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Town and Country Planning Act 1990

Part VII Enforcement

Enforcement notices

172 Power to issue enforcement notice

(1) Where—

(a) it appears to the local planning authority that there has been a breach of planning control after the end of 1963; and

(b) the authority consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, they may issue a notice requiring the breach to be remedied.

(2) A notice under this section is referred to in this Act as an “enforcement notice”.

(3) There is a breach of planning control—

(a) if development has been carried out, whether before or after the commencement of this Act, without the grant of the planning permission required for that development in accordance with Part III (or, as the case may be, Part III of the 1962 Act or Part III of the 1971 Act); or

(b) if any conditions or limitations subject to which planning permission was granted have not been complied with.

(4) An enforcement notice which relates to a breach of planning control consisting in—

(a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land; or

(b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land; or

(c) the making without planning permission of a change of use of any building to use as a single dwellinghouse; or

(d) the failure to comply with a condition which prohibits or has the effect of preventing a change of use of a building to use as a single dwellinghouse, may be issued only within the period of four years from the date of the breach.

(5) Subject to section 175(4), an enforcement notice shall take effect on a date specified in it (in this Part referred to as the “specified date”).

(6) A copy of an enforcement notice shall be served not later than 28 days after the date of its issue and not later than 28 days before the specified date—

(a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person having an interest in that land, which in the opinion of the authority is an interest materially affected by the notice.

(7) The local planning authority may withdraw an enforcement notice (without prejudice to their powers to issue another) at any time before it takes effect.

(8) If they do so, they shall immediately give notice of the withdrawal to every person who was served with a copy of the notice.

173 Contents of enforcement notice

(1) An enforcement notice shall specify the matters alleged to constitute a breach of planning control.

(2) An enforcement notice shall also specify—

(a) any steps the local planning authority require to be taken in order to remedy the breach; and

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(b) any such steps as are mentioned in subsection (4) which the authority require to be taken.

(3) In this section “steps to be taken in order to remedy the breach” means (according to the particular circumstances of the breach) steps for the purpose—

(a) of restoring the land to its condition before the development took place; or
(b) of securing compliance with the conditions or limitations subject to which planning permission was granted,
including—

(i) the demolition or alteration of any building or works;
(ii) the discontinuance of any use of land; and
(iii) the carrying out on land of any building or other operations.

(4) The steps referred to in subsection (2)(b) are steps for the purpose—

(a) of making the development comply with the terms of any planning permission which has been granted in respect of the land; or
(b) of removing or alleviating any injury to amenity which has been caused by the development.

(5) An enforcement notice shall specify the period within which any such step as is mentioned in subsection (2) is to be taken and may specify different periods for the taking of different steps.

(6) Where the matters which an enforcement notice alleges to constitute a breach of planning control include development which has involved the making of a deposit of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified by altering the gradient or gradients of its sides in such manner as may be specified in the notice.

(7) The Secretary of State may by regulations direct—

(a) that enforcement notices shall specify matters additional to those which they are required to specify by this section; and
(b) that every copy of an enforcement notice served under section 172 shall be accompanied by an explanatory note giving such information as may be specified in the regulations with regard to the right of appeal conferred by section 174.

(8) Where—

(a) an enforcement notice has been issued in respect of development consisting of the erection of a building or the carrying out of works without the grant of planning permission; and

(b) the notice has required the taking of steps for a purpose mentioned in subsection (4)(b); and

(c) the steps have been taken,

for the purposes of the planning Acts planning permission for the retention of the building or works as they are as a result of compliance with the notice shall be deemed to have been granted on an application for such permission made to the local planning authority.

174 Appeal against enforcement notice

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds—

(a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;

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- (b) that the matters alleged in the notice do not constitute a breach of planning control;
 - (c) that the breach of planning control alleged in the notice has not taken place;
 - (d) in the case of a notice to which section 172(4) applies, that the period of four years from the date of the breach of planning control to which the notice relates had elapsed at the date when the notice was issued;
 - (e) in the case of a notice not falling within paragraph (d), that the breach of planning control alleged by the notice occurred before the beginning of 1964;
 - (f) that copies of the enforcement notice were not served as required by section 172(6);
 - (g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 173(4);
 - (h) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.
- (3) An appeal under this section shall be made by notice in writing to the Secretary of State before the specified date.
- (4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—
- (a) specifying the grounds on which he is appealing against the enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.
- (6) In this section “relevant occupier” means a person who—
- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence in writing; and
 - (b) continues so to occupy the land when the appeal is brought.

