
Status: Point in time view as at 01/12/2011.

Changes to legislation: Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Cross Heading: Stop notices is up to date with all changes known to be in force on or before 08 October 2023. 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)



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

1997 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER IV

ENFORCEMENT

[^{F1}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.](#)

41A Stop notices

- (1) Subsection (2) applies where the planning authority consider it expedient that any relevant works should cease before the expiry of the period for compliance with a listed building enforcement notice.
- (2) The authority may, when they serve the copy of the listed building enforcement notice or afterwards, serve a notice (in this Act referred to as a “stop notice”) prohibiting the execution of the relevant works to the listed building to which the enforcement notice relates, or to any part of that building specified in the stop notice.

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- (3) In this section and sections 41B and 41D, “relevant works” means any works specified in the listed building enforcement notice as works which the planning authority require to cease and any works carried out as part of, or associated with, such works.
- (4) A stop notice may not be served if the listed building enforcement notice has taken effect.
- (5) A stop notice must specify the date when it is to come into effect, and that date—
 - (a) must not be earlier than 3 days after the date when the notice is served, unless the planning authority consider that there are special reasons for specifying an earlier date and a statement of those reasons is served with the stop notice, and
 - (b) must not be later than 28 days from the date when the notice is first served on any person.
- (6) A stop notice may be served by the planning authority on any person who appears to them to have an interest in the building or who is executing, or causing to be executed, the relevant works specified in the listed building enforcement notice.
- (7) The planning authority may at any time withdraw a stop notice (without prejudice to their power to serve another) by notice which must be—
 - (a) served on all persons who were served with the stop notice, and
 - (b) publicised by displaying it for 7 days in place of all or any site notices (within the meaning of section 41B(4)).

41B Stop notices: supplementary provisions

- (1) A stop notice ceases to have effect when—
 - (a) the listed building enforcement notice to which it relates is withdrawn or quashed,
 - (b) the period for compliance expires, or
 - (c) notice of the withdrawal of the stop notice is served under section 41A(7),
 whichever occurs first.
- (2) Where the listed building enforcement notice to which a stop notice relates is varied so that it no longer relates to any relevant works, the stop notice ceases to have effect in relation to those works.
- (3) The reference in subsection (2) to a listed building enforcement notice being varied includes a reference to—
 - (a) a requirement of such a notice being waived or relaxed by virtue of section 34(7),
 - (b) the terms of such a notice being varied on appeal by virtue of section 37(2)(a).
- (4) Where a stop notice has been served in respect of any listed building the planning authority may publicise it by displaying on the building a notice (in this section and in sections 41E and 76 referred to as a “site notice”)—
 - (a) stating that a stop notice has been served on a particular person or persons,
 - (b) indicating its requirements, and
 - (c) stating that any person contravening it may be prosecuted for an offence under section 41E.

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- (5) A stop notice is not invalid by reason that a copy of the listed building enforcement notice to which it relates was not served as required by section 34 if it is shown that the planning authority took all such steps as were reasonably practicable to effect proper service.

41C Power of the Scottish Ministers to serve stop notice

- (1) If it appears to the Scottish Ministers that it is expedient that a stop notice should be served in respect of any building they may themselves serve such a notice under section 41A.
- (2) A stop notice served by the Scottish Ministers has the same effect as if it had been served by the planning authority.
- (3) The Scottish Ministers must not serve such a notice without consulting the planning authority.
- (4) The provisions of this Act relating to stop notices apply, so far as relevant, to a stop notice served by the Scottish Ministers as they apply to a stop notice served by a planning authority, but with the substitution for any reference to the planning authority of a reference to the Scottish Ministers, and any other necessary modifications.

41D Compensation for loss due to stop notice

- (1) Where a stop notice ceases to have effect a person who, when the notice is first served, 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 falling within subsection (2).
- (2) That is loss or damage directly attributable to—
- (a) the prohibition contained in the stop notice or,
 - (b) in a case within subsection (3)(b), the prohibition of such of the works prohibited by the stop notice as cease to be relevant works.
- (3) For the purposes of this section, a stop notice ceases to have effect when—
- (a) the listed building enforcement notice is quashed on grounds other than those mentioned in paragraph (e) of section 35(1),
 - (b) the listed building enforcement notice is varied (otherwise than on the grounds mentioned in that paragraph) so that any works the execution of which are prohibited by the stop notice cease to be relevant works,
 - (c) the listed building enforcement notice is withdrawn by the planning authority otherwise than in consequence of the grant by them of listed building consent for the works to which the notice relates, or
 - (d) the stop notice is withdrawn.
- (4) The reference in subsection (3)(b) to a listed building enforcement notice being varied includes a reference to—
- (a) a requirement of such a notice being waived or relaxed by virtue of section 34(7),
 - (b) the terms of such a notice being varied on appeal by virtue of section 37(2)(a).
- (5) A claim for compensation under this section must be made to the planning authority within the prescribed time and in the prescribed manner.

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- (6) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition includes any sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.
- (7) No compensation is payable under this section—
 - (a) in respect of the prohibition in a stop notice of any works which, at any time when the notice is in force, are such as to involve a contravention of section 8(1) or (2), or
 - (b) in the case of a claimant who was required to provide information under section 272 of the principal Act (power to require information as to interests in land) in respect of any loss or damage suffered by the claimant which could have been avoided if the claimant had provided the information or had otherwise co-operated with the planning authority when responding to the notice.
- (8) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this section is to be referred to and determined by the Lands Tribunal for Scotland.
- (9) In relation to the determination of any such question, the provisions of sections 9 (procedure on references under section 8) and 11 (expenses) of the Land Compensation (Scotland) Act 1963 (c.51) apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

41E Penalties for contravention of stop notice

- (1) A person who contravenes a stop notice after a site notice has been displayed, or after the stop notice has been served on the person, is guilty of an offence.
- (2) Contravention of a stop notice includes causing or permitting its contravention.
- (3) An offence under this section may be charged by reference to any day or longer period of time.
- (4) A person may, in relation to the same 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 stop notice was not served on the accused, and
 - (b) the accused had no reasonable cause to believe that the works were prohibited by the stop notice.
- (6) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding £20,000, and
 - (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 person in consequence of the offence.]

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