

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), SCHEDULE 10. (See end of Document for details)

SCHEDULES

SCHEDULE 10

Section 54 and 56.

CONTROL OF WORKS FOR DEMOLITION, ALTERATION OR EXTENSION OF LISTED BUILDINGS

PART I

APPLICATIONS FOR LISTED BUILDING CONSENT

Form of application and effect of consent

- 1 [F1](1) An application for listed building consent shall be made in such form as the planning authority may require and shall contain—
- (a) sufficient particulars to identify the building to which it relates, including a plan, and
 - (b) such other plans and drawings as are necessary to describe the works which are the subject of the application
- and such other particulars as may be required by the planning authority.
- (1A) Provision may be made by regulations under this Act with respect to the manner in which applications for listed building consent are to be made, the manner in which such applications are to be advertised and the time within which they are to be dealt with by planning authorities or, as the case may be, by the Secretary of State.]
- (2) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested therein.

Textual Amendments

- F1** Sch. 10 para. 1(1)(1A) substituted for para. 1(1) by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, [Sch. 9 Pt. II](#), para. 22

- 2 (1) Regulations under this Act may provide that an application for listed building consent, or an appeal against the refusal of such an application, shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one [F2prescribed under section 24] of this Act and any such regulations may—
- (a) include requirements corresponding to sections [F224 and 26(3) and (3A)] of this Act; and
 - (b) make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision of the regulations made by virtue of this sub-paragraph.

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- (2) If any person issues a certificate which purports to comply with the requirements of regulations made by virtue of this paragraph and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F3}level 3 on the standard scale].

Textual Amendments

- F2** Words in Sch. 10, para. 2(1) substituted (3.2.1995) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13 para. 42\(a\)\(b\)](#) (with s. 84(5)); S.I. 1994/3292, [art. 3](#)
- F3** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))

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Textual Amendments

- F4** [Sch. 10 Pt. I para. 3](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

Reference of applications to Secretary of State

- 4 (1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the. . . ^{F5} planning authority.
- (2) A direction under this paragraph may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.
- (3) An application in respect of which a direction under this paragraph has effect shall be referred to the Secretary of State accordingly.
- (4) Before determining an application referred to him under this paragraph, the Secretary of State shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.
- (5) The decision of the Secretary of State on any application referred to him under this paragraph shall be final.

Textual Amendments

- F5** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 172\(2\)](#)

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- 5 (1) Subject to the following provision of this paragraph, a . . . ^{F6} planning authority to whom application is made for listed building consent shall not grant such consent, unless they have notified the Secretary of State of the application (giving particulars of the works for which the consent is required) and either—
- (a) a period of twenty-eight days has expired, beginning with the date of the notification, without the Secretary of State having directed the reference of the application to him; or
 - (b) the Secretary of State has notified the authority that he does not intend to require the reference of the application.
- (2) The Secretary of State may at any time before the said period expires give notice to the authority that he requires further time in which to consider whether to require the reference of the application to him [^{F7}]; and if he gives such a notice the authority shall not grant the listed building consent until he has notified them that he does not intend to require the reference of the application.]

Textual Amendments

F6 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F7 Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 50, Sch. 9 Pt. II para. 23](#)

- 6 (1) The Secretary of State may give directions that, in the case of such descriptions of applications for listed building consent as he may specify, other than such consent for the demolition of a building, paragraph 5 of this Schedule shall not apply; and accordingly, so long as the directions are in force. . . ^{F8} planning authorities may determine applications of such descriptions in any manner they think fit, without notifying the Secretary of State.
- (2) Without prejudice to the foregoing provisions of this Schedule, the Secretary of State may give directions to. . . ^{F8} planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify to him and to such other persons as may be so specified any applications made to them for listed building consent, and the decisions taken by the authorities thereon.

Textual Amendments

F8 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

Appeal against decision

- 7 (1) [^{F9}Where an application is made to the planning authority—
- (a) for listed building consent, or
 - (b) for approval of the authority required by a condition imposed on the granting of listed building consent with respect to details of the works,
- and the consent or approval is refused] by the authority or is granted by them subject to conditions, the applicant, if he is aggrieved by the decision, may by notice served in the prescribed manner within such period as may be prescribed, not being less

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than twenty-eight days from the receipt by him of notification of the decision, appeal to the Secretary of State.

- (2) A person appealing under this paragraph may include in his notice thereunder, as the ground or one of the grounds of his appeal, a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 52 of this Act, or—
- (a) in the case of a building to which subsection (8) of that section applies, that the Secretary of State should give a direction under that subsection with respect to the building; or
 - (b) in the case of a building subject to a building preservation notice under section 56 of this Act, that the building should not be included in a list compiled or approved under the said section 52.
- (3) Subject to the following provisions of this paragraph, the Secretary of State may allow or dismiss an appeal thereunder, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, and—
- (a) may deal with the application as if it had been made to him in the first instance; and
 - (b) may, if he thinks fit, exercise his power under section 52 of this Act to amend any list compiled or approved thereunder by removing from it the building to which the appeal relates or his power under subsection (8) of that section to direct that that subsection shall no longer apply to the building.
- (4) Before determining an appeal under this paragraph, the Secretary of State shall, if either the applicant or the . . . ^{F10} planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (5) The decision of the Secretary of State on any appeal under this paragraph shall be final.
- (6) Schedule 7 to this Act applies to appeals under this paragraph.

