

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 1 July 1980

HISTORIC PLACES BILL

Hon. Mr HIGHET, in Committee, to move the following amendments:

Clause 18: To omit the proviso to subclause (2) in lines 38 to 40 on page 13, and substitute the following subsection:

(3) Notwithstanding subsection (2) of this section, the Trust shall not be required to obtain the agreement of the State Services Commission where it enters into contracts for services that—

(a) Relate to a specific task which, in the opinion of the Trust, will not take more than 3 months to complete; and

(b) Do not involve the employment of any person by the Trust for a period exceeding 3 months in total (whether on this or any previous specific task carried out under the authority of this subsection within the previous 6 months).

Clause 36: To omit subclause (1A) on page 20.

Clause 37A: To insert, after clause 37 on page 21, the following clause:

37A. Work contrary to protection notice prohibited—

(1) After any protection notice issued pursuant to section 36 of this Act has been served on the owner and occupier of the land under the Town and Country Planning Act 1977, no person shall, without the consent of the Trust, carry out any works for the demolition, alteration, or extension of the building subject to the protection notice, except as provided by the protection notice, until the protection notice has been cancelled by the Trust, or revoked by the Tribunal under the Town and Country Planning Act 1977 or the Minister of Works and Development following an inquiry under section 119 of that Act.

(2) The Trust may grant or refuse its consent, and, in granting consent, may impose such conditions, restrictions, and prohibitions as it thinks fit.

(3) Any body or person whose application for consent is refused or is granted subject to conditions, restrictions, or prohibitions may, within one month after advice of the

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decision, appeal to the Tribunal pursuant to the Town and Country Planning Act 1977 against the refusal of consent or against any of the conditions, restrictions, or prohibitions subject to which the consent was granted.

(4) In determining any such appeal the Tribunal may grant or refuse consent or confirm, modify, or revoke any such condition, restriction, or prohibition, as the case may be.

Clause 40A: To insert on page 23, after clause 40 and before the subheading "Archaeological Sites", the following clause:

40A. Power of entry in relation to a building subject to a protection notice—(1) Where any District Court Judge is satisfied on oath that there is probable cause to suspect that a building subject to a protection notice is in need of urgent works in order to be maintained or preserved and that the owner of that building has refused to allow any officer or employee of the Trust or any person authorised by the Trust to enter and inspect the building to determine whether or not the owner is doing all that is necessary to maintain or preserve that building, that District Court Judge may, by warrant under his hand, empower any officer or employee of the Trust or person authorised by the Trust to enter that building during the daytime for the purpose of inspecting that building to determine whether or not the owner is doing all that is necessary to maintain or preserve that building, but no such warrant shall continue in force for more than 14 days from the date thereof.

(2) Where a repairs notice has been issued under section 40 of this Act, and the owner of the building in respect of which the repairs notice was issued has refused to allow any officer or employee of the Trust or any person authorised by the Trust to enter and inspect the building to determine whether or not the works specified in the repairs notice are being undertaken, the Trust may apply to any District Court Judge who may, by warrant under his hand, empower any officer or employee of the Trust or person authorised by the Trust to enter that building during the daytime for the purpose of inspecting that building to determine whether or not the works specified in the repairs notice are being or have been undertaken, but no such warrant shall continue in force for more than 14 days from the date thereof.

Clause 50: To omit the proviso to subclause (5) in lines 6 to 8 on page 30.

Clause 51: To omit new section 125D on page 33.

To insert in new section 125H in line 29 on page 36, before the words "The use", the expression "(1)".

To add to the new section 125H, after line 33, the following subsection:

(2) In granting or refusing consent to the conditional use of such land, the Council shall have regard to the extent to which consent is likely to encourage the protection, maintenance, and preservation of the building subject to the protection notice, as well as to the matters specified in section 72 (2) of this Act.

Clause 52: To omit paragraph (b) on page 37, and substitute the following paragraph:

- (b) Wilfully destroys, damages, or modifies, or causes to be destroyed, damaged, or modified any archaeological site or demolishes, alters, or extends or causes to be demolished, altered, or extended any building subject to a protection notice, without the authority of the Trust or any person or body authorised by the Trust in that behalf or by the Tribunal pursuant to section 37A of this Act.

To insert, after paragraph (f) on page 38, the following paragraph:

- (fa) Restrains, or in any way interferes with any officer or employee of the Trust or any person authorised by the Trust who is claiming to enter, or is entering, or has entered any building pursuant to a warrant issued under section 40A of this Act; or

Clause 57: To omit this clause on page 39, and substitute the following clause:

57. Local authorities may transfer land to Trust—Notwithstanding anything in any enactment, any local authority (within the meaning of Part VI of the Local Authorities Loans Act 1956) may, without further authority than this section, convey or transfer any land (not being a public reserve within the meaning of the Reserves Act 1977) to the Trust and the Trust may accept such land to be held for the purposes of this Act.

EXPLANATORY NOTE

Clause 18: This amendment restricts the contracts for service not exceeding 3 months which the Trust may authorise without obtaining the agreement of the State Services Commission by providing that these contracts are—

- (a) To relate to a specific task which, in the opinion of the Trust, will not take more than 3 months to complete; and
 (b) Not to involve the employment of any person by the Trust for a period exceeding 3 months in total (whether on this or any previous specific task carried out under the authority of this subsection within the previous 6 months).

The amendment to *clause 36*, the proposed new *clause 37A*, and the first amendment to *clause 51* together transfer the proposed new section 125D of the Town and Country Planning Act 1977, which deals with the prohibition of work contrary to a protection notice, directly to the main body of the Bill as *clause 37A*.

Clause 40A: This new clause empowers any officer or employee of the Trust or any person authorised by the Trust to obtain a warrant from a District Court Judge to obtain entry during the daytime into any building subject to a protection notice in order to determine whether or not the building is being maintained or preserved or, where a repairs notice has been issued, whether the specified works are being undertaken.

Clause 50: This amendment omits the provision which enables either party to a heritage covenant to terminate the covenant on giving 12 months' notice in writing to the other party.

Clause 51: The second and third amendments provide that, in granting or refusing consent to the conditional use of land subject to a protection notice, the Council is to have regard to the extent to which the consent is likely to encourage the protection or preservation of the building subject to the protection notice, as well as the matters normally considered pursuant to the Town and Country Planning Act 1977.

Clause 52: The first amendment redrafts paragraph (b) to correct a drafting error in relation to offences in respect of a building subject to a protection notice.

The second amendment makes it an offence to interfere with any person acting under a warrant issued under clause 40A of the Bill.

Clause 57: This amendment restores the clause to its original meaning.

Local authorities may transfer land to Trust—Notwithstanding anything in any enactment, any local authority within the meaning of section 223(1) of the Local Government Act 1972 (the 1972 Act) may, without transfer any land to a Trust, within the meaning of the Trusts Act 1977, to hold for the purposes of this Act.

SECTION 223

(1) A local authority may, without transfer any land to a Trust, within the meaning of the Trusts Act 1977, to hold for the purposes of this Act.

(2) The amendments made by sections 223 and 224 of the Bill are to be treated as having effect from the date of the coming into force of section 223 of the Bill.