175 Appeals: supplementary provisions

- (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—
- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
 - (b) specify the matters to be included in such a statement;
 - (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
 - (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.
- (3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

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(4) Where an appeal is brought under section 174 the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

176 General provisions relating to determination of appeals

(1) On the determination of an appeal under section 174, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.

(2) On such an appeal if the Secretary of State is satisfied that to do so will not cause the appellant or the local planning authority injustice, he may—

(a) correct any informality, defect or error in the enforcement notice; or

(b) give directions for varying its terms.

(3) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.

(4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

177 Grant or modification of planning permission on appeals against enforcement notices

(1) On the determination of an appeal under section 174, the Secretary of State may—

(a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;

(b) discharge any condition or limitation subject to which planning permission was granted;

(c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) Any planning permission granted by the Secretary of State under subsection (1) may—

(a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;

(b) be granted subject to such conditions as the Secretary of State thinks fit;

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and section 72(1) and (5) shall apply with any necessary modifications in relation to the grant of permission under subsection (1) as it applies to a grant of permission under section 70(1).

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates.

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

178 Execution and cost of works required by enforcement notice

(1) If any steps which by virtue of section 173(2)(a) are required by an enforcement notice to be taken (other than the discontinuance of a use of land) have not been taken within the compliance period, the local planning authority may—

(a) enter the land and take those steps, and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Where a copy of an enforcement notice has been served in respect of any breach of planning control (as defined in section 172(3))—

(a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and

(b) any sums paid by the owner of any land under subsection (1) 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 by whom the breach of planning control was committed.

(3) Regulations made under this Act may provide that—

(a) section 276 of the [1936 c. 49.] Public Health Act 1936, (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

(b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); and

(c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by an enforcement notice.

(4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.

(5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local planning authority under subsection (1).

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(6) Where by virtue of this section any expenses are recoverable by a local planning authority, those expenses shall be recoverable as a simple contract debt in any court of competent jurisdiction.

(7) In this section and in sections 179, 183 and 184 any reference to the compliance period, in relation to an enforcement notice, is a reference to the period specified in the notice for compliance with it or such extended period as the local planning authority may allow for compliance with it.

179 Penalties for non-compliance with enforcement notice

(1) Where—

(a) a copy of an enforcement notice has been served on the person who at the time when the copy was served was the owner of the land to which the notice relates, and
(b) any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the compliance period,
then, subject to the provisions of this section, that person shall be guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, or
(b) on conviction on indictment, to a fine.

(3) Where proceedings have been brought under subsection (1) against a person (“the original owner”) who has, at some time before the end of the compliance period, ceased to be the owner of the land, if he—

(a) duly lays information to that effect, and
(b) gives the prosecution not less than three clear days' notice of his intention,
he shall be entitled to have the person who then became the owner of the land (“the subsequent owner”) brought before the court in the proceedings.

(4) Where in such proceedings—

(a) it has been proved that any steps required by the enforcement notice have not been taken within the compliance period, and

(b) the original owner proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent owner
then—

(i) the subsequent owner may be convicted of the offence; and

(ii) if the original owner also proves that he took all reasonable steps to secure compliance with the enforcement notice, he shall be acquitted of the offence.

(5) If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable—

(a) on summary conviction to a fine not exceeding £200 for each day following his first conviction on which any of the requirements of the notice (other than the discontinuance of the use of land) remain unfulfilled; or

(b) on conviction on indictment, to a fine.

(6) Where, by virtue of an enforcement notice—

(a) a use of land is required to be discontinued, or

(b) any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations on it,

then, if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence.

(7) A person who is guilty of an offence under subsection (6) shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, or

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(b) on conviction on indictment, to a fine.

(8) Where a person is convicted under subsection (6) in respect of any use of land and the use is continued after the conviction he shall be guilty of a further offence and liable—

(a) on summary conviction, to a fine not exceeding £200 for each day on which the use is so continued, or

(b) on conviction on indictment, to a fine.

180 Effect of planning permission on enforcement notice

(1) If, after the service of a copy of an enforcement notice, planning permission is granted—

(a) for the retention on land of buildings or works, or

(b) for the continuance of a use of land, to which the enforcement notice relates, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for the demolition or alteration of those buildings or works or, as the case may be, the discontinuance of that use.

(2) If the planning permission granted as mentioned in subsection (1) is granted so as to permit the retention of buildings or works, or the continuance of a use of land, without complying with some condition subject to which a previous planning permission was granted, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.

