



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

1997 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER IV

ENFORCEMENT

39 Offence where listed building enforcement notice not complied with.

- (1) Where, after the end of the period for compliance with the notice, any step required by a listed building enforcement notice to be taken has not been taken [^{F1}or any works required by the notice to cease have not ceased], the person who is for the time being owner of the land is in breach of the notice.
- (2) If at any time the owner of the land is in breach of a listed building enforcement notice he shall be guilty of an offence.
- (3) An offence under this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under this section by reference to any period of time following the preceding conviction for such an offence.
- (4) In proceedings against any person for an offence under this section, it shall be a defence for him to show—
 - (a) that he did everything he could be expected to do to secure that all the steps required by the notice were taken, [^{F2}or that all works required by the notice to cease were ceased,] or
 - (b) that he was not served with a copy of the listed building enforcement notice and was not aware of its existence.

Status: Point in time view as at 01/12/2011. This version of this provision has been superseded.

Changes to legislation: Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Section 39 is up to date with all changes known to be in force on or before 22 May 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)

- (5) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding £20,000, and
 - (b) on conviction on indictment, to a fine.
- (6) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, 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.

Textual Amendments

- F1** Words in s. 39(1) inserted (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 22(4)(a)**, 33(2); S.S.I. 2011/372, art. 2, sch.
- F2** Words in s. 39(4)(a) inserted (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 22(4)(b)**, 33(2); S.S.I. 2011/372, art. 2, sch.

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