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SCHEDULES

SCHEDULE 5

CONTROL OF WORKS FOR DEMOLITION, ALTERATION OR EXTENSION OF LISTED BUILDINGS.

PART IV

PROVISIONS ABOUT LISTED BUILDING ENFORCEMENT NOTICES

- 17 (1) A listed building enforcement notice shall be served on the owner and occupier of the building to which it relates, and on any other person having an interest in the building, being an interest which in the opinion of the authority is materially affected by the notice.
- (2) Subject to the following provisions of this Schedule, a listed building enforcement notice shall take effect at the end of such period, not less than twenty-eight days after the service of the notice, as may be specified therein.
- (3) The local planning authority may withdraw a listed building enforcement notice (without prejudice to their power to serve another) at any time before it takes effect; and if they do so, they shall forthwith give notice of the withdrawal to every person who was served with the notice.
- 18 (1) A person on whom a listed building enforcement notice is served, or any other person having an interest in the building to which it relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on any of the following grounds :—
- (a) that the building is not of special architectural or historic interest;
 - (b) that the matters alleged to constitute a contravention of section 40 of this Act do not involve such a contravention ;
 - (c) that the works were urgently necessary in the interests of safety or health, or for the preservation of the building ;
 - (d) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
 - (e) that the notice was not served as required by paragraph 17 of this Schedule;
 - (f) that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
 - (g) that the period specified in the notice as the period within which any steps required thereby are to be taken falls short of what should reasonably be allowed ;
 - (h) that the steps required by the notice to be taken would not serve the purpose of restoring the character of the building in its former state.
- (2) An appeal under this paragraph shall be made by notice in writing to the Minister, which shall indicate the grounds of appeal and state the facts on which it is based ;

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and on any such appeal the Minister shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

- (3) Where an appeal is brought under this paragraph, the notice shall be of no effect pending the final determination or withdrawal of the appeal.
- (4) Where an appeal is brought under this paragraph,—
 - (a) the Minister may correct any informality, defect or error in the notice if he is satisfied that the informality, defect or error is not material;
 - (b) in a case where it would otherwise be a ground for determining the appeal in favour of the appellant that a person required by paragraph 17 of this Schedule to be served with the notice was not served, the Minister may disregard that fact if he is satisfied that the person has not been substantially prejudiced by the failure to serve him.
- (5) On the determination of an appeal under this paragraph, the Minister shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the listed building enforcement notice or for varying the terms of the notice in favour of the appellant, and the Minister may—
 - (a) grant listed building consent for the works to which the notice relates or, as the case may be, discharge any condition subject to which such consent was granted and substitute any other condition, whether more or less onerous ;
 - (b) in so far as any works already executed constitute development for which planning permission is required, grant such permission in respect of the works ;
 - (c) if he thinks fit, exercise his power under section 32 of the principal Act to amend any list compiled or approved thereunder by removing from it the building to which the appeal relates or his power under section 40(10) of this Act to direct that that subsection shall no longer apply to the building.
- (6) Any planning permission granted by the Minister under sub-paragraph (5) above shall be treated as granted on an application for the like permission under Part III of the principal Act, and any listed building consent granted by him thereunder shall be treated as granted on an application for the like consent under Part I of this Schedule ; and—
 - (a) in relation to the grant thereunder either of planning permission or of listed building consent, the Minister's decision shall be final;
 - (b) for the purposes of section 19(4) of the principal Act (local planning authority's register of planning applications) a decision of the Minister to grant planning permission shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.