(3) The fact that an enforcement notice has wholly or partly ceased to have effect under subsection (1) or (2) shall not affect the liability of any person for an offence in respect of a previous failure to comply with the notice.

181 Enforcement notice to have effect against subsequent development

(1) Compliance with an enforcement notice, whether in respect of—

(a) the completion, demolition or alteration of any buildings or works;

(b) the discontinuance of any use of land; or

(c) any other requirements contained in the notice, shall not discharge the notice.

(2) Without prejudice to subsection (1), any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(3) Without prejudice to subsection (1), if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered; and, subject to subsection (4), the provisions of section 178(1) and (2) shall apply accordingly.

(4) Where, at any time after an enforcement notice takes effect—

(a) any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the notice; and

(b) the local planning authority propose, under section 178(1), to take any steps required by the enforcement notice for the demolition or alteration of the buildings or works in consequence of the reinstatement or restoration,

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the local planning authority shall, not less than 28 days before taking any such steps, serve on the owner and occupier of the land a notice of their intention to do so.

(5) Where without planning permission a person carries out any development on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice—

(a) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, and

(b) no person shall be liable under any of the provisions of section 179(1) to (5) for failure to take any steps required to be taken by an enforcement notice by way of demolition or alteration of what has been so reinstated or restored.

182 Enforcement by the Secretary of State

(1) If it appears to the Secretary of State to be expedient that an enforcement notice should be issued in respect of any land, he may issue such a notice.

(2) The Secretary of State shall not issue such a notice without consulting the local planning authority.

(3) An enforcement notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority.

(4) In relation to an enforcement notice issued by the Secretary of State, sections 178 and 181 shall apply as if for any reference in those sections to the local planning authority there were substituted a reference to the Secretary of State.

Stop notices

183 Stop notices

(1) Where in respect of any land the local planning authority—

(a) have served a copy of an enforcement notice requiring a breach of planning control to be remedied; but

(b) consider it expedient to prevent, before the expiry of the compliance period, the carrying out of any activity which is, or is included in, a matter alleged by the notice to constitute the breach,

they may at any time before the notice takes effect serve a notice prohibiting the carrying out of that activity on the land, or any part of it specified in the notice.

(2) A notice under subsection (1) is in this Act referred to as a “stop notice”.

(3) A stop notice shall not prohibit—

(a) the use of any building as a dwellinghouse, or

(b) the use of land as the site for a caravan occupied by any person as his only or main residence, or

(c) the taking of any steps specified in the enforcement notice as required to be taken in order to remedy the breach of planning control.

(4) For the purposes of subsection (3) “caravan” has the same meaning as it has for the purposes of Part I of the [1960 c. 62.] Caravan Sites and Control of Development Act 1960.

(5) Where the period during which an activity has been carried out on land (whether continuously or otherwise) began more than 12 months earlier, a stop notice shall not prohibit the carrying out of that activity on that land unless it is, or is incidental to, building, engineering, mining or other operations or the deposit of refuse or waste materials.

(6) A stop notice may be served by the local planning authority on any person who appears to them to have an interest in the land or to be engaged in any activity prohibited by the notice.

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(7) The local planning authority may at any time withdraw a stop notice (without prejudice to their power to serve another) by serving notice to that effect on persons served with the stop notice.

184 Stop notices: supplementary provisions

(1) A stop notice must refer to the enforcement notice to which it relates and have a copy of that notice annexed to it.

(2) A stop notice must specify the date on which it will take effect (and it cannot be contravened until that date).

(3) That date must not be earlier than three nor later than 28 days from the day on which the notice is first served on any person.

(4) A stop notice shall cease to have effect when—

(a) the enforcement notice to which it relates is withdrawn or quashed; or

(b) the compliance period expires; or

(c) notice of the withdrawal of the stop notice is first served under section 183(7).

(5) A stop notice shall also cease to have effect if or to the extent that the activities prohibited by it cease, on a variation of the enforcement notice, to be included in the matters alleged by the enforcement notice to constitute a breach of planning control.

(6) Where a stop notice has been served in respect of any land, the local planning authority may display there a notice (in this section and section 187 referred to as a “site notice”)—

(a) stating that a stop notice has been served and that any person contravening it may be prosecuted for an offence under section 187,

(b) giving the date when the stop notice takes effect, and

(c) indicating its requirements.

(7) If under section 183(7) the local planning authority withdraw a stop notice in respect of which a site notice was displayed, they must display a notice of the withdrawal in place of the site notice.

