

## SCHEDULES

### SCHEDULE 9

#### LISTED BUILDINGS AND CONSERVATION AREAS

##### PART I

###### ENGLAND AND WALES

###### *Free-standing objects and structures within curtilage of listed building*

- 1 (1) In section 54(9) of the Town and Country Planning Act 1971 (definition of " listed building "), for the words from " and for the purposes " to the end substitute—

“and, for the purposes of the provisions of this Act relating to listed buildings and building preservation notices, the following shall be treated as part of the building—

- (a) any object or structure fixed to the building ;
- (b) any object of structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948.”.

- (2) Where by virtue of this paragraph an object or structure ceases to be treated as part of a listed building—

- (a) liabilities incurred before the commencement of this paragraph by reason of the object or structure being so treated cease to have effect, and
- (b) a condition attached to a listed building consent ceases to have effect if, or to the extent that, it could not have been attached if this paragraph had been in force ;

except for the purposes of criminal proceedings begun before the commencement of this paragraph.

###### *Scope of exception for urgent works*

- 2 (1) In section 55 of the Town and Country Planning Act 1971 (control of works for demolition, alteration or extension of listed buildings), for subsection (6) (exception for certain urgent works) substitute—

“(6) In proceedings for an offence under this section it shall be a defence to prove the following matters—

- (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building,
- (b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter,

---

*Status: This is the original version (as it was originally enacted).*

---

- (c) that the works carried out were limited to the minimum measures immediately necessary, and
- (d) that notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.”.

(2) In section 97 of the Town and Country Planning Act 1971 (appeal against listed building enforcement notice) in subsection (1) (grounds of appeal), for paragraph (d) substitute—

- “(d) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary ;”.

*Grant of listed building consent subject to. subsequent approval of detail*

3 (1) In section 56 of the Town and Country Planning Act 1971 (supplementary provisions with respect to listed building consent), after subsection (4A) insert—

- “(4B) Listed building consent may be granted subject to a condition reserving specified details of the works (whether or not set out in the application) for subsequent approval by the local planning authority or, in the case of consent granted by the Secretary of State, specifying whether the reserved details are to be approved by the local planning authority or by him.”.

(2) In paragraph 8(1) of Schedule 11 to the Town and Country Planning Act 1971 (listed building consent: appeal against decision), for the words from the beginning to "and the consent is refused" substitute—

“Where an application is made to the local 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”.

(3) Renumber paragraph 9 of Schedule 11 to the Town and Country Planning Act 1971 (appeal in default of decision) as sub-paragraph (1) of that paragraph and after it insert—

“(2) Sub-paragraph (1) of this paragraph applies to an application to the local 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 eight weeks from the date of the receipt of the application, and
- (b) omit paragraph (b) and the word ' or' preceding it.”.

---

*Status: This is the original version (as it was originally enacted).*

---

*Application to modify or discharge conditions attached to listed building consent*

4 After section 56A of the Town and Country Planning Act 1971 insert—

**“56B Application for variation or discharge of conditions.**

- (1) Any person interested in a listed building with respect to which listed building consent has been granted Subject to conditions may apply to the local planning authority for the variation or discharge of the conditions.
- (2) The application shall indicate what variation or discharge of conditions is applied for and the provisions of Part I of Schedule 11 to this Act apply to such an application as they apply to an application for listed building consent.
- (3) On such an application the local planning authority or, as the case may be, the Secretary of State may vary or discharge the conditions attached to the consent, and may add new conditions consequential upon the variation or discharge, as they or he thinks fit.”.

*Extent of exemption accorded to ecclesiastical buildings*

5 (1) After section 58A of the Town and Country Planning Act 1971 insert—

**“58AA Power to restrict exemption of certain ecclesiastical buildings.**

- (1) The Secretary of State may by order provide for restricting or excluding in such cases as may be specified in the order the operation in relation to ecclesiastical buildings of sections 56(1) and 58(2) of this Act (buildings excepted from provisions relating to listed buildings and building preservation notices).
- (2) An order under this section may—
  - (a) make provision for buildings generally, for descriptions of building or for particular buildings;
  - (b) make different provision for buildings in different areas, for buildings of different religious faiths or denominations or according to the use made of the building;
  - (c) make such provision in relation to a part of a building (including, in particular, an object or structure falling to be treated as part of the building by virtue of section 54(9) of this Act) as may be made in relation to a building and make different provision for different parts of the same building;
  - (d) make different provision with respect to works of different descriptions or according to the extent of the works ;
  - (e) make such consequential adaptations or modifications of the operation of any other provision of this Act, or of any instrument made under this Act, as appear to the Secretary of State to be appropriate.”.
- (2) In section 287 of the Town and Country Planning Act 1971 (regulations and orders)  
—
  - (a) in subsection (4) (orders to be made by statutory instrument), after " 55(3)" insert " 58AA " ;

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) in subsection (5) (orders subject to negative resolution), after "section " insert " 58AA " ;
- (c) in subsection (9) (power to include supplementary and incidental provisions), after " section " insert " 58AA " .

