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SCHEDULES

SCHEDULE 5

Sections 41, 42, 44 and 48.

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

PART I

APPLICATIONS FOR LISTED BUILDING CONSENT

- 1 (1) Provision may be made by regulations under this Act with respect to the form and manner in which applications for listed building consent are to be made, the manner in which such applications are to be advertised and the time within which they are to be dealt with by local planning authorities or, as the case may be, by the Minister.
- (2) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested therein.
- 2 (1) Regulations under this Act may provide that an application for listed building consent, or an appeal against the refusal of such an application, shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one or other of those described in paragraphs (a) to (d) of section 16(1) of the principal Act (requirement of certificate that the applicant is the owner of the land or has given notice to the owners of his intended application or has tried to do so) and any such regulations may—
 - (a) include requirements corresponding to section 16(2) (contents of certificate), section 16(4) (planning authority not to determine application for a certain period) and section 17(3) (duty of planning authority and Minister on appeal to take into account representations by owners, tenants, etc.) of the principal Act; and
 - (b) make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision of the regulations made by virtue of this sub-paragraph.
- (2) If any person issues a certificate which purports to comply with the requirements of regulations made by virtue of this paragraph and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- 3 (1) The Minister may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the local planning authority.
- (2) A direction under this paragraph may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.
- (3) An application in respect of which a direction under this paragraph has effect shall be referred to the Minister accordingly.

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- (4) Before determining an application referred to him under this paragraph, the Minister shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister.
- (5) The decision of the Minister on any application referred to him under this paragraph shall be final.
- 4 (1) Subject to the following provisions, a local planning authority (other than a London borough council) to whom application is made for listed building consent shall not grant such consent, unless they have notified the Minister of the application (giving particulars of the works for which the consent is required) and either—
- (a) a period of twenty-eight days has expired, beginning with the date of the notification, without the Minister having directed the reference of the application to him ; or
 - (b) the Minister has notified the authority that he does not intend to require the reference of the application.
- (2) The Minister may at any time before the said period expires give notice to the authority that he requires further time in which to consider whether to require the reference of the application to him and the foregoing sub-paragraph shall then have effect with the substitution for a period of twenty-eight days or such longer period as may be specified in the Minister's notice.
- 5 (1) Subject to the following provisions, where application for listed building consent is made to a local planning authority, being a London borough council, and the authority do not determine to refuse it, they shall notify the Greater London Council of the application (giving particulars of the works for which the consent is required) and shall not grant such consent unless authorised or directed to do so under the following sub-paragraph.
- (2) On receipt of notification under sub-paragraph (1) above the Greater London Council may either—
- (a) authorise the local planning authority to grant or refuse the application, as they think fit; or
 - (b) give them directions as to how they are to determine it.
- (3) The Greater London Council shall not authorise the local planning authority as mentioned in sub-paragraph (2)(a) above, nor under sub-paragraph (2)(b) above direct them to grant listed building consent, unless the Council have notified the Minister of the application made to the local planning authority (giving particulars of the works for which the consent is required) and either—
- (a) a period of twenty-eight days has expired, beginning with the date of the notification, without the Minister having directed the reference of the application to him ; or
 - (b) the Minister has notified the Council that he does not intend to require the reference of the application.
- (4) The Minister may at any time before the said period of twenty-eight days expires give notice to the Council that he requires further time in which to consider whether to require the reference of the application to him and the foregoing sub-paragraph shall then have effect with the substitution for the period of twenty-eight days of such longer period as may be specified in the Minister's notice.