(8) A stop notice shall not be invalid by reason that a copy of the enforcement notice to which it relates was not served as required by section 172(6) if it is shown that the local planning authority took all such steps as were reasonably practicable to effect proper service.

185 Service of stop notices by Secretary of State

(1) If it appears to the Secretary of State to be expedient that a stop notice should be served in respect of any land, he may himself serve such a notice.

(2) A notice served by the Secretary of State under subsection (1) shall have the same effect as if it had been served by the local planning authority.

(3) The Secretary of State shall not serve such a notice without consulting the local planning authority.

186 Compensation for loss due to stop notice

(1) Where a stop notice is served under section 183 compensation may be payable under this section in respect of a prohibition contained in the notice only if—

(a) the enforcement notice is quashed on grounds other than those mentioned in paragraph (a) of section 174(2);

(b) the enforcement notice is varied (otherwise than on the grounds mentioned in that paragraph) so that matters alleged to constitute a breach of planning control cease to include one or more of the activities prohibited by the stop notice;

(c) the enforcement notice is withdrawn by the local planning authority otherwise than in consequence of the grant by them of planning permission for the development to which

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the notice relates or for its retention or continuance without compliance with a condition or limitation subject to which a previous planning permission was granted; or

(d) the stop notice is withdrawn.

(2) A person who, when the stop notice is first served, has an interest in or occupies the land to which the notice relates shall be entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice or, in a case within subsection (1)(b), so much of that prohibition as ceases to have effect.

(3) A claim for compensation under this section shall be made to the local planning authority within the prescribed time and in the prescribed manner.

(4) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include any sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.

(5) In the assessment of compensation under this section, account shall be taken of the extent (if any) to which the claimant's entitlement is attributable—

(a) to his failure to comply with a notice under section 330, or

(b) to any mis-statement made by him in response to such a notice.

(6) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this Part shall be referred to and determined by the Lands Tribunal.

(7) In relation to the determination of any such question, the provisions of sections 2 and 4 of the [1961 c. 33.] Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

Penalties for contravention of stop notice

(1) If any person contravenes or causes or permits the contravention of a stop notice—

(a) after a site notice has been displayed, or

(b) if a site notice has not been displayed, more than two days after the stop notice has been served on him,

then, subject to subsection (3), he shall be guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) shall be liable—

(a) on summary conviction to a fine not exceeding the statutory maximum, or

(b) on conviction on indictment to a fine;

and if the offence is continued after conviction he shall be guilty of a further offence and liable—

(i) on summary conviction to a fine not exceeding £200 for each day on which the offence is continued, or

(ii) on conviction on indictment to a fine.

(3) In proceedings for an offence under this section it shall be a defence for the accused to prove—

(a) that the stop notice was not served on him, and

(b) that he did not know, and could not reasonably have been expected to know, of its existence.

Registers

188 Register of enforcement and stop notices

(1) Every district planning authority and the council of every metropolitan district or London borough shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect—

(a) to enforcement notices; and

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- (b) to stop notices, which relate to land in their area.
- (2) A development order may make provision—
 - (a) for the entry relating to any enforcement notice or stop notice, and everything relating to any such notice, to be removed from the register in such circumstances as may be specified in the order; and
 - (b) for requiring a county planning authority to supply to a district planning authority such information as may be so specified with regard to enforcement notices issued and stop notices served by the county planning authority.
- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Enforcement of orders for discontinuance of use, etc.

189 Penalties for contravention of orders under s. 102 and Schedule 9

- (1) Any person who without planning permission—
 - (a) uses land, or causes or permits land to be used—
 - (i) for any purpose for which an order under section 102 or paragraph 1 of Schedule 9 has required that its use shall be discontinued; or
 - (ii) in contravention of any condition imposed by such an order by virtue of subsection (1) of that section or, as the case may be, sub-paragraph (1) of that paragraph; or
 - (b) resumes, or causes or permits to be resumed, development consisting of the winning and working of minerals the resumption of which an order under paragraph 3 of that Schedule has prohibited; or
 - (c) contravenes, or causes or permits to be contravened, any such requirement as is specified in sub-paragraph (3) or (4) of that paragraph, shall be guilty of an offence.
- (2) Any person who contravenes any requirement of an order under paragraph 5 or 6 of that Schedule or who causes or permits any requirement of such an order to be contravened shall be guilty of an offence.
- (3) Any person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum; and
 - (b) on conviction on indictment, to a fine.
- (4) It shall be a defence for a person charged with an offence under this section to prove that he took all reasonable measures and exercised all due diligence to avoid commission of the offence by himself or by any person under his control