Textual Amendments

- F9** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, [Sch. 9 Pt. II para. 16\(2\)](#)
- F10** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 172(2)

Appeal in default of decision

- 8 ^{F11}(1) Where an application is made to the . . . ^{F12} planning authority for listed building consent, then unless within the prescribed period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either—
- (a) give notice to the applicant of their decision on the application; or
 - (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under paragraph 4 of this Schedule,
- the provisions of paragraph 7 of this Schedule shall apply in relation to the application as if listed building consent had been refused by the authority and as if notification of

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their decision had been received by the applicant at the end of the prescribed period or at the end of the said extended period, as the case may be.

- [^{F13}(2) Sub-paragraph (1) of this paragraph applies to an application to the planning authority for approval by the authority required by a condition imposed on the granting of listed building consent with respect to details of the works as it applies to an application for listed building consent, with the following modifications—
- (a) for references to the prescribed period substitute references to the period of two months from the date of the receipt of the application, and
 - (b) omit paragraph (b) and the word “or” preceding it.]

Textual Amendments

- F11** Sch. 10 para. 8 renumbered as para. 8(1) by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, [Sch. 9 para. 16\(3\)](#)
- F12** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 172(2)
- F13** Sch. 10 para. 8(2) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, [Sch. 9 para. 16\(3\)](#)

PART II

REVOCATION OF LISTED BUILDING CONSENT

- 9 (1) If it appears to the . . . ^{F14} planning authority, 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 Part I of this Schedule, the authority, subject to the following provisions of this paragraph, may by order revoke or modify the consent to such extent as (having regard to those matters), they consider expedient.
- (2) Except as provided in paragraph 11 of this Schedule, an order under this paragraph shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.
- (3) Where a . . . ^{F14} planning authority submit an order to the Secretary of State for confirmation under this paragraph, the authority shall serve notice on the owner, on the lessee and on the occupier of the building affected and on any other person who in their opinion will be affected by the order; and if within such period as may be specified in that notice (not being less than twenty-eight days after the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the . . . ^{F14} planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (4) The power conferred by this paragraph 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.

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Textual Amendments

F14 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

- 10 (1) If it appears to the Secretary of State, after consultation with the . . . ^{F15} planning authority, to be expedient that an order under paragraph 9 of this Schedule should be made, he . . . ^{F16} may himself make such an order; and any order so made by the Secretary of State shall have the like effect as if it had been made by the authority and confirmed by the Secretary of State under that paragraph.
- (2) The provisions of paragraph 9 of this Schedule shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order by virtue of this paragraph, in relation to the making thereof by the Secretary of State and in relation to the service of copies thereof as so made.

Textual Amendments

F15 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F16 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

- 11 (1) The following provisions shall have effect where the . . . ^{F17} planning authority have made an order under paragraph 9 of this Schedule but have not submitted the order to the Secretary of State for confirmation by him, and—
- (a) the owner, lessee and occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order. . . ^{F18}
- (b) . . . ^{F18}
- (2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—
- (a) the period (not being less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and
- (b) the period (not being less than fourteen days from the expiration of the period referred to in paragraph (a) of this sub-paragraph) at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this paragraph and without being confirmed by the Secretary of State.
- (3) The authority shall also serve notice to the same effect on the persons mentioned in sub-paragraph (1)(a) of this paragraph, and the notice shall include a statement to the effect that no compensation is payable under section 161 of this Act in respect of an order under paragraph 9 of this Schedule which takes effect by virtue of this paragraph and without being confirmed by the Secretary of State.

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- (4) The authority shall send a copy of any advertisement published under sub-paragraph (2) of this paragraph to the Secretary of State, not more than three days after the publication.
- (5) If within the period referred to in sub-paragraph (2)(a) of this paragraph no person claiming to be affected by the order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in sub-paragraph (2)(b) of this paragraph, take effect by virtue of this paragraph and without being confirmed by the Secretary of State as required by paragraph 9(2) of this Schedule.
- (6) This paragraph does not apply to an order revoking or modifying a listed building consent granted by the Secretary of State.

Textual Amendments

F17 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F18 Word and para. 11 (1)(b) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 4 Pt. I](#)

PART III

PROVISIONS APPLICABLE ON LAPSE OF BUILDING PRESERVATION NOTICE

- 12 The provisions of this Part of this Schedule apply where a building preservation notice ceases to be in force by virtue of section 56(3) of this Act, otherwise than by reason of the building to which it relates being included in a list compiled or approved under section 52 of this Act.
- 13 The fact that the building preservation notice has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 53 or 94 of this Act committed by him with respect to the said building while the notice was in force.
- 14 Any proceedings on or arising out of an application for listed building consent made while the building preservation notice was in force shall lapse and any listed building consent granted with respect to the building, while the notice was in force, shall also lapse.
- 15 Any listed building enforcement notice served by the . . . ^{F19} planning authority while the building preservation notice was in force shall cease to have effect and any proceedings thereon under sections 92 and 93 of this Act shall lapse, but section 95(1) and (2) of this Act shall continue to have effect as respects any expenses incurred by the [^{F20} planning authority] owner, lessee or occupier as therein mentioned and with respect to any sums paid on account of such expenses.

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Textual Amendments

- F19** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
F20 Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 33](#)

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