



Town and Country Planning Act 1968

1968 CHAPTER 72

PART V

BUILDINGS OF ARCHITECTURAL OR HISTORIC INTEREST

Restriction on demolition and other works

40 New provisions restricting demolition etc. of listed buildings.

- (1) In this Part of this Act the expression " listed building " means a building which is for the time being included in a list compiled or approved by the Minister under section 32 of the principal Act (buildings of special architectural or historic interest).
- (2) Subject to this Part of this Act, if a person executes or causes to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorised under this Part of this Act, he shall be guilty of an offence.
- (3) For (the purposes of this Part of this Act, any object or structure fixed to a building, or forming part of the land and comprised within the curtilage of a building, shall be treated as part of the building.
- (4) Works for the demolition of a listed building, or for its alteration or extension, are authorised under this Part of this Act only if—
 - (a) the local planning authority or the Minister have granted written consent (hereafter in this Act referred to as " listed building consent ") for the execution of the works and the works are executed in accordance with the terms of the consent and of any conditions attached to the consent under section 41 below ; and
 - (b) in the case of demolition, notice of the proposal to execute the works has been given to the Royal Commission and thereafter either—
 - (i) for a period of at least one month following the grant of listed building consent, and before the commencement of the works, reasonable

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- access to the building has been made available to members or officers of the Commission for the purpose of recording it; or
- (ii) the Commission have, by their Secretary or other officer of theirs with authority to act on the Commission's behalf for the purposes of this section, stated in writing that they have completed their recording of the building or that they do not wish to record it.
- (5) In subsection (4) above " the Royal Commission " means, in relation to England, the Royal Commission on Historical Monuments (England) and, in relation to Wales, the Royal Commission on Ancient and Historical Monuments (Wales and Monmouthshire); but the Minister may, in relation to either England or Wales, or both, by order made by statutory instrument provide that the said subsection shall, in the case of works 'executed or to be executed on or after such date as may be specified in the order, have effect with the substitution for the reference to the Royal Commission of a reference to such other body as may be so specified.
- (6) Without prejudice to subsection (2) above, if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent under section 41 below, he shall be guilty of an offence.
- (7) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction to imprisonment for a term of not more than three months or a fine of not more than £250, or both ; or
 - (b) on conviction on indictment to imprisonment for a term not exceeding twelve months or a fine, or both ;
- and, in determining the amount of any fine to be imposed on a person convicted on indictment, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.
- (8) In proceedings for an offence under this section it shall be a defence to prove that the works were urgently necessary in the interests of safety or health, or for the preservation of the building, and that notice in writing of the need for the works was given to the local planning authority as soon as reasonably practicable.
- (9) Sections 30 and 31 of the principal Act (building preservation orders) and section 33 of that Act (effect of inclusion of building in a list under section 32 of the Act) shall cease to have effect.
- (10) Every building which immediately before the commencement of this Part of this Act was subject to a building preservation order under Part III of the principal Act, but was not then included in a list compiled or approved under section 32 of that Act, shall be deemed to be a listed building; but the Minister may at any time direct, in the case of any building, that this subsection shall no longer apply to it and the council of the county borough, London borough or county district in whose area the building is situated, on being notified of the Minister's direction, shall give notice of it to the owner and occupier of the building.
- (11) Before giving a direction under subsection (10) above in relation to a building, the Minister shall consult with the local planning authority and with the owner and the occupier of the building.