



2011 CHAPTER 25

Part 4

Additional planning control

Chapter 1

Listed buildings and conservation areas

Listed buildings

Control of works for demolition, alteration or extension of listed buildings

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

Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 85. (See end of Document for details)

- (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)

- 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)
- C3** 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**
- C4** 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))
- C5** 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

- I1** S. 85 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, **Sch. 1**
- I2** 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)

Changes to legislation:

There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 85.