



Historic Environment (Wales) Act 2016

2016 anaw 4

PART 3

LISTED BUILDINGS

Listed buildings: enforcement

29 Temporary stop notices

- (1) After section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9) insert—

“44B Temporary stop notices

- (1) This section applies where it appears to a local planning authority in Wales that—
- (a) works have been or are being executed to a listed building in their area; and
 - (b) the works are such as to involve a contravention of section 9(1) or (2).
- (2) The authority may issue a temporary stop notice if, having regard to the effect of the works on the character of the building as one of special architectural or historic interest, they consider it is expedient that the works are stopped immediately (or that part of them is).
- (3) A temporary stop notice must be in writing and must—
- (a) specify the works in question;
 - (b) prohibit execution of the works (or so much of them as is specified in the notice);
 - (c) set out the authority's reasons for issuing the notice; and
 - (d) include a statement of the effect of section 44C.
- (4) A temporary stop notice may be served on a person who appears to the authority—

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- (a) to be executing the works or causing them to be executed; or
 - (b) to have an interest in the building.
- (5) The authority must display a copy of the notice on the building; and the copy must specify the date on which it is first displayed.
- (6) A temporary stop notice takes effect when the copy of it is first displayed in accordance with subsection (5).
- (7) A temporary notice ceases to have effect—
- (a) at the end of the period of 28 days beginning with the day on which the copy of it is first displayed in accordance with subsection (5); or
 - (b) if the notice specifies a shorter period beginning with that day, at the end of that period.
- (8) But if the authority withdraws the notice before the time when it would otherwise cease to have effect under subsection (7), the notice ceases to have effect on its withdrawal.
- (9) A local planning authority may not issue a subsequent temporary stop notice in relation to the same works unless the authority have, since issuing the previous notice, taken other enforcement action in relation to the contravention referred to in subsection (1)(b).
- (10) The reference in subsection (9) to taking other enforcement action includes a reference to obtaining an injunction under section 44A.
- (11) A temporary stop notice does not prohibit the execution of works of such description, or the execution of works in such circumstances, as the Welsh Ministers may by regulations prescribe.

44C Temporary stop notices: offence

- (1) A person is guilty of an offence if the person contravenes, or causes or permits a contravention of, a temporary stop notice—
- (a) which has been served on the person; or
 - (b) a copy of which has been displayed in accordance with section 44B(5).
- (2) An offence under this section may be charged by reference to a day or to some longer period; accordingly, a person may, in relation to the same temporary stop notice, be convicted of more than one offence under this section by reference to different periods.
- (3) In proceedings against a person for an offence under this section, it is a defence for the person to show that the person did not know, and could not reasonably have been expected to know, of the existence of the temporary stop notice.
- (4) In proceedings against a person for an offence under this section, it is also a defence for the person to show—
- (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;
 - (b) 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;

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- (c) that the works carried out were limited to the minimum measures immediately necessary; and
 - (d) that notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.
- (5) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.
- (6) In determining the amount of a fine to be imposed on a person convicted under this section, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.

44D Temporary stop notices: compensation

- (1) A person who, on the day when a temporary stop notice is first displayed in accordance with section 44B(5), has an interest in the building is, on making a claim to the local planning authority within the prescribed time and in the prescribed manner, entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.
- (2) But subsection (1) applies only if—
- (a) the works specified in the notice are not such as to involve a contravention of section 9(1) or (2); or
 - (b) the authority withdraws the notice other than following the grant of listed building consent, after the day mentioned in subsection (1), which authorises the works.
- (3) The loss or damage in respect of which compensation is payable under this section includes a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the notice.
- (4) No compensation is payable under this section in the case of loss or damage suffered by a claimant if—
- (a) the claimant was required to provide information under a relevant provision; and
 - (b) the loss or damage 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.
- (5) In subsection (4)(a), each of the following is a relevant provision—
- (a) section 16 of the Local Government (Miscellaneous Provisions) Act 1976;
 - (b) section 330 of the principal Act.”
- (2) In section 31 of that Act (general provisions as to compensation for depreciation under Part 1 of the Act), in subsection (2), for “and 29” substitute “, 29 and 44D”.
- (3) In section 82A(2) of that Act (Crown application: exceptions), after paragraph (f) insert—
- “(fa) section 44C;”.
- (4) In section 88 of that Act (rights of entry), after subsection (3) insert—

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- “(3A) Any person duly authorised in writing by a local planning authority in Wales may at any reasonable time enter any land for any of the following purposes—
- (a) securing the display of a temporary stop notice (see section 44B);
 - (b) ascertaining whether a temporary stop notice is being complied with;
 - (c) considering any claim for compensation under section 44D.”
- (5) In subsection (4) of that section (entry by Valuation Office etc in connection with compensation claims), for “or 29” substitute “ , 29 or 44D ”.
- (6) In section 88B of that Act (rights of entry: supplementary provisions), after subsection (1) insert—
- “(1A) Subsection (1) does not apply to a person authorised under section 88(3A) who intends to enter the land for either of the purposes mentioned in paragraphs (a) and (b) of that subsection.”
- (7) In Schedule 2 to that Act (lapse of building preservation notices)—
- (a) in paragraph 2, for “or 43” substitute “ , 43 or 44C ”, and
 - (b) after paragraph 4 insert—
- “5 Any temporary stop notice served by the local planning authority with respect to the building while the building preservation notice was in force ceases to have effect.”
- (8) In Schedule 4 to that Act (further provisions as to exercise of functions by different authorities), in paragraph 7, in sub-paragraph (1), after “42,” insert “ 44D, ”.

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