

1992 No. 263

PLANNING

Planning (Listed Buildings) Regulations (Northern Ireland) 1992

<i>Made</i>	<i>10th June 1992</i>
<i>Coming into operation</i>	<i>20th July 1992</i>

The Department of the Environment, in exercise of the powers conferred by Articles 2(2)(a), 64(2) and 65(1) of the Planning (Northern Ireland) Order 1972(b) and now vested in it (c) and in exercise of the powers conferred on it by Articles 2(2)(d), 42(5), 45(6) and paragraphs 1, 3, 5(2), 7(5) and 8 of Schedule 1 of the Planning (Northern Ireland) Order 1991(e) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Planning (Listed Buildings) Regulations (Northern Ireland) 1992 and shall come into operation on 20th July 1992.

(2) In these regulations—

“the 1972 Order” means the Planning (Northern Ireland) Order 1972;

“the 1991 Order” means the Planning (Northern Ireland) Order 1991.

Applications for listed building consent or approval of Department

2.—(1) An application for listed building consent or for any approval of the Department required by a condition imposed on a grant of listed building consent shall be made on a form—

(a) provided by the Department; and

(b) shall contain the particulars required by the form, and be accompanied by a plan sufficient to identify the building to which it relates and such other plans and drawings as are necessary to describe the works which are the subject of the application.

(2) The Department may give directions either generally or in relation to a particular case specifying the kinds of particulars, plans or information to be contained in an application.

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- (a) As substituted by Sch. 5 to S.I. 1991/1220 (N.I. 11); see meaning of “prescribed” in Art. 2(2) of that Order
- (b) S.I. 1972/1634 (N.I. 17); Art. 65(1) was amended by Sch. 5 to S.I. 1991/1220 (N.I. 11)
- (c) See S.R.O. (N.I.) 1973 No. 504 Art. 7(1) and S.I. 1976/424 (N.I. 6) Art. 3(1)
- (d) See definition of “the Department” and “prescribed”
- (e) S.I. 1991/1220 (N.I. 11)

(3) On receipt of an application the Department shall send an acknowledgement in writing to the applicant.

Duty of Department to consult on applications for listed building consent

3. Before determining an application for listed building consent the Department shall consult—

(a) with the district council for the area in which the building is situated; and

(b) with the Historic Buildings Council where the application would result in the need to amend any list of buildings of special architectural or historic interest;

and shall, in determining the application, take into account any representations made by those bodies.

Notification of decision

4.—(1) The grant or refusal of listed building consent or of any approval of the Department required by a condition imposed on a grant of listed building consent shall be notified to the applicant in writing within a period of 8 weeks from the date of receipt of the application or such longer period as may be agreed upon in writing between the applicant and the Department.

(2) The Department shall state in the notice of decision its reasons for—

(a) any refusal;

(b) any decision to attach a condition to a listed building consent.

Applications for consent to execute works without compliance with conditions previously attached

5.—(1) An application for listed building consent for the execution of works to a building without complying with conditions subject to which a previous listed building consent was granted shall be made on a form provided by the Department, and shall—

(a) contain such particulars as are required by the form; and

(b) be accompanied by a further copy of such plans and drawings as are necessary to describe the works.

(2) Regulations 2(3), 3 and 4 shall apply in relation to an application under this regulation as they apply in relation to an application for listed building consent under regulation 2(1).

Certificates and notices under Article 22 of the 1991 Order

6. Certificates and notices for the purposes of Article 22 of the 1991 Order (notification of applications to certain persons) as applied by paragraph 3, and paragraph 3 as applied by virtue of paragraphs 7(5) and 8, of Schedule 1 to that Order shall be in the form set out in Schedule 1.

Form of notice that a building has become, or ceased to be, listed

7. Notices for the purposes of Article 42(5) of the 1991 Order shall be in the form set out in Schedule 2.

Claims for compensation

8. A claim for compensation made under Article 64(2) (compensation for refusal of consent to alterations, etc) or 65(1) (compensation for revocation or modification of consent) of the 1972 Order shall be made in writing and must be received by the Department within 6 months from the date of making of the decision to which the claim relates, or such extended period as the Department may allow in any particular case.

Revocation

9. The Planning (Listed Buildings) Regulations (Northern Ireland) 1973(a) are hereby revoked.

Sealed with the Official Seal of the Department of the Environment on
10th June 1992.

