in the following provisions of this Schedule to Article 16 are to that Article as it applies by virtue of this paragraph.

Determination of application

4.—(1) In determining any application for listed building consent, the Department shall take into account any representations relating to that application which are received by it before the expiration of the period of fourteen days from the date on which notice of the application is first published in a newspaper.

(2) Where an application for listed building consent is accompanied by such a certificate as is mentioned in Article 16(1)(c) or (d), the Department—

- (a) in determining the application, shall take into account any representations relating thereto which are made to it by any person who satisfies it that, in relation to the building to which the application relates, he is such a person as is described in Article 16(1)(c); and
- (b) shall give notice of its decision on the application to every person who made representations which it was required to take into account under head (a).

Consent to execute works without compliance with conditions previously attached

5.—(1) This paragraph applies to applications for listed building consent for the execution of works to a building without complying with conditions subject to which a previous listed building consent was granted.

(2) Regulations may make special provision with respect to—

- (a) the form and content of such applications; and
- (b) the procedure to be followed in connection with such applications.

(3) On such an application the Department shall consider only the question of the conditions subject to which listed building consent should be granted, and—

- (a) if it decides that listed building consent should be granted subject to conditions differing from those subject to which the previous consent was granted, or that it should be granted unconditionally, the Department shall grant listed building consent accordingly; and

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(b) if it decides that listed building consent should be granted subject to the same conditions as those subject to which the previous consent was granted, the Department shall refuse the application.

(4) This paragraph does not apply where the application is made after the previous listed building consent has become time-expired, that is to say, the previous consent having been granted subject to a condition as to the time within which the works to which it related were to be begun, that time has expired without the works having been begun.

Effect of listed building consent

6. Without prejudice to Articles 33A and 35, any grant of listed building consent shall (except in so far as the consent otherwise provides) enure for the benefit of the building and of all persons for the time being having an estate therein.

Appeals

7.—(1) Where an application is made to the Department—

- (a) for listed building consent; or
- (b) for any approval of the Department required by a condition imposed on a grant of listed building consent,

then if that consent or approval is refused or is granted subject to conditions, the applicant may by notice in writing under this paragraph appeal to the planning appeals commission.

(2) Any notice under this paragraph shall be served on the planning appeals commission within six months from the date of notification of the decision to which it relates or such longer period as the commission may allow.

(3) Where an appeal is brought under this paragraph from a decision of the Department, the planning appeals commission, subject to sub-paragraphs (4) and (5), may allow or dismiss the appeal or may reverse or vary any part of the decision whether the appeal relates to that part thereof or not and may deal with the application as if it had been made to it in the first instance.

(4) Before determining an appeal under this Article, the planning appeals commission shall if either the applicant or the Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(5) Subject to sub-paragraph (4), paragraphs 2 to 5 shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this paragraph as they apply to an application for listed building consent.

Appeal in default of planning decision

8. Where any such application as is mentioned in paragraph 7(1) is made to the Department, then unless within such period as may be prescribed, or within such extended period as may be agreed upon in writing between the applicant and the Department, the Department gives notice to the applicant of its decision on the application, paragraph 7 shall apply in relation to the application—

- (a) as if the consent or approval to which it relates had been refused by the Department; and
- (b) as if notification of the Department's decision had been received by the applicant at the end of the said prescribed period, or at the end of the said extended period, as the case may be.”.

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In Schedule 2 for paragraph 5 substitute—

“5. The Council shall, at such times and in respect of such periods as the Department may direct, prepare and submit to the Department a report on its activities and the Department shall lay a copy of every such report before the Assembly.”.

In Schedule 4 for entry 5 substitute—

- “5. Any conditions imposed on the grant of planning permission under this Order—
- (a) relating to the occupancy of a dwelling house; or
 - (b) requiring that a dwelling house on any land which is under the control of the applicant be demolished or cease to be used as a dwelling house.”.

At the end of Schedule 4 add—

- “7. Orders under Article 29A.
- 8. Any designation under Article 37(1).”.

The Planning (Amendment) (Northern Ireland) Order 1978 (NI 18)

In Article 4 for paragraph (6) substitute—

“(6) The following provisions of the Planning Order shall have effect in relation to buildings to which this Article applies as they have effect in relation to listed buildings, subject to such exceptions and modifications as may be prescribed by regulations made by the Department subject to negative resolution—

- Articles 32 to 35A (requirement of consent to works: application for and revocation of consent);
- Articles 49 to 50A (enforcement);
- Article 65 (compensation where consent revoked or modified);
- Article 70 (purchase notice on refusal of consent); and
- Article 97A(1)(b) and (4) (application to Crown land).”.

Article 5(4) shall cease to have effect.

The Planning Blight (Compensation) (Northern Ireland) Order 1981 (NI 16)

In Article 3(2) for sub-paragraphs (a) to (c) substitute—

- “(a) a plan, an alteration to a plan or a replacement plan of which copies have been made available for inspection under Article 5(4) or 6(3) of the Order of 1972;
- (b) modifications proposed to be made by the Department in any such plan, alteration or replacement plan, being modifications of which notice has been given by the Department in accordance with regulations under Part III of that Order.”.

PART II

AMENDMENTS RELATING TO BUILDING REGULATIONS

The Building Regulations (Northern Ireland) Order 1979 (NI 16)

In Article 2(2) after the definition of “construct” insert—

““contravention notice” has the meaning assigned to it by Article 18(2);”.

In Article 2(2) for the definition of “prescribed” substitute—

““prescribed” means prescribed by building regulations;”.

In Article 5(1)(c) after “published” insert “(whether before or after the making of the regulations)”.

In Article 9(7) for the words from “may appeal” to “prescribed manner” substitute “may, by notice in writing, appeal to the Department within the prescribed time”.

In Article 15(1) after “Subject to this Article” insert “and Article 15A”.

In Article 15(2) for the words from the beginning to “building regulations” substitute “Building regulations may provide, as regards any provision of the regulations”.

In Article 15 for paragraph (7) substitute—

“(7) The Department may by building regulations make provision with respect to the procedure to be followed in connection with applications and directions under this Article.”.

In Article 16(1) for “by regulations made under Article 15(7),” substitute “, by notice in writing”.

In Articles 16(2) and 17(2) for the words from the beginning to “at any time” substitute “If within the prescribed period from the date of the application or within such extended period as may be before the expiration of the prescribed period”.

In Article 19 for the words from the beginning to the end of paragraph (ii) substitute—

“Where—

- (a) plans of any proposed works have, in accordance with building regulations, been deposited with a district council; and
- (b) the works to which the plans relate have not been commenced within three years from the deposit of the plans.”.

In Article 23 for “Regulations (including building regulations)” substitute “Building regulations”.