

## SCHEDULES

### SCHEDULE 17

Section 63

#### HERITAGE PLANNING REGULATION

##### *National Heritage Act 1983 (c. 47)*

- 1 (1) Section 33 of the National Heritage Act 1983 (the Commission’s general function) is amended as follows.
- (2) In subsection (2A)—
- (a) in paragraph (a) after “1979” insert “, under section 196D of the Town and Country Planning Act 1990”, and
  - (b) in paragraph (b) for “that Part or of that Act of 1990” substitute “Part 1 of the Ancient Monuments and Archaeological Areas Act 1979 or the Planning (Listed Buildings and Conservation Areas) Act 1990”.
- (3) After subsection (2A) insert—
- “(2AA) In relation to an actual or apprehended breach of planning control in respect of relevant demolition, in section 187B of the Town and Country Planning Act 1990 (injunctions restraining breaches of planning control) reference to a local planning authority includes reference to the Commission.
- (2AB) In subsection (2AA)—
- “breach of planning control” has the same meaning as in the Town and Country Planning Act 1990 (see section 171A of that Act);
  - “relevant demolition” has the same meaning as in section 196D of that Act.”

##### *Town and Country Planning Act 1990 (c. 8)*

- 2 The Town and Country Planning Act 1990 is amended as follows.
- 3 In section 108 (compensation for refusal or conditional grant of planning permission formerly granted by order) after subsection (3E) insert—
- “(3F) This section does not apply to the extent that the development referred to in subsection (1)(b) would, while permitted by a development order, have required conservation area consent under the Planning (Listed Buildings and Conservation Areas) Act 1990.”
- 4 In section 171B (time limits for enforcement of breaches of planning control) after subsection (2) insert—
- “(2A) There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).”
- 5 In section 174 (appeal against enforcement notice) before subsection (3) insert—

- “(2C) Where any breach of planning control constituted by the matters stated in the notice relates to relevant demolition (within the meaning of section 196D), an appeal may also be brought on the grounds that—
- (a) the relevant demolition was urgently necessary in the interests of safety or health;
  - (b) it was not practicable to secure safety or health by works of repair or works for affording temporary support or shelter; and
  - (c) the relevant demolition was the minimum measure necessary.”

6 After section 196C insert—

*“Conservation areas*

**196D Offence of failing to obtain planning permission for demolition of unlisted etc buildings in conservation areas in England**

- (1) It is an offence for a person to carry out or cause or permit to be carried out relevant demolition without the required planning permission.
- (2) It is also an offence for a person to fail to comply with any condition or limitation subject to which planning permission for relevant demolition is granted.
- (3) In this section “relevant demolition” means the demolition of a building that—
  - (a) is situated in a conservation area in England; and
  - (b) is not a building to which section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply by virtue of section 75 of that Act (listed buildings, certain ecclesiastical buildings, scheduled monuments and buildings described in a direction of the Secretary of State under that section).
- (4) It is a defence for a person accused of an offence under this section to prove the following matters—
  - (a) that the relevant demolition was urgently necessary in the interests of safety or health;
  - (b) that it was not practicable to secure safety or health by works of repair or works for affording temporary support or shelter;
  - (c) that the relevant demolition was the minimum measure necessary; and
  - (d) that notice in writing of the relevant demolition was given to the local planning authority as soon as reasonably practicable.
- (5) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.
- (6) In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003, subsection (5)(a) has effect as if the reference to 12 months were to 6 months.

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*Status: This is the original version (as it was originally enacted).*

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- (7) In relation to an offence committed before the coming into force of section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, subsection (5)(a) has effect as if the reference to a fine were a reference to a fine not exceeding £20,000.
- (8) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to that person in consequence of the offence.
- (9) Where, after a person commits an offence under this section, planning permission is granted for any development carried out before the grant of the permission, that grant does not affect the person's liability for the offence."

*Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)*

- 7 The Planning (Listed Buildings and Conservation Areas) Act 1990 is amended as follows.
- 8 (1) Section 1 (listing of buildings of special architectural or historic interest) is amended as follows.
  - (2) In subsection (5) after "shall" insert ", subject to subsection (5A)(a),".
  - (3) After subsection (5) insert—
    - "(5A) In a list compiled or approved under this section, an entry for a building situated in England may provide—
      - (a) that an object or structure mentioned in subsection (5)(a) or (b) is not to be treated as part of the building for the purposes of this Act;
      - (b) that any part or feature of the building is not of special architectural or historic interest."
- 9 (1) Section 6 (issue of certificate that building not intended to be listed) is amended as follows.
  - (2) Before subsection (1) insert—
    - "(A1) The Secretary of State may, on the application of any person, issue a certificate stating that the Secretary of State does not intend to list a building situated in England."
  - (3) In subsection (1)(a) after "building" insert "situated in Wales".
  - (4) In subsection (2) for "such a certificate" substitute "a certificate under subsection (A1) or (1)".
  - (5) In subsection (3) after "subsection" insert "(A1) or".
- 10 In section 32(1)(a) (purchase notice on refusal or conditional grant of consent)—
  - (a) for "listed building consent in respect of a building" substitute "on an application for listed building consent in respect of a building, consent";
  - (b) before "is revoked" insert "such consent granted on an application".
- 11 In section 62(2) (validity of certain orders and decisions), after paragraph (a) insert—
  - "(aa) any decision to approve or reject a local listed building consent order or part of such an order;

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*Status: This is the original version (as it was originally enacted).*

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- (ab) any decision on an appeal under section 26K;”.
- 12 (1) Section 74 (control of demolition in conservation areas) is amended as follows.
- (2) In subsection (1) after the first “area” insert “in Wales”.
- (3) After subsection (2) insert—
- “(2A) Sections 56, 66(1) and 90(2) to (4) have effect in relation to buildings in conservation areas in England as they have effect in relation to listed buildings, subject to such exceptions and modifications as may be prescribed by regulations.”
- (4) In subsection (3) after “areas” insert “in Wales”.
- (5) In subsection (4) for “Any such regulations” substitute “Regulations made under subsection (3)”.
- 13 In section 75 (cases in which section 74 does not apply) in subsection (11)—
- (a) for “that section”, in both places those words appear, substitute “section 74”, and
- (b) after “43” insert “or section 196D of the principal Act (offence of failing to obtain, or comply with, planning permission for demolition of unlisted etc building in conservation area in England)”.
- 14 In section 82(3) (application of Act to land and works of local planning authorities) for “to 29” substitute “to 26, 28, 29”.
- 15 In section 82A(2) (application to the Crown), after paragraph (c) insert—
- “(ca) section 26J;”.
- 16 In section 88(2)(c) (rights of entry) after “11” insert “, 26J”.
- 17 In section 92(2)(b) (application to Isles of Scilly), after “Schedules 1, 2” insert “, 2A”.
- 18 (1) Section 93 (regulations and orders) is amended as follows.
- (2) In subsection (4) after “8(5),” insert “26C;”.
- (3) In subsection (5A) after “section” insert “26C or”.
- 19 (1) Schedule 3 (determination of certain appeals by person appointed by Secretary of State) is amended as follows.
- (2) In paragraph 1(1), 2(8)(a) and 3(3) after “20” insert “, 26K”.
- (3) In paragraph 2(1) after paragraph (a) (before “and” at the end) insert—
- “(aa) in relation to an appeal under section 26K, as the Secretary of State has under section 26K(4) to (6);”.

### *Application*

- 20 Paragraph 8 applies in relation to entries for buildings that are listed, or entries that are amended, on or after the date on which that paragraph comes into force.