(L.S.)

E. Hayes

Assistant Secretary

PART I

PLANNING (NORTHERN IRELAND) ORDER 1991

Certificate under Article 22 as applied by Schedule 1

Certificate A

I HEREBY CERTIFY that the accompanying application/appeal is made by or on behalf of [Name of applicant/appellant] who is in actual possession of every part of the land to which the said application/appeal relates and is entitled to a fee simple absolute/a fee tail/a life estate/a tenancy of which at least 40 years remain unexpired in the land.

OR

Certificate B

I HEREBY CERTIFY that the accompanying application/appeal is made by or on behalf of [Name of applicant/appellant] who is the trustee of a trust or settlement which affects every part of the land to which the accompanying application/appeal relates and that at the date of the application/appeal—

- (a) a beneficiary under the trust or settlement is in the actual possession of every part of the land; and
- (b) no person other than a beneficiary under the trust or settlement is entitled to enter into the actual possession of any part of the said land within a period of 40 years.

OR

Certificate C

I HEREBY CERTIFY that the requisite notice of the accompanying application/appeal has been given by or on behalf of [Name of applicant/appellant] to each person who, at the beginning of the period of 21 days ending with the date of the said application/appeal was, in relation to all or any part of the land to which the application/appeal relates—

- (a) a person then in actual possession and is entitled to a fee simple absolute/a fee tail/a life estate/a tenancy of which at least 40 years remains unexpired;
- (b) the trustee of a trust or settlement where a beneficiary under the trust or settlement was in actual possession and no person other than such a beneficiary was entitled to enter into actual possession within a period of 40 years;
- (c) a person (not being a person falling within (a) or (b)) in actual possession;
- (d) a person (not being a person falling within (a) to (c)) entitled to enter into actual possession within a period of 40 years.

The persons upon whom notice was served are:—

Name and Address

Interest

Date of service of Notice

Certificate D

1. I HEREBY CERTIFY that the person making the accompanying application/appeal

- (a) is unable to issue a certificate in accordance with either Article 22(1)(a) or (b) of the Planning (Northern Ireland) Order 1991;
- (b) has made due enquiries and is of the opinion that he is unable to issue a certificate which would satisfy the requirements of Article 22(1)(c) of the said Order for the following reasons:—

and;

- (c) has given the requisite notice of the said application/appeal to the under-mentioned persons who, at the beginning of the period of 21 days ending with the date of the said application/appeal, were in the actual possession of any part of the land to which the application/appeal relates, namely:—

Names and Address

Date of service of Notice

2. Notice of the application/appeal has been published in the [title of newspaper] on [date of publication] and a copy of the newspaper in which the notice appeared is enclosed.

Signature of Applicant or Agent.....

Date.....

PART II

PLANNING (NORTHERN IRELAND) ORDER 1991

Notice under Article 22 as applied by Schedule 1 paragraph 3 of application for listed building consent

[Notice for service on individuals]

(a) Insert address or location of building

Proposal to carry out works for [demolishing] [altering] [extending]*

(a).....

TAKE NOTICE that application under the Planning (Northern Ireland) Order 1991 is being made to the Department of the Environment by

(b) Insert name of applicant

(b)..... for listed building consent to

(c) Insert description of proposed works

(c).....

If you wish to make representations about the application you should make them in writing to the Department within 14 days from the date of service of this notice.

Signature of Applicant or Agent

.....

Date.....

*Delete where inappropriate

PART III

PLANNING (NORTHERN IRELAND) ORDER 1991

Notice under Article 22 as applied by Schedule 1 paragraph 3 (by virtue of paragraphs 7(5) and 8), of appeal against refusal etc of listed building consent

[Notice for service on individuals]

(a) Insert address or location of proposed building

Proposal to carry out works for [demolishing] [altering] [extending]*

(a).....

(b) Insert name of applicant

TAKE NOTICE that an appeal under the Planning (Northern Ireland) Order 1991 is being made by (b)

..... against the decision of the Department of the Environment on an application for listed building consent to

(c) Insert description of proposed works

(c).....

If you wish to make representations about the application you should make them in writing to the Department within 14 days from the date of service of this notice.

Signature of Applicant or Agent

.....

