2011 CHAPTER 25

Part 4 N.I.

Additional planning control

Chapter 1 N.I.

Listed buildings and conservation areas

Modifications etc. (not altering text)

C1 Pt. 4 chapter 1 (except ss. 92-93 102) 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. 4 (except chpts. 1, 2) 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)

Listed buildings

Lists of buildings of special architectural or historic interest N.I.

80.—(1) The Department—

(a) shall compile lists of buildings of special architectural or historic interest; and

(b) may amend any list so compiled.

(2) In considering whether to include a building in a list compiled under this section the Department may take into account not only the building itself but also—

(a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and

(b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building which consists of a man-made object or structure fixed to the building or which forms a part of the land and which is comprised within the curtilage of the building.

(3) Before compiling or amending any list under this section, the Department must consult with the appropriate council and the Historic Buildings Council.

(4) As soon as may be after any list has been compiled under this section, or any amendments of such a list have been made, the Department must cause a copy of so much of the list, or so much of the amendments, as relates to the district of a council to be deposited with the clerk of that council.

(5) As soon as may be after the inclusion of any building in a list under this section, whether on the compilation of the list or by its amendment, or as soon as may be after any such list has been amended by the exclusion of any building from it, the Department must serve a notice in the prescribed form on every owner and occupier of the building, stating that the building has been included in, or excluded from, the list, as the case may be.

(6) The Department must keep available for inspection by the public at all reasonable hours copies of lists and amendments of lists compiled or made under this section.

(7) In this Act "listed building" means a building which is for the time being included in a list compiled under this section; and, for the purposes of the provisions of this Act relating to listed buildings, the following shall be treated as part of the building—

(a) any object or structure within the curtilage of the building and fixed to the building;

(b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st October 1973.

Modifications etc. (not altering text)

C3 Ss. 80-84: 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. 80 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I2 S. 80 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)

Temporary listing: building preservation notices N.I.

81.—(1) If it appears to a council that a building in its district which is not a listed building—

(a) is of special architectural or historic interest; and

(b) is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest,

it may serve on the owner and occupier of the building a notice (in this Act referred to as a "building preservation notice").

(2) A building preservation notice served by a council must—

(a) state that the building appears to the council to be of special architectural or historic interest and that it has requested the Department to consider including it in a list compiled under section 80; and

(b) explain the effect of subsections (3) to (5) and section 83.

(3) A building preservation notice—

(a) comes into force as soon as it has been served on both the owner and occupier of the building to which it relates; and

(b) subject to subsection (4), remains in force for 6 months from the date when it is served or, as the case may be, last served.

(4) A building preservation notice ceases to be in force if the Department—

(a) includes the building in a list compiled under section 80, or

(b) notifies the council in writing that it does not intend to do so.

(5) While a building preservation notice is in force with respect to a building, the provisions of this Act (other than section 103) shall have effect in relation to the building as if it were a listed building.

(6) If, following the service of a building preservation notice, the Department notifies the council that it does not propose to include the building in a list compiled under section 80, the council must immediately give notice of that decision to the owner and occupier of the building.

(7) Following a notification by the Department under subsection (4)(b) no further building preservation notice in respect of the building shall be served by the council within the period of 12 months beginning with the date of the notification.

Modifications etc. (not altering text)

C3 Ss. 80-84: 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

I3 S. 81 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I4 S. 81 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)

Temporary listing in urgent cases N.I.

82.—(1) If it appears to a council to be urgent that a building preservation notice should come into force, it may, instead of serving the notice on the owner and occupier of the building, affix the notice conspicuously to some object on the building.

(2) The affixing of a notice under subsection (1) shall be treated for all the purposes of section 81, this section, section 83 and sections 86 to 101 as service of the notice.

(3) A notice which is so affixed must explain that by virtue of being so affixed it is treated as being served for those purposes.

Modifications etc. (not altering text)

C3 Ss. 80-84: 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

I5 S. 82 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I6 S. 82 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)

Lapse of building preservation notices N.I.

83.—(1) This section applies where a building preservation notice ceases to be in force by virtue of—

(a) the expiry of the 6 month period mentioned in subsection (3)(b) of section 81; or

(b) the service of a notification by the Department under subsection (4)(b) of that section.

(2) The fact that the notice has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 85 or section 147 (as applied by section 157(6)) committed with respect to the building while it was in force.

