



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

## 1997 CHAPTER 9

### PART I

#### LISTED BUILDINGS

#### CHAPTER IV

#### ENFORCEMENT

#### *[<sup>F1</sup>Stop notices*

#### **[<sup>F1</sup>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,

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**Changes to legislation:** Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Section 41D is up to date with all changes known to be in force on or before 05 February 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) View outstanding changes

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- (c) the listed building enforcement notice is withdrawn by the planning authority otherwise than in consequence of the grant by them of listed building consent for the works to which the notice relates, or
  - (d) the stop notice is withdrawn.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.
- (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.]

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#### 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.](#)

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#### 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](#))

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 82(1)(aa)-(ad) inserted by [2006 asp 17 s. 55\(5\)](#)