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**Changes to legislation:** *Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Cross Heading: Temporary stop notices is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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# Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

## 1997 CHAPTER 9

### PART I

#### LISTED BUILDINGS

#### CHAPTER IV

#### ENFORCEMENT

*[<sup>F1</sup>Temporary stop notices*

#### Textual Amendments

- F1** Ss. 41A-41I and cross-headings inserted (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 23(1)**, 33(2); [S.S.I. 2011/174, art. 2, sch.](#); [S.S.I. 2011/372, art. 2, Sch.](#)

#### 41F Temporary stop notices

- (1) Where it appears to the planning authority that—
- any works have been, or are being, executed to a listed building in their district,
  - the works are such as to involve a contravention of section 8(1) or (2), and
  - it is expedient that the works are (or any part of the works is) stopped immediately,

they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a temporary stop notice.

- (2) The notice must be given in writing and must—

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- (a) specify the works in question,
  - (b) prohibit execution of the works (or so much of the works as is specified in the notice), and
  - (c) set out the authority's reasons for issuing the notice.
- (3) A temporary stop notice may be served on any of the following—
- (a) a person who appears to the authority to be executing, or causing to be executed, the works,
  - (b) a person who appears to the authority to have an interest in the building (whether as owner or occupier or otherwise).
- (4) The authority must display on the building—
- (a) a copy of the notice, and
  - (b) a statement as to the effect of section 41H.
- (5) A temporary stop notice has effect from the time a copy of it is first displayed in pursuance of subsection (4).
- (6) A temporary stop notice ceases to have effect at the end of the period of 28 days starting on the day the copy notice is so displayed.
- (7) But if a shorter period starting on that day is specified in the notice, the notice instead ceases to have effect at the end of that shorter period.
- (8) And if the notice is withdrawn by the authority before that period of 28 days (or, as the case may be, that shorter period) expires, the notice ceases to have effect on being so withdrawn.

**Modifications etc. (not altering text)**

- C1** Ss. 28-41I applied (with modifications) (1.10.2015) by [The Planning \(Listed Building Consent and Conservation Area Consent Procedure\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/243\)](#), regs. 1, 15, [sch. 3](#) (with [reg. 2](#))

**41G Temporary stop notices: restrictions**

- (1) A temporary stop notice does not prohibit the execution of works (either or both)—
- (a) of such description,
  - (b) in such circumstances,
- as may be prescribed.
- (2) A second or subsequent temporary stop notice must not be issued in respect of the same works unless the planning authority have in the meantime taken some other enforcement action in relation to the contravention of section 8(1) or (2) which is constituted by the works.
- (3) In subsection (2), “enforcement action” includes obtaining the grant of an interdict under section 146(2) of the principal Act (interdicts restraining breaches of planning control).

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### **41H Temporary stop notices: offences**

- (1) A person who contravenes a temporary stop notice—
  - (a) which has been served on the person, or
  - (b) a copy of which has been displayed in pursuance of section 41F(4),
 is guilty of an offence.
- (2) Contravention of a temporary stop notice includes causing or permitting its contravention.
- (3) An offence under this section may be charged by reference to a day or to a longer period of time.
- (4) A person may, in relation to the same temporary stop notice, be convicted of more than one offence under this section by reference to different days or different periods.
- (5) It is a defence in any proceedings under this section that—
  - (a) the temporary stop notice was not served on the accused, and
  - (b) the accused did not know, and could not reasonably have been expected to know, of its existence.
- (6) A person convicted of an offence under this section is liable—
  - (a) on summary conviction, to a fine not exceeding £20,000,
  - (b) on conviction on indictment, to a fine.
- (7) In determining the amount of the fine, the court is in particular to have regard to any financial benefit which has accrued or appears likely to accrue to the convicted person in consequence of the execution of the works which constituted the offence.

#### **Modifications etc. (not altering text)**

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### **41I Temporary stop notices: compensation**

- (1) A person who, at the date on which a temporary stop notice is first displayed in pursuance of section 41F(4), has an interest (whether as owner or occupier or otherwise) in the building to which the notice relates is entitled to be compensated by the planning authority in respect of any loss or damage directly attributable to the prohibition effected by that notice.
- (2) But subsection (1) applies only if the circumstances are as set out in one or both of the following paragraphs—

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- (a) the works specified in the notice are authorised by listed building consent granted on or before the date mentioned in that subsection,
  - (b) the authority withdraws the notice other than following such grant of listed building consent as is mentioned in paragraph (a).
- (3) Subsections (5) to (9) of section 41D apply to compensation payable under this section as they apply to compensation payable under that section; and for the purpose of that application the reference in section 41D(7) to a stop notice is to be taken to be a reference to a temporary stop notice.]

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