(3) Any proceedings on or arising out of an application for listed building consent with respect to the building made while the notice was in force and any such consent granted while it was in force shall lapse.

(4) Any listed building enforcement notice served by the council while the building preservation notice was in force shall cease to have effect.

(5) Any proceedings relating to a listed building enforcement notice served by the council while the building preservation notice was in force shall lapse.

(6) Notwithstanding subsection (4), subsections (1) and (2) of section 146 (execution and costs of works required by enforcement notice), as applied by section 157(6), shall continue to have effect as respects any expenses incurred by the council or the owner or occupier as mentioned in that section and with respect to any sums paid on account of such expenses.

Modifications etc. (not altering text)

C3 Ss. 80-84: 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

I7 S. 83 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I8 S. 83 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)

Issue of certificate that building is not intended to be listed N.I.

84.—(1) Where—

(a) an application has been made for planning permission for any development involving the alteration, extension or demolition of a building; or

(b) any such planning permission has been granted,

the issue by the Department, on the application of any person, of a certificate stating that it does not intend to list the building shall—

(i) preclude the Department, for a period of 5 years from the date of issue of the certificate, from exercising in relation to that building any of the powers conferred on it by section 80; and

(ii) preclude a council for that period from issuing a building preservation notice in relation to it.

(2) An application for the issue of a certificate under subsection (1) must be made to the Department in writing and section 42 shall apply, with the appropriate modifications, in relation to an application for the issue of a certificate under subsection (1) as it applies in relation to an application for planning permission.

(3) Before issuing any certificate under subsection (1), the Department must consult with the Historic Buildings Council and the council for the district in which the building is situated.

Modifications etc. (not altering text)

C3 Ss. 80-84: 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

I9 S. 84 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I10 S. 84 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)

Control of works for demolition, alteration or extension of listed buildings N.I.

85.—(1) Subject to this Part, if a person executes or causes to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorised under subsection (2), that person shall be guilty of an offence.

(2) Works for the demolition, alteration or extension of a listed building are authorised under this Part if—

(a) written consent for the execution of the works has been granted by a council or the Department and the works are carried out in accordance with the terms of the consent and any conditions which may be attached to the consent; and

(b) in the case of demolition—

(i) a person duly authorised in writing by the Department has been afforded reasonable access to the building for a period of at least one month following the grant of listed building consent and before the commencement of the works, for the purpose of recording it; or

(ii) the Department has stated in writing that it has completed its recording of the building or that it does not wish to record it.

(3) If written consent is granted by a council or the Department for the retention of works for the demolition of a listed building, or for its alteration or extension, which have been executed without consent under subsection (2), the works are authorised under this Part from the grant of the consent under this subsection.

(4) Consent under subsection (2) or (3) is referred to in this Act as "listed building consent".

(5) Without prejudice to subsection (1), if a person executing or causing to be executed any works in relation to a listed building under a listed building

consent fails to comply with any condition attached to the consent that person shall be guilty of an offence.

(6) A person guilty of an offence under subsection (1) or (5) shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £100,000, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both,

and in determining the amount of any fine imposed on a person convicted of an offence under subsection (1) or (5) the court shall have particular regard to any financial benefit which has accrued or is likely to accrue to that person in consequence of the offence.

(7) In proceedings for an offence under this section it shall be a defence to prove the following matters—

(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;

(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 works was given to the council as soon as reasonably practicable.

(8) This section shall not apply to works for the demolition, alteration or extension of—

(a) an ecclesiastical building which is for the time being used for ecclesiastical purposes or would be so used but for the works; or

(b) a building for the time being included in the schedule of monuments compiled and maintained under Article 3 of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (NI 9);

and for the purposes of this subsection, a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of that office shall be treated as not being an ecclesiastical building.

(9) Subsection (8) shall cease to have effect on such date as the Department may by order appoint.

Modifications etc. (not altering text)

C4 S. 85 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**

C5 S. 85(1)-(8): 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. 2** (with art. 9(2))

C6 S. 85(9): 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

I11 S. 85 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I12 S. 85 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)

Applications for listed building consent N.I.

86.—(1) Any application to a council for listed building consent—

(a) must be made in such form and in such manner as may be prescribed; and

(b) must include such particulars, and be verified by such evidence, as may be required by the regulations or by any direction given by the council under the regulations.

