



Town and Country Planning Act 1968

1968 CHAPTER 72

PART V

BUILDINGS OF ARCHITECTURAL OR HISTORIC INTEREST

Enforcement

44 Notice to enforce s. 40 control.

- (1) Where it appears to the local planning authority that any works have been, or are being, executed to a listed building in their area and are such as to involve a contravention of section 40(2) or (6) of this Act, then, subject to any directions given by the Minister, they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, serve a notice—
 - (a) specifying the alleged contravention ; and
 - (b) requiring such steps as may be specified in the notice for restoring that building to its former state or, as the case may be, for bringing it to the state it would have been in if the terms and conditions of any listed building consent for the works had been complied with, to be taken within such period as may be so specified.
- (2) A notice under this section is hereafter in this Act referred to as a " listed building enforcement notice ".
- (3) Part IV of Schedule 5 to this Act shall have effect with respect to listed building enforcement notices and appeals against such notices.

45 Penalties for non-compliance with notice under s.44.

- (1) Subject to the provisions of this section, where a listed building enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the building to which it relates, then, if any steps required by the notice to be taken have not been taken within the period allowed for compliance with

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the notice, that person shall be liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine.

- (2) If a person against whom proceedings have been brought under subsection (1) above has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the building, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the building (in this section referred to as " the subsequent owner ") brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent owner,—
 - (a) the subsequent owner may be convicted of the offence ; and
 - (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the foregoing provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and be liable—
 - (a) on summary conviction to a fine of not more than £50 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled ; or
 - (b) on conviction on indictment to a fine.
- (5) Any reference in this section or section 46 below to the period allowed for compliance with a listed building enforcement notice is a reference to the period specified in the notice as that within which the steps specified in the notice are required thereby to be taken, or such extended period as the local planning authority may allow for taking them.

46 Execution and cost of works required under enforcement procedure.

- (1) If, within the period allowed for compliance with a listed building enforcement notice any steps required by the notice to be taken have not been taken, the authority may enter on the land and take those steps and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
- (2) Any expenses incurred by the owner or occupier of a building for the purpose of complying with a listed building enforcement notice and any sums paid by the owner of a building under subsection (1) of this section in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (3) Section 49(2) and (3) of the principal Act (application by regulations of certain provisions of the Public Health Act 1936 in relation to enforcement works) shall apply in relation to a listed building enforcement notice as they apply in relation to an enforcement notice; and any regulations made by virtue of this subsection may provide for the charging on the land on which the building stands of any expenses recoverable by a local planning authority under subsection (1) of this section.

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47 Enforcement by, or by direction of, the Minister.

- (1) If it appears to the Minister, after consultation with the local planning authority (and, in Greater London, also with the Greater London Council), to be expedient that a listed building enforcement notice should be served in respect of any land, he may give directions to the local planning authority requiring them to serve such a notice, or may himself serve such a notice ; and any notice so served by the Minister shall have the like effect as a notice served by the local planning authority.
- (2) In relation to a listed building enforcement notice served by the Minister, the provisions of section 45(5) and 46 of this Act shall apply as if for any reference therein to the local planning authority there were substituted a reference to the Minister.