



## 2011 CHAPTER 25

### Part 5

#### Enforcement

##### *Listed buildings*

#### **Appeal against listed building enforcement notice**

**159.**—(1) A person having an estate in the building to which a listed building enforcement notice relates or a person to whom subsection (2) applies may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the planning appeals commission against the notice on any of the following grounds—

- (a) that the matters alleged to constitute a contravention of section 85 have not occurred;
- (b) that those matters (if they occurred) do not constitute such a contravention;
- (c) that the contravention of that section alleged in the notice occurred before 9th December 1978;
- (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;
- (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged or different conditions substituted;

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*Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 159. (See end of Document for details)*

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- (f) that copies of the notice were not served as required by section 138(2) and (3), as applied by section 157(6), or, as the case may be, section 139(2) to (4), as applied by section 158(4);
  - (g) that the period specified in the notice as the period within which any step required thereby is to be taken falls short of what should reasonably be allowed;
  - (h) except in relation to such a requirement as is mentioned in section 157(1)(b)(ii) or (iii), the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
  - (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
  - (j) that steps required to be taken by virtue of section 157(1)(b)(ii) exceed what is necessary to alleviate the effect of the works executed to the building;
  - (k) that steps required to be taken by virtue of section 157(1)(b)(iii) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.
- (2) This subsection applies to a person who—
- (a) on the date on which the listed building enforcement notice is issued occupies the building to which it relates by virtue of a licence; and
  - (b) continues to occupy the building when the appeal is brought.
- (3) Subsections (4) to (7) of section 143 and section 144 shall, with any necessary modifications, apply to an appeal under this section against a listed building enforcement notice as they apply to an appeal under section 143 against an enforcement notice.
- (4) On the determination of an appeal under this section, the planning appeals commission may—
- (a) grant listed building consent for the works to which the listed building enforcement notice relates or for part only of those works;
  - (b) discharge any condition or limitation subject to which listed building consent was granted and substitute any other condition, whether more or less onerous.
- (5) Any listed building consent granted by the planning appeals commission under subsection (4) shall, subject to subsection (6), have the like effect as a listed building consent granted under Part 4.
- (6) The decision of the commission in relation to the grant of listed building consent under subsection (4) shall be final.

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(7) The validity of a listed building enforcement notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

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

- C1** Pt. 5 applied with modification(s) (1.4.2015) by [The Planning \(Conservation Areas\) \(Demolition\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/107\)](#), regs. 1, **11**
- C2** Pt. 5 (except ss. 157-163) applied with modification(s) (1.4.2015) by [The Planning General Regulations \(Northern Ireland\) 2015 \(S.R. 2015/39\)](#), regs. 1(1), **2** (with regs. 3-10)
- C3** S. 159 applied (with modifications) (1.4.2015) by [The Planning \(Conservation Areas\) \(Demolition\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/107\)](#), regs. 1, 15, **Sch. 2**
- C4** Ss. 158-161: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

**Commencement Information**

- I1** S. 159 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, **Sch. 1**
- I2** S. 159 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49](#), art. 3, **Sch. 1** (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2)

**Changes to legislation:**

There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 159.