(2) Regulations must require an application for listed building consent of such description as is prescribed to be accompanied by such of the following as is prescribed—

(a) a statement about the design principles and concepts that have been applied to the works in relation to which the application is made;

(b) a statement about how issues relating to access to the building have been dealt with.

(3) The form and content of a statement mentioned in subsection (2) is such as is prescribed.

(4) Provision may be made by regulations with respect to—

(a) requirements as to publicity in relation to applications for listed building consent;

(b) the time within which such applications are to be dealt with by councils or the Department;

(c) requirements as to consultation in relation to such applications;

(d) prohibiting the determination of such applications during such period as is prescribed;

(e) requirements on the council or, as the case may be, the Department to take account of responses from persons consulted and to notify the persons responding of the decision of the council or the Department on the application.

(5) Subsections (1) and (4)(b) shall apply to applications to a council or the Department for any approval of the council or, as the case may be, the

Department required by a condition imposed on a grant of listed building consent as they apply to applications for listed building consent.

Modifications etc. (not altering text)

C7 S. 86 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**

C8 Ss. 86-103: 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. 2** (with art. 9(2))

Commencement Information

I13 S. 86 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I14 S. 86 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)

Notification of applications for listed building consent to certain persons N.I.

87.—(1) Section 42 shall, with appropriate modifications, apply to applications for listed building consent in relation to any building as it applies to applications for planning permission in relation to any land.

(2) In the application of section 42(7) by virtue of subsection (1) for the words "specified in a development order" and "form so specified" there shall be substituted the words " prescribed " and " prescribed form ".

(3) References in the following provisions of this Part to section 42 are to that section as it applies by virtue of this section.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C9 Ss. 87-89 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

C10 S. 87 applied (1.4.2015) by The Planning (Listed Buildings) Regulations (Northern Ireland) 2015 (S.R. 2015/108), regs. 1(1), 5, **Sch. 1**

C11 S. 87 applied (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 5, **Sch. 1**

Commencement Information

I15 S. 87 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I16 S. 87 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)

Call in of certain applications for listed building consent to Department N.I.

88.—(1) The Department may give directions requiring applications for listed building consent to be referred to it instead of being dealt with by councils.

(2) A direction under subsection (1) may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.

(3) Where the Secretary of State or, as the case may be, the Department of Justice has certified that an application for listed building consent is an application to which section 235 (national security) applies, the Department of the Environment must give a direction to the council to which the application was made requiring the application to be referred to the Department of the Environment instead of being dealt with by the council.

(4) An application in respect of which a direction under this section has effect shall be referred to the Department accordingly.

(5) For the purpose of considering representations made in respect of an application for listed building consent to which section 235 applies which has been referred to it under this section, the Department must, subject to any rules made under section 235(2) or (5), cause a public local inquiry to be held by—

(a) the planning appeals commission; or

(b) a person appointed by the Department for the purpose.

(6) For the purpose of considering representations made in respect of an application for listed building consent referred to it under this section, other than an application mentioned in subsection (5), the Department may cause a public local inquiry to be held by—

(a) the planning appeals commission; or

(b) a person appointed by the Department for the purpose.

(7) Where a public local inquiry is not held under subsection (6), the Department must, before determining the application, serve a notice on the applicant and the appropriate council indicating the decision which it proposes to make on the application; and if within such period as may be specified in that behalf in the notice (not being less than 28 days from the date of service of the notice), the applicant or the council so requests in writing, the Department shall afford to each of them an opportunity of appearing before and being heard by—

(a) the planning appeals commission; or

(b) a person appointed by the Department for the purpose.

(8) In determining an application for listed building consent referred to it, the Department must, where any inquiry or hearing is held, take into account any report of the planning appeals commission or a person appointed by the Department for the purposes of the inquiry or hearing, as the case may be.

(9) The decision of the Department on an application for listed building consent referred to it under this section shall be final.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C9 Ss. 87-89 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

C12 S. 88 applied (22.4.2015) by The Planning (Inquiry Procedure) Rules (Northern Ireland) 2015 (S.R. 2015/189), rules 1, **3**

Commencement Information

I17 S. 88 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I18 S. 88 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)

Duty to notify Department of applications for listed building consent N.I.