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- 6 (1) The Minister may give directions that, in the case of such descriptions of applications for listed building consent as he may specify, other than such consent for the demolition of a building, paragraphs 4 and 5 above shall not apply; and accordingly, so long as the directions are in force local planning authorities may determine applications of such descriptions in any manner they think fit, without notifying the Minister or, as the case may be, the Greater London Council.
- (2) Without prejudice to the foregoing provisions of this Schedule, the Minister may give directions to local planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify to him and to such other persons as may be so specified any applications made to them for listed building consent, and the decisions taken by the authorities thereon.
- 7 (1) Where an application is made to the local planning authority for listed building consent and the consent is refused by the authority or is granted by them subject to conditions, the applicant, if he is aggrieved by the decision, may by notice served in the prescribed manner within such period as may be prescribed, not less than twenty-eight days from the receipt by him of notification of the decision, appeal to the Minister.
- (2) A person appealing under this paragraph may include in his notice thereunder, as the ground or one of the grounds of his appeal, a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Minister under section 32 of the principal Act, or—
- (a) in the case of a building to which section 40(10) of this Act applies, that the Minister should give a direction under that subsection with respect to the building ; or
- (b) in the case of a building subject to a building preservation notice under section 48 of this Act, that the building should not be included in a list compiled or approved under the said section 32.
- (3) Subject to the following provisions of this paragraph, the Minister may allow or dismiss an appeal thereunder, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, and—
- (a) may deal with the application as if it had been made to him in the first instance ; and
- (b) may, 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.
- (4) Before determining an appeal under this paragraph, the Minister shall, if either the applicant 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.
- (5) The decision of the Minister on any appeal under this paragraph shall be final.
- 8 Where an application is made to the local planning authority for listed building consent, then unless within the prescribed period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either—
- (a) give notice to the applicant of their decision on the application ; or

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(b) give notice to him that the application has been referred to the Minister in accordance with directions given under paragraph 3 of this Schedule, the provisions of paragraph 7 of this Schedule shall apply in relation to the application as if listed building consent had been refused by the authority and as if notification of their decision had been received by the applicant at the end of the prescribed period or at the end of the said extended period, as the case may be.

PART II

REVOCATION OF LISTED BUILDING CONSENT

- 9 (1) If it appears to the local planning authority, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify listed building consent in respect of any works to a building, being consent granted on an application made under Part I of this Schedule, the authority, subject to the following provisions of this paragraph, may by order revoke or modify the consent to such extent as (having regard to these matters) they consider expedient.
- (2) An order under this paragraph shall not take effect unless it is confirmed by the Minister; and the Minister may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.
- (3) Where a local planning authority submit an order to the Minister for confirmation under this paragraph, the authority shall serve notice on the owner and on the occupier of the building affected and on any other person who in their opinion will be affected by the order ; and if within such period as may be specified in that notice (not being less than twenty-eight days after the service thereof) any person on whom the notice is served so requires, the Minister, before confirming the order, shall afford to that person and to the local planning authority an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.
- (4) The power conferred by this paragraph to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.
- 10 (1) If it appears to the Minister, after consultation with the local planning authority, to be expedient that an order under paragraph 9 above should be made, he may give directions to the authority requiring them to submit to him such an order for his confirmation, or may himself make such an order ; and any order so made by the Minister shall have the like effect as if it had been made by the authority and confirmed by the Minister under that paragraph.
- (2) The provisions of paragraph 9 above shall have effect, subject to any necessary modifications, in relation to any proposal by the Minister to make such an order by virtue of this paragraph, in relation to the making thereof by the Minister, and in relation to the service of copies thereof as so made.
- 11 (1) Where listed building consent is revoked or modified by an order under this Part of this Schedule, then if on a claim made to the local planning authority in the time and in the manner prescribed by regulations under this Act, it is shown that a person interested in the building—
- (a) has incurred expenditure in carrying out works which are rendered abortive by the revocation or modification, or

