

---

STATUTORY INSTRUMENTS

---

**2003 No. 430**

**The Planning (Amendment) (Northern Ireland) Order 2003**

*Control over particular matters*

**Building preservation notices**

**25.**—(1) After Article 42 of the principal Order (list of buildings of special architectural or historic interest) there is inserted—

**“Temporary listing: building preservation notices**

**42A.**—(1) If it appears to the Department that a building 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 Order referred to as a “building preservation notice”).

(2) A building preservation notice served by the Department shall—

- (a) state that the building appears to the Department to be of special architectural or historic interest and that it is considering including it in a list compiled under Article 42; and
- (b) explain the effect of paragraphs (3) to (5) and Article 42C.

(3) A building preservation notice—

- (a) shall come 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 paragraph (4), shall remain 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 shall cease to be in force if the Department—

- (a) includes the building in a list compiled under Article 42, or
- (b) notifies the owner and the occupier of the building to which the notice relates 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 Order (other than Article 49) shall have effect in relation to the building as if it were a listed building.

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

### **Temporary listing in urgent cases**

**42B.**—(1) If it appears to the Department 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 paragraph (1) shall be treated for all the purposes of Article 42A, this Article, Article 42C and Articles 45 to 47 and Schedule 1 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.

### **Lapse of building preservation notices**

**42C.**—(1) This Article applies where a building preservation notice ceases to be in force by virtue of—

- (a) the expiry of the 6 month period mentioned in paragraph (3)(b) of Article 42A; or
- (b) the service of a notification by the Department under paragraph (4)(b) of that Article.

(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 Article 44 or 72 (as applied by Article 77(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 Department 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 Department while the building preservation notice was in force under Articles 77 and 78 shall lapse.

(6) Notwithstanding paragraph (4), Article 74(1) and (2) (as applied by Article 77(6)) shall continue to have effect as respects any expenses incurred by the Department, owner or occupier as mentioned in that Article and with respect to any sums paid on account of such expenses.”.

(2) In paragraph (1)(d) of Article 121 of that Order (rights of entry) after “of” there is inserted “affixing a notice in accordance with Article 42B(1) or”.

(3) After Article 67 of the Planning (Northern Ireland) Order 1972 (compensation for loss due to stop notice) there is inserted—

### **“Compensation for loss or damage caused by service of building preservation notice**

**67A.**—(1) This Article applies where a building preservation notice ceases to have effect without the building having been included in a list compiled by the Department under Article 42 of the Planning Order.

(2) Any person who at the time when the notice was served had an estate in the building shall, on making a claim to the Department within the prescribed time and in the prescribed manner, be entitled to be paid compensation by the Department in respect of any loss or damage directly attributable to the effect of the notice.

(3) The loss or damage in respect of which compensation is payable under paragraph (2) shall include a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect to it.”.