89.—(1) If a council to which an application is made for listed building consent intends to grant listed building consent it must first notify the Department of the application, giving particulars of the works for which the consent is required.

(2) The Department may within the period of 28 days beginning with the date of such a notification—

(a) direct the reference of the application to it under section 88; or

(b) give notice to the council that it requires further time in which to consider whether to require such a reference.

(3) The council must not grant listed building consent until—

(a) the period mentioned in subsection (2) has expired without the Department directing the reference of the application to it or giving the council notice under paragraph (b) of that subsection; or

(b) the Department has notified the council that it does not intend to require the reference of the application.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C9 Ss. 87-89 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

Commencement Information

I19 S. 89 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I20 S. 89 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)

Directions concerning notification of applications, etc. N.I.

90.—(1) The Department may direct that, in the case of such descriptions of applications for listed building consent as it may specify, section 89 shall not apply.

(2) Where a direction is in force under subsection (1) in respect of any description of application, councils may determine applications of that description in any manner they think fit, without notifying the Department.

(3) Where a direction is in force under subsection (1), the Department may direct a council that section 89 shall nevertheless apply—

(a) to a particular application for listed building consent; or

(b) to such descriptions of application for listed building consent as are specified in the direction;

and such a direction has effect in relation to any such application which has not been disposed of by the council by its granting or refusing consent.

(4) Without prejudice to sections 86, 88 and 89, the Department may give directions to councils requiring councils, in such cases or classes of case as may be specified in the directions, to notify the Department and such other persons as may be so specified—

(a) of any applications made to the councils for listed building consent; and

(b) of the decisions taken by the councils on those applications.

(5) Directions under subsection (1) or (4) may be given to councils generally or to particular councils or descriptions of councils.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C13 S. 90 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**

Commencement Information

I21 S. 90 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I22 S. 90 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)

Decision on application for listed building consent N.I.

91.—(1) Listed building consent may be refused, or granted either unconditionally or subject to conditions.

(2) In considering whether to grant planning permission for development which affects a listed building or its setting, and in considering whether to grant listed building consent for any works, a council or, as the case may be, the Department must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

(3) Without prejudice to sections 94 and 98, any grant of listed building consent shall (except in so far as the consent otherwise provides) have effect for the benefit of the building and of all persons for the time being having an estate therein.

(4) Without prejudice to the generality of subsection (1), the conditions subject to which listed building consent may be granted include conditions with respect to—

(a) the preservation of particular features of the building either as part of it or after severance from it;

(b) the making good, after the works are completed, of any damage caused to the building by the works; and

(c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.

(5) Listed building consent may be granted subject to a condition reserving specified details of the works (whether or not set out in the application) for subsequent approval by the council or, as the case may be, the Department.

(6) Listed building consent for the demolition of a listed building may be granted subject to a condition that the building shall not be demolished before a contract for the carrying out of works of redevelopment of the site has been made, and planning permission has been granted for the redevelopment for which the contract provides.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C14 S. 91 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**

Commencement Information

I23 S. 91 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I24 S. 91 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)

Power to decline to determine application for listed building consent

Power to decline to determine subsequent application for listed building consent **N.I.**

92.—(1) A council may decline to determine an application for listed building consent if—

(a) one or more of the conditions in subsections (2) to (4) is satisfied; and

(b) the council thinks there has been no significant change in any material considerations since the relevant event.

(2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Department has refused a similar application made under section 88.

(3) The condition is that in that period the planning appeals commission has dismissed an appeal—

(a) against the refusal of a similar application; or

(b) under section 97 in respect of a similar application.

(4) The condition is that—

(a) in that period the council has refused more than one similar application; and

(b) there has been no appeal to the planning appeals commission against any such refusal or, if there has been such an appeal, it has been withdrawn.

(5) The relevant event is—

(a) for the purposes of subsections (2) and (4) the refusal of the similar application;

(b) for the purposes of subsection (3) the dismissal of the appeal.

(6) An application for listed building consent is similar to another application if (and only if) the council thinks that the building and works to which the applications relate are the same or substantially the same.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C15 Ss. 92-101 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

Commencement Information

I25 S. 92 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I26 S. 92 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)

Power to decline to determine overlapping application for listed building consent N.I.

93.—(1) A council may decline to determine an application for listed building consent which is—

(a) made on the same day as a similar application; or

(b) made at a time when any of the conditions in subsections (2) to (4) applies in relation to a similar application.