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- (b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,
the authority shall pay to that person compensation in respect of that expenditure, loss or damage.
- (2) For the purposes of this paragraph, any expenditure incurred in the preparation of plans for the purposes of any works, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out those works.
- (3) Subject to sub-paragraph (2) above, no compensation shall be paid under this paragraph in respect of any works carried out before the grant of the listed building consent which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that consent.
- 12 (1) The following provisions shall have effect where the local planning authority have made an order under paragraph 9 of this Schedule but have not submitted the order to the Minister for confirmation by him, and—
- (a) the owner and occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order ; and
- (b) it appears to the authority that no claim for compensation is likely to arise under paragraph 11 above.
- (2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—
- (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Minister that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose; and
- (b) the period (not less than fourteen days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Minister, the order may take effect by virtue of this paragraph and without being confirmed by the Minister.
- (3) The authority shall also serve notice to the same effect on the persons mentioned in sub-paragraph (1)(a) above, and the notice shall include a statement of the effect of sub-paragraph (7) below.
- (4) The authority shall send a copy of any advertisement published under sub-paragraph (2) above to the Minister, not more than three days after the publication.
- (5) If within the period referred to in sub-paragraph (2)(a) above no person claiming to be affected by the order has given notice to the Minister as aforesaid and the Minister has not directed that the order be submitted to him for confirmation, the order shall at the expiration of the period referred to in sub-paragraph (2)(b) above take effect by virtue of this paragraph and without being confirmed by the Minister as required by paragraph 9 of this Schedule.
- (6) This paragraph does not apply to an order revoking or modifying a listed building consent granted by the Minister under Part V of this Act or under this Schedule.

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- (7) No compensation shall be payable under paragraph 11 of this Schedule in respect of an order under paragraph 9 thereof which takes effect by virtue of this paragraph and without being confirmed by the Minister.

PART III

PROCEEDINGS ON LISTED BUILDING PURCHASE NOTICE

- 13 (1) The council on whom a listed building purchase notice is served, shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner by whom the purchase notice was served a notice stating either—
- (a) that the council are willing to comply with the purchase notice; or
 - (b) that another local authority or statutory undertakers specified in the notice under this sub-paragraph have agreed to comply with it in their place ; or
 - (c) that for reasons specified in the notice under this subparagraph, the council are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place and that they have transmitted a copy of the purchase notice to the Minister, on a date specified in the notice under this sub-paragraph, together with a statement of the reasons so specified.
- (2) Where the council on whom a listed building purchase notice is served by an owner have served on him a notice in accordance with sub-paragraph (1)(a) or (b) above the council, or the other local authority or statutory undertakers specified in the notice, as the case may be, shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of section 50 of this Act, and to have served a notice to treat in respect thereof on the date of service of the notice under sub-paragraph (1) of this paragraph.
- (3) Where the council on whom a listed building purchase notice is served by an owner propose to serve on him a notice in accordance with sub-paragraph (1)(c) above, they shall transmit a copy of the purchase notice to the Minister together with a statement of their reasons ; and section 131 of the principal Act (procedure on reference of purchase notice to the Minister) shall then apply in relation to the purchase notice as it applies in relation to a purchase notice under section 129 of that Act (refusal or conditional grant of planning permission), with the substitution for references therein to the Minister taking action under section 132 of that Act of references to his taking action under paragraph 14 of this Schedule.
- 14 (1) Subject to the following provisions of this paragraph, if the Minister is satisfied that the conditions specified in paragraphs (a) to (c) of section 42(1) of this Act are fulfilled in relation to a listed building purchase notice, he shall confirm the notice:
- Provided that, if he is satisfied that the said conditions are fulfilled only in respect of part of the land, he shall confirm the notice only in respect of that part and the notice shall have effect accordingly.
- (2) The Minister shall not confirm the purchase notice unless he is satisfied that the land comprises such land contiguous or adjacent to the building as is in his opinion required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

