

## WORKING ON A LISTED BUILDING WITHOUT CONSENT

### Planning Act (NI) 2011

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 paragraph (2), that person shall be guilty of an offence.

...

(5) Without prejudice to paragraph (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 shall be guilty of an offence.

### Maximum Sentence:

*Planning Act (NI) 2011 s.85(6)*

*Indictment: 2 years imprisonment and/or Unlimited Fine*

*Summary: 6 months imprisonment and/or £100,000 Fine*

### Assessment of Offence

*(Starting points and ranges based on 1<sup>st</sup> time offender convicted following contest)*

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Technical breach of condition attached to listed building consent (e.g. wrong size of window installed) <b>OR</b> Offence committed on non-commercial basis	£15,000 Fine	Fine to Community Order
Offence committed on commercial basis	£75,000 Fine	Fine to 3 months Custody

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
<ol style="list-style-type: none"> <li>1. Offence committed for financial gain (whether profit or cost-saving)</li> <li>2. Offender failed to engage with the relevant authorities prior to works being carried out</li> <li>3. Offender committed offence following refusal of authorisation by the relevant authorities</li> <li>4. Inability to re-instate works carried out</li> <li>5. Nature of offence has necessitated the listed building being demolished</li> </ol>	<ol style="list-style-type: none"> <li>1. Re-instatement (as far as possible) of original works has been undertaken by the offender</li> </ol>

### Relevant Cases:

*NI Cases:*

N/A

*English Cases*

N/A

### Notes:

1. In determining the amount of any fine imposed on a person convicted of an offence under paragraph (1) or (5) the court shall have particular regard to any financial benefit which has accrued or is likely to accrue to him in consequence of the offence. – s85(6) of the 2011 Act.