(2) The condition is that a similar application is under consideration by the council and the determination period for that application has not expired.

(3) The condition is that a similar application is under consideration—

(a) by the Department under section 88 and the Department has not issued its decision; or

(b) by the planning appeals commission on an appeal under section 96 or 97 and the commission has not issued its decision.

(4) The condition is that a similar application—

(a) has been granted by the council;

(b) has been refused by the council; or

(c) has not been determined by the council within the determination period,

and the time within which an appeal could be made to the planning appeals commission under section 96 or 97 has not expired.

(5) If a council exercises its power under subsection (1)(a) to decline to determine an application made on the same day as a similar application, it may not also exercise that power to decline to determine the similar application.

(6) An application for listed building consent is similar to another application if (and only if) the council thinks that the building and works to which the applications relate are the same or substantially the same.

(7) The determination period is—

(a) the period prescribed for the determination of the application; or

(b) such longer period as the applicant and the council have agreed for the determination of the application.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C15 Ss. 92-101 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

Commencement Information

I27 S. 93 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I28 S. 93 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)

Duration of listed building consent N.I.

94.—(1) Subject to the provisions of this section, every listed building consent must be granted subject to the condition that the works to which it relates must be begun not later than—

(a) 5 years beginning with the date on which the consent is granted; or

(b) such other period (whether longer or shorter) beginning with that date as the council or, as the case may be, the Department may direct, being a period which the council or the Department considers appropriate having regard to any material considerations.

(2) If listed building consent is granted without the condition required by subsection (1), it shall be deemed to have been granted subject to the condition that the works to which it relates must be begun not later than the expiration of 5 years beginning with the date of the grant.

(3) Nothing in this section applies to any consent to the retention of works granted under section 85(3).

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C15 Ss. 92-101 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

Commencement Information

I29 S. 94 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I30 S. 94 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)

Consent to execute works without compliance with conditions previously attached N.I.

95.—(1) This section applies to applications 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.

(2) Regulations may make provision with respect to—

(a) the form and content of such applications; and

(b) the procedure to be followed in connection with such applications.

(3) On such an application the authority which granted the previous listed building consent must consider only the question of the conditions subject to which listed building consent should be granted, and—

(a) if the council or the Department decides that listed building consent should be granted subject to conditions differing from those subject to which the previous consent was granted, or that it should be granted unconditionally, the council or, as the case may be, the Department must grant listed building consent accordingly; and

(b) if the council or the Department decides that listed building consent should be granted subject to the same conditions as those subject to which the previous consent was granted, the council or, as the case may be, the Department must refuse the application.

(4) This section does not apply where the application is made after the previous listed building consent has become time-expired, that is to say, the previous consent having been granted subject to a condition as to the time within which the works to which it related were to be begun, that time has expired without the works having been begun.

(5) Listed building consent shall not be granted under this section to the extent that it has effect to change a condition subject to which a previous listed building consent was granted by extending the time limit within which the works must be begun.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C15 Ss. 92-101 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

Commencement Information

I31 S. 95 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I32 S. 95 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)

Appeal against decision N.I.

96.—(1) Where an application is made to a council—

(a) for listed building consent; or

(b) for any approval of the council required by a condition imposed on a grant of listed building consent,

then, if that consent or approval is refused or is granted subject to conditions, the applicant may by notice in writing under this subsection appeal to the planning appeals commission.

(2) Subsection (1) does not apply to any application referred to the Department under section 88.

(3) Any notice under this section must be served on the planning appeals commission within 4 months from the date of notification of the decision to which it relates or such other period as may be prescribed.

(4) Where an appeal is brought under this section from a decision of a council, the planning appeals commission, subject to subsections (5) and (6), may allow or dismiss the appeal or may reverse or vary any part of the decision whether the appeal relates to that part of the decision or not and may deal with the application as if it had been made to it in the first instance.

(5) Before determining an appeal under this section, the planning appeals commission must, if either the applicant or the council so wishes, afford to each of them an opportunity of appearing before and being heard by the commission.