*Dangerous structure orders in respect of listed buildings*

- 6 (1) In the Town and Country Planning Act 1971, after the section inserted by paragraph 4 above insert—

**“56C Dangerous structure orders in respect of listed buildings.**

- (1) Before taking any steps with a view to the making of a dangerous structure order in respect of a listed building, a local planning authority shall consider whether they should instead exercise their powers under—
  - (a) section 101 of this Act (power to carry out urgent works for preservation of building), or
  - (b) sections 114 and 115 of this Act (power to acquire building in need of repair).
- (2) In this section " dangerous structure order " means an order or notice under section 77(1)(a) or 79(1) of the Building Act 1984 or section 62(2), 65 or 69(1) of the London Building Acts (Amendment) Act 1939.”.
- (2) In sections 77 and 79 of the Building Act 1984 and in sections 62, 65 and 69 of the London Building Acts (Amendment) Act 1939 insert as the final subsection—

“This section has effect subject to the provisions of the Town and Country Planning Act 1971 relating to listed buildings, buildings subject to building preservation orders and buildings in conservation areas.”.

*Works for preservation of buildings*

- 7 For section 101 of the Town and Country Planning Act 1971 (urgent works for preservation of unoccupied buildings) substitute—

**“101 Urgent works to preserve building.**

- (1) Where it appears to the local authority or the Secretary of State that works are urgently necessary for the preservation of—
  - (a) a listed building, or
  - (b) a building in respect of which a direction has been given by the Secretary of State that this section shall apply,
 they or he may, subject to the following provisions of this section, execute the works, which may consist of or include works for affording temporary support or shelter for the building.
- (2) The ground on which the Secretary of State may give a direction that this section shall apply to a building is that the building is in a conservation area and it appears to him that its preservation is important for maintaining the character or appearance of the conservation area.

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) If the building is occupied works may be carried out only to those parts which are not in use; and no action may be taken in respect of an excepted building within the meaning of section 58(2) of this Act
- (4) The owner of the building shall be given not less than seven days' notice in writing of the intention to carry out the works and the notice shall describe the works proposed to be carried out.
- (5) The Historic Buildings and Monuments Commission for England have the following functions under this section—
  - (a) as respects buildings in Greater London the Commission have concurrently with the relevant London borough council the functions of a local authority;
  - (b) the Secretary of State shall consult the Commission before giving a direction under subsection (1)(b) in respect of a building in England ; and
  - (c) if it appears to the Secretary of State in accordance with subsection (1) that works are required for the preservation of a building in England, he shall not himself carry out the works but shall instead authorise the Commission to do so, specifying the works in the authorisation, and it shall be for the Commission to give notice to the owner under subsection (4).

#### **101A Recovery of expenses of works under s. 101.**

- (1) This section has effect for enabling the expenses of works executed under section 101 of this Act to be recovered by the authority who carried out the works, that is, the local authority, the Historic Buildings and Monuments Commission for England or the Secretary of State or, in the case of works carried out by the Historic Buildings and Monuments Commission for England on behalf of the Secretary of State, by the Secretary of State.
- (2) The authority or, as the case may be, the Secretary of State may give notice to the owner of the building requiring him to pay the expenses of the works.
- (3) Where the works consist of or include works for affording temporary support or shelter for the building—
  - (a) the expenses which may be recovered include any continuing expenses involved in making available the apparatus or materials used, and
  - (b) notices under subsection (2) in respect of any such continuing expenses may be given from time to time.
- (4) The owner may within 28 days of the service of the notice represent to the Secretary of State—
  - (a) that some or all of the works were unnecessary for the preservation of the building,
  - (b) in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time, or
  - (c) that the amount specified in the notice is unreasonable or that the recovery of it would cause him hardship,

---

*Status: This is the original version (as it was originally enacted).*

---

and the Secretary of State shall determine to what extent the representations are justified.

- (5) The Secretary of State shall give notice of his determination, the reasons for it and the amount recoverable—
- (a) to the owner of the building, and
  - (b) to the local authority or the Historic Buildings and Monuments Commission for England, if they carried out the works.”.