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- (3) If it appears to the Minister to be expedient to do so in the case of a listed building purchase notice served on account of listed building consent being refused or granted subject to conditions, he may, in lieu of confirming the purchase notice, grant listed building consent for the works in respect of which the application was made or, where such consent for those works was granted subject to conditions, revoke or amend those conditions so far as it appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of those works.
 - (4) If it appears to the Minister to be expedient to do so, in the case of a listed building purchase notice served on account of listed building consent being revoked or modified by an order under Part II of this Schedule, he may, in lieu of confirming the notice, cancel the order revoking the consent or, where the order modified the consent by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the works in respect of which the consent was granted.
 - (5) If it appears to the Minister that the land, or any part of it, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other works for which listed building consent ought to be granted, he may in lieu of confirming the listed building purchase notice or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that listed building consent for those works shall be granted in the event of an application being made in that behalf.
 - (6) If it appears to the Minister that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any development for which planning permission ought to be granted, he may, in lieu of confirming the listed building purchase notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that planning permission for that development shall be granted in the event of an application being made in that behalf.
 - (7) If it appears to the Minister, having regard to the probable ultimate use of the building or the site thereof, that it is expedient to do so, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land, by substituting another local authority or statutory undertakers for the council on whom the notice was served.
 - (8) In section 131 of the principal Act as applied by paragraph 13(3) above, any reference to the taking of action by the Minister under this paragraph is a reference to the taking by him of any such action as is mentioned in sub-paragraphs (1) or (3) to (7) of this paragraph, or to the taking by him of a decision not to confirm the purchase notice on the grounds that any of the conditions specified in paragraphs (a) to (c) of section 42(1) of this Act are not fulfilled.
- 15 (1) Where the Minister confirms a listed building purchase notice, the council on whom the notice was served (or, if under paragraph 14(7) above the Minister modified the notice by substituting another local authority or statutory undertakers for that council, that other authority or those undertakers) shall be deemed to be authorised to acquire the relevant interest compulsorily in accordance with the provisions of section 50 of this Act and to have served a notice to treat in respect thereof on such date as the Minister may direct.

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- (2) If, before the end of the relevant period, the Minister has neither confirmed the purchase notice nor taken any such action in respect thereof as is mentioned in sub-paragraphs (3) to (6) of paragraph 14 above, and has not notified the owner by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the end of that period and the council on whom the notice was served shall be deemed to have been authorised to acquire the relevant interest compulsorily in accordance with the provisions of section 50 of this Act and to have served a notice to treat in respect thereof at the end of that period.
- (3) In this paragraph—
- (a) " the relevant interest " means the owner's interest in the land or, if the purchase notice is confirmed by the Minister in respect of only part of the land, the owner's interest in that part;
 - (b) " the relevant period " is whichever of the following periods first expires, that is to say—
 - (i) the period of nine months beginning with the date of the service of the purchase notice ; and
 - (ii) the period of six months beginning with the date on which a copy of the purchase notice was transmitted to the Minister.
- (4) Where the Minister has notified the owner by whom a listed building purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice (including any decision to confirm the notice only hi respect of part of the land, or to give any direction as to the granting of listed building consent), and that decision of the Minister is quashed under the provisions of Part XI of the principal Act, the purchase notice shall be treated as cancelled, but the owner may serve a further listed building purchase notice in its place.
- (5) For the purpose of any regulations made under this Act as to the time within which a listed building purchase notice may be served, the service of a purchase notice under sub-paragraph (4) above shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with those regulations if the decision to refuse listed building consent or to grant it subject to conditions (being the decision in consequence of which the listed building purchase notice is served) had been made on the date on which the decision of the Minister was quashed as mentioned in sub-paragraph (4) above.
- 16 Where in consequence of listed building consent being revoked or modified by an order under Part II of this Schedule, compensation is payable in respect of expenditure incurred in carrying out any works to the building in respect of which the consent was granted, then if a listed building purchase notice is served in respect of an interest in the land, any compensation payable in respect of the acquisition of that interest in pursuance of the purchase notice shall be reduced by an amount equal to the value of the works in respect of which compensation is payable by virtue of that paragraph.

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

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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 ; 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,

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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.

PART V

PROVISIONS APPLICABLE ON LAPSE OF BUILDING PRESERVATION NOTICE

- 19 The provisions of this Part of this Schedule apply where a building preservation notice ceases to be in force by virtue of section 48(3) of this Act, otherwise than by reason of the building to which it relates being included in a list compiled or approved under section 32 of the principal Act.
- 20 The fact that the building preservation notice has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 40 or 45 of this Act committed by him with respect to the said building while the notice was in force.
- 21 Any proceedings on or arising out of an application for listed building consent made while the building preservation notice was in force shall lapse and any listed building consent granted with respect to the building, while the notice was in force, shall also lapse.
- 22 Any listed building enforcement notice served by the local planning authority while the building preservation notice was in force shall cease to have effect and any proceedings thereon under Part IV of this Schedule shall lapse, but section 46(1) and (2) of this Act shall continue to have effect as respects any expenses incurred by the local authority, owner or occupier as therein mentioned and with respect to any sums paid on account of such expenses.