(6) Sections 87 and 95 and any provisions made under regulations made in accordance with section 86(4)(a) shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this subsection as they apply to an application for listed building consent.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C15 Ss. 92-101 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

C16 S. 96(6) applied (1.4.2015) by The Planning (Listed Buildings) Regulations (Northern Ireland) 2015 (S.R. 2015/108), regs. 1(1), 5, **Sch. 1**

C17 S. 96(6) applied (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 5, **Sch. 1**

Commencement Information

I33 S. 96 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I34 S. 96 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)

Appeal against failure to take decision N.I.

97 Where any such application as is mentioned in section 96(1) is made to a council, then unless within such period as may be prescribed, or within such extended period as may be agreed upon in writing between the applicant and the council, the council gives notice to the applicant of its decision on the application or gives notice to the applicant that it has exercised its power under section 92 or 93 to decline to determine the application, section 96 shall apply in relation to the application—

(a) as if the consent or approval to which it relates had been refused by the council; and

(b) as if notification of the council's decision had been received by the applicant at the end of the prescribed period, or at the end of the extended period, as the case may be.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C15 Ss. 92-101 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

C18 S. 97 applied (1.4.2015) by The Planning (Listed Buildings) Regulations (Northern Ireland) 2015 (S.R. 2015/108), regs. 1(1), 5, **Sch. 1**

Commencement Information

I35 S. 97 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I36 S. 97 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)

Revocation or modification of listed building consent by council N.I.

98.—(1) If it appears to a council, having regard to the local development plan and to any other material considerations, that it is expedient to revoke or modify listed building consent in respect of any works to a building within its district, being consent granted on an application made under this Part, the council may, subject to subsection (2), by order revoke or modify the consent to such extent as (having regard to those matters) it considers expedient.

(2) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C15 Ss. 92-101 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

Commencement Information

I37 S. 98 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I38 S. 98 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)

Procedure for section 98 orders: opposed cases N.I.

99.—(1) Except as provided in section 100, an order made by a council under section 98 shall not take effect unless it is confirmed by the Department.

(2) Where a council submits such an order to the Department for confirmation it must serve notice on—

(a) the owner of the building affected;

(b) the occupier of that building; and

(c) any other person who in the opinion of the council will be affected by the order.

(3) The notice must specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by the planning appeals commission.

(4) If within that period a person on whom the notice is served so requires, the Department must give such an opportunity both to that person and to the council before it confirms the order.

(5) The Department may confirm an order submitted to it under this section either without modification or subject to such modifications as it considers expedient.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C15 Ss. 92-101 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

Commencement Information

I39 S. 99 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I40 S. 99 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)

Procedure for section 98 orders: unopposed cases N.I.

100.—(1) This section applies where—

(a) a council has made an order under section 98 revoking or modifying a listed building consent granted by it; and

(b) the owner and occupier of the land and all persons who in the council's opinion will be affected by the order have notified the council in writing that they do not object to the order.

(2) Where this section applies, instead of submitting the order to the Department for confirmation the council must—

(a) advertise in the prescribed manner the fact that the order has been made, specifying in the advertisement—

(i) the period within which persons affected by the order may give notice to the Department that they wish for an opportunity of appearing before and being heard by the planning appeals commission; and

(ii) the period at the end of which, if no such notice is given to the Department, the order may take effect by virtue of this section without being confirmed by the Department;

(b) serve notice to the same effect on the persons mentioned in subsection (1)(b);

(c) send a copy of any such advertisement to the Department not more than 3 days after its publication.

(3) The period referred to in subsection (2)(a)(i) must not be less than 28 days from the date on which the advertisement first appears.

(4) The period referred to in subsection (2)(a)(ii) must not be less than 14 days from the end of the period referred to in subsection (2)(a)(i).

(5) If—

(a) no person claiming to be affected by the order has given notice to the Department as mentioned in subsection (2)(a)(i) within the period referred to in that subsection; and

(b) the Department has not directed within that period that the order be submitted to it for confirmation,

the order shall take effect at the end of the period referred to in subsection (2)(a)(ii) without being confirmed by the Department as required by section 99(1).

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C15 Ss. 92-101 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

Commencement Information

I41 S. 100 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I42 S. 100 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)

Revocation or modification of listed building consent by the Department N.I.

101.—(1) If it appears to the Department that it is expedient that an order should be made under section 98 revoking or modifying any listed building consent granted on an application under this Part, it may make such an order revoking or modifying the consent to such extent as it considers expedient.

(2) In performing its functions under subsection (1) the Department must have regard to any material considerations.