*Control of demolition in conservation areas*

- 8 (1) Section 277A of the Town and Country Planning Act 1971 (control of demolition in conservation areas) is amended as follows.

- (2) For subsection (8) (application of provisions relating to listed buildings) substitute—

“(8) The following provisions of this Act have effect in relation to buildings to which this section applies as they have effect in relation to listed buildings, subject to such exceptions and modifications as may be prescribed by regulations—

sections 55 to 56C and 58AA and Parts I and II of Schedule 11 (requirement of consent to works: application for and revocation of consent),

sections 96 to 100 (enforcement),

section 172 (compensation where consent revoked or modified),

section 190 and Schedule 19 (purchase notice on refusal of consent),

sections 242, 243, 245 and 246 (validity of orders, proceedings for review and appeals),

section 255 (contributions by local authorities and statutory undertakers);

section 266(1)(t), (4) and (5) (application to Crown land), and

section 271 and Part VI of Schedule 21 (application of provisions to works by local planning authority).”.

- (3) In subsection (11) (authorities exercising functions of local planning authority), in paragraph (c) (non-metropolitan counties, excluding areas in National Parks) omit "the county planning authority and ".

*Form of application for listed building consent*

- 9 For paragraph 1(1) of Schedule 11 to the Town and Country Planning Act 1971 (regulations as to form and manner of application for listed building consent) substitute—

“(1) An application for listed building consent shall be made in such form as the local 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 local planning authority.

---

*Status: This is the original version (as it was originally enacted).*

---

(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 local planning authorities or, as the case may be, by the Secretary of State.”.

*Listed building consent: consideration whether to call in application*

- 10 (1) In paragraph 5(2) of Schedule 11 to the Town and Country Planning Act 1971 (notice to local planning authority that Secretary of State requires further time to consider whether to call in an application for listed building consent), for the words from " and sub-paragraph (1)" to the end substitute " ; 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. ".
- (2) In paragraph 6(4) of Schedule 11 to the Town and Country Planning Act 1971 (notice to Historic Buildings and Monuments Commission that Secretary of State requires further time to consider whether to call in an application for listed building consent), for the words from " and sub-paragraph (3)" to the end substitute " ; and if he gives such a notice the Commission shall not authorise the local planning authority as mentioned in sub-paragraph (2)(a) of this paragraph, nor under sub-paragraph (2)(6) of this paragraph direct them to grant listed building consent, until he has notified them that he does not intend to require the reference of the application. ".
- (3) In paragraph 6(6) of Schedule 11 to the Town and Country Planning Act 1971 (notice to local planning authority that Secretary of State requires further time to consider whether to call in application for listed building consent which the Historic Buildings and Monuments Commission have directed the authority to refuse), for the words from " and sub-paragraph (5)(a) " to the end substitute " ; and if he gives such a notice the authority shall not give effect to the Commission's direction until he has notified them that he does not intend to require the reference of the application. ".

*Listed building consent: directions as to which applications need not be notified to the Secretary of State*

- 11 (1) Paragraph 7 of Schedule 11 to the Town and Country Planning Act 1971 (directions as to which applications need not be notified to Secretary of State) is amended as follows.
- (2) In paragraph 7(1) (power to direct that certain descriptions of application need not be notified) omit, " other than such consent for the demolition of a building " and after that sub-paragraph insert—
- “(1A) Before giving a direction under sub-paragraph (1) of this paragraph in respect of any description of application for consent to the demolition of a building in England, the Secretary of State shall consult the Historic Buildings and Monuments Commission for England.”.
- (3) For paragraph 7(1A) and (1B) (power to except applications from direction under sub-paragraph (1)) substitute—
- “(1B) Where a direction is in force under sub-paragraph (1) of this paragraph, the Secretary of State may give to a local planning authority a direction

---

*Status: This is the original version (as it was originally enacted).*

---

that paragraph 5 or (as the case may be) paragraph 6 of this Schedule shall nevertheless apply—

- (a) to a particular application for listed building consent, or
- (b) to such descriptions of application for listed building consent as are specified in the direction ;

and such a direction has effect in relation to any such application which has not been disposed of by the authority by their granting or refusing consent.”.

(4) At the end of the paragraph add—

“(3) Directions under sub-paragraph (1) or (2) of this paragraph may be given to authorities generally or to particular authorities or descriptions of authority.”.

*Application to local planning authorities of provisions relating to listed buildings*

- 12 In Part VI of Schedule 21 to the Town and Country Planning Act 1971 (provisions of Act applying to applications by local planning authorities with respect to listed buildings), at the appropriate place insert " Sections 242, 243, 245 and 246. ".