Date

*Delete where inappropriate

NOTICE THAT A BUILDING HAS BECOME LISTED

IMPORTANT — This communication affects YOUR PROPERTY

PLANNING (NORTHERN IRELAND) ORDER 1991

Buildings of special architectural or historic interest

To:

NOTICE IS HEREBY GIVEN that the building known as
situate in has been included in the
list of buildings of special architectural or historic interest in that area, compiled by
the Department of the Environment under Article 42 of the Planning (Northern
Ireland) Order 1991 on

Dated

.....
Authorised Officer

EXPLANATORY NOTE

Listing of buildings of special architectural or historic interest

The above notice is addressed to you as owner or occupier of the building named, which has been included in one of the lists of buildings of special architectural or historic interest prepared under Article 42 of the Planning (Northern Ireland) Order 1991 by the Department of the Environment (hereinafter known as "the Order"). The lists are compiled by the Department as a statutory duty, on the advice of a committee of people including architects and historians interested in historic buildings — the Historic Buildings Council.

This notice does not call for any action on your part unless you propose at any time to demolish the building or to do any works (either to the exterior or to the interior) which would affect its character. In that event you will need to seek "listed building consent", that is to say, the consent of the Department to the work you wish to do. Forms for this purpose can be obtained from and should be returned to your Divisional Planning Office. Certain buildings are exempt from this requirement, notably ecclesiastical buildings in use for the time being for ecclesiastical purposes.

You should however note that it is an offence under Article 44(1) of the Order to carry out any of those works without obtaining listed building consent. It is also an offence under Article 44(5) to fail to comply with any condition attached to a listed building consent. A conviction for an offence could result in a fine.

Where works which are urgently necessary in the interests of safety or of health or for the preservation of the buildings are carried out without consent it is a defence to prove that—

- (a) it was not practicable to secure safety or health or the preservation of the building by works of repair or works for affording temporary support or shelter;
- (b) the works carried out were limited to the minimum measures immediately necessary; and

(c) notice in writing justifying in detail the carrying out of the works was given to the Department as soon as reasonably practicable. (Article 44(7) of the Order).

Your attention is drawn to Article 42(7) of the Order by virtue of which objects or structures as therein described within the curtilage of a listed building are entitled to the same protection as the building.

There is no right of appeal as such against the listing of a building but if the Department should refuse consent for the carrying out of any proposed works, or grant it subject to condition, paragraph 7 of Schedule 1 to the Order provides a right of appeal to the Planning Appeals Commission. You are not precluded at any time from writing to the Department claiming that the building should cease to be listed on the ground that it is not in fact of special architectural or historic interest; and any such claim, with the evidence supporting it, will be carefully considered.

If at any time you propose to take any action which may affect the character of your building, you should refer to the provisions of Part V of the Order and the Planning (Listed Buildings) Regulations (Northern Ireland) 1992.

NOTICE THAT A BUILDING HAS CEASED TO BE LISTED

IMPORTANT — This communication affects YOUR PROPERTY

PLANNING (NORTHERN IRELAND) ORDER 1991

Buildings of special architectural or historic interest

To:

NOTICE IS HEREBY GIVEN that the building known as
situate in
has, by an amendment made by the Department of the Environment under Article 42
of the Planning (Northern Ireland) Order 1991 on been excluded from
the list of buildings of special architectural or historic interest in that area compiled by
the Department on

Dated

.....
Authorised Officer

EXPLANATORY NOTE

The building referred to in the above notice has been excluded from the list because*

*Insert reason for exclusion

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations made under the Planning (Northern Ireland) Order 1972 (the 1972 Order) and the Planning (Northern Ireland) Order 1991 (the 1991 Order) up-date and replace the Planning (Listed Buildings) Regulations (Northern Ireland) 1973.

Regulations 2-4 deal with applications for listed building consent, consultation in respect of applications, and notification of decisions.

Regulation 5 deals with applications to vary or discharge conditions attached to a previous consent.

Regulation 6 with Schedule 1 prescribes certificates and notices required in connection with applications for consent or appeals to the Planning Appeals Commission.

Regulation 7 with Schedule 2 sets out the form of notices to be served on owners or occupiers of buildings that have become, or ceased to be listed.

Regulation 8 sets out the procedure for claims for compensation in respect of refusal of consent to alterations or extensions of listed buildings and also for claims for compensation for revocation or modification of a consent.

Regulation 9 repeals the Planning (Listed Building) Regulations (Northern Ireland) 1973.