(3) The Department must not make an order under that subsection without consulting the appropriate council.

(4) Where the Department proposes to make such an order it must serve notice on—

(a) the owner of the building affected;

(b) the occupier of that building; and

(c) any other person who in its opinion will be affected by the order.

(5) The notice must specify the period (which shall not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by the planning appeals commission.

(6) If within that period a person on whom it is served so requires, before the Department makes the order it must give such an opportunity both to that person and to the council.

(7) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

(8) An order under this section shall have the same effect as if it had been made by the council under section 98 and confirmed by the Department under section 99.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C15 Ss. 92-101 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 15, **Sch. 2**

Commencement Information

I43 S. 101 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I44 S. 101 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)

Applications to determine whether listed building consent required N.I.

102.—(1) If any person who proposes to execute or cause to be executed any works to a listed building wishes to have it determined whether those works would involve the alteration or extension of the building in any manner which would affect its character as a building of special architectural or historic interest, that person may apply to the council to determine that question.

(2) The provisions of sections 86(1), 96 and 97 shall, subject to any necessary modifications, apply in relation to any application under this section, and to the determination of that application, as those sections apply in relation to applications for listed building consent and to the determination of such applications.

(3) Where an application for listed building consent is made to a council and it appears to the council that the execution of the works specified in the application does not involve the alteration or extension of a listed building in any manner which would affect its character as a building of special architectural or historic interest, the council may treat the application for listed building consent as an application under this section and may make an appropriate determination.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

C19 S. 102 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**

Commencement Information

I45 S. 102 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I46 S. 102 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)

Acts causing or likely to result in damage to listed buildings N.I.

103.—(1) Where a building, not being a building excluded by subsection (8) of section 85 from the operation of that section, is included in a list compiled under section 80, then, if any person who, but for this section, would be entitled to do so—

(a) does or permits the doing of any act which causes or is likely to result in damage to the building (other than an act for the execution of excepted works); and

(b) does or permits the act with the intention of causing such damage,

that person shall be guilty of an offence and liable—

(i) on summary conviction to a fine not exceeding the statutory maximum; or

(ii) on conviction on indictment, to a fine.

(2) In subsection (1) "excepted works" means—

(a) works authorised by planning permission granted in pursuance of an application under this Act; or

(b) works for which listed building consent has been given under this Act.

(3) Where a person convicted under this section fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence, that person shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.

Modifications etc. (not altering text)

C8 Ss. 86-103: 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. 2** (with art. 9(2))

Commencement Information

I47 S. 103 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I48 S. 103 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)

Areas of special architectural or historic interest

Conservation areas N.I.

104.—(1) A council may designate areas of special architectural or historic interest within its district the character or appearance of which it is desirable to preserve or enhance.

(2) The Department may from time to time determine that any part of an area within a council's district which is not for the time being designated as a conservation area is an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance; and, if the Department so determines, it may designate that part as a conservation area.

(3) Before making a determination under subsection (2) the Department must consult the council concerned.

(4) A designation under subsection (1) or (2) may be varied or cancelled by the authority which made the designation.

(5) Subject to subsection (6), before making, varying or cancelling a designation under this section, the council or, as the case may be, the Department must consult with—

(a) the Historic Buildings Council;

(b) such other persons or bodies as may be prescribed.

(6) A designation under this section may be made without consulting the persons or bodies mentioned in subsection (5)(b), but a designation made without such consultation shall only have effect for a period of 6 months beginning on the date on which the designation was made.

(7) A council must give notice of the designation of any part of its district as a conservation area under subsection (1) and of any variation or cancellation of any such designation to the Department.

(8) The Department must give notice of the designation of any part of the district of a council as a conservation area under subsection (2) and of any variation or cancellation of any such designation to the council.

(9) A notice under subsection (7) or (8) must contain sufficient particulars to identify the area affected.

(10) Notice of any such designation, variation or cancellation as is mentioned in subsection (7) or (8), with particulars of its effect and sufficient particulars to identify the area affected, must be published in at least one newspaper circulating in the council's district, by that council or, as the case may be, the Department.

(11) Where any area is for the time being designated as a conservation area, special regard must be had, in the exercise, with respect to any buildings or other land in that area, of any powers under this Act, to the desirability of—

(a) preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise;

(b) enhancing the character or appearance of that area in cases where an opportunity to do so does arise.

(12) In this Act "conservation area" means an area designated under subsection (1) or (2).

Modifications etc. (not altering text)

C20 S. 104: 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

I49 S. 104 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I50 S. 104 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)

Control of demolition in conservation areas N.I.

105.—(1) This section applies to all buildings in conservation areas other than—

(a) listed buildings;

(b) buildings of a class specified in section 85(8);

(c) buildings in relation to which a direction under subsection (4) is for the time being in force.

(2) A building to which this section applies shall not be demolished without the consent (in this Act referred to as a "conservation area consent") of the appropriate authority.

(3) The appropriate authority for the purposes of this section is—

(a) in relation to applications for consent made by councils, the Department;

(b) in relation to other applications for consent, the council or the Department.

(4) The Department may direct that this section shall not apply to a description of buildings specified in the direction.

(5) Where the Department gives a direction under subsection (4), it must publish a copy of the direction in the Belfast Gazette and in a newspaper circulating in the area in which the buildings are situated.

(6) Sections 85 to 102, 107, 157 to 160, 181 and 191 shall have effect in relation to buildings to which this section applies as they have effect in relation to listed buildings, subject to such exceptions and modifications as may be prescribed.

(7) If this section ceases to apply to a building—

(a) any proceedings on or arising out of an application for conservation area consent made while this section applied to the building shall lapse;

(b) any conservation area consent granted with respect to the building shall also lapse;

(c) the cesser shall not affect the liability of any person to be prosecuted and punished for an offence under section 85 or 157 (as applied by subsection (6)) committed by that person with respect to the building while this section applied to it.

(8) For the purposes of this section, any reference to demolition, in relation to a building to which this section applies, includes a reference to any structural alteration of that building where the alteration consists of demolishing part of the building.

Modifications etc. (not altering text)

C21 Ss. 105-155: 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. 2** (with art. 9(2))

C22 S. 105(6) applied (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, 5, **Sch. 1**

Commencement Information

I51 S. 105 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I52 S. 105 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)

Grants in relation to conservation areas N.I.

106.—(1) The Department may, in relation to any conservation area, make grants or loans for the purpose of defraying in whole or in part any expenditure incurred or to be incurred in or in connection with, or with a view to the promotion of, the preservation or enhancement of the character or appearance of the area or any part thereof.

(2) A grant or loan under this section may be made subject to such conditions as the Department thinks fit.

(3) Any loan under this section must be made on such terms as to repayment, payment of interest and otherwise as the Department may with the approval of the Department of Finance and Personnel determine; and all sums received by the Department by way of interest on, or repayment of, such a loan shall be paid into the Consolidated Fund.

Modifications etc. (not altering text)

C21 Ss. 105-155: 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. 2** (with art. 9(2))

Commencement Information

I53 S. 106 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I54 S. 106 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)

Land and works of councils

Application of Chapter 1, etc., to land and works of councils N.I.

107.—(1) In relation to land of an interested council, section 80 shall have effect subject to such exceptions and modifications as may be prescribed.

(2) The provisions listed in subsection (3) shall apply in relation to applications by interested councils relating to the execution of works for the demolition, alteration or extension of listed buildings, subject to regulations made by virtue of this subsection.

(3) The provisions are—

(a) the provisions included in this Chapter (except for sections 92, 93 and 102);

(b) the provisions of Part 5;

(c) sections 181 and 186;

(d) the provisions of Part 7 (except for section 192);

(e) sections 223 and 242.

(4) Regulations made under subsection (2) may—

(a) provide for any of the provisions listed in subsection (3) to apply subject to prescribed exceptions or modifications or not to apply;

(b) make new provision as to any matter dealt with in any of those provisions.

(5) Regulations made under subsection (2) may in particular provide—

(a) for the making of applications for listed building consent to the Department; and

(b) for the procedure to be followed on such applications.

(6) In this section "interested council", in relation to any land, means any council which exercises any functions of a council under this Chapter in relation to that land and, for the purposes of this section, land is land of a council if the council has any estate in it.

Modifications etc. (not altering text)

C21 Ss. 105-155: 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. 2** (with art. 9(2))

C23 S. 107 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**

Commencement Information

I55 S. 107 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I56 S. 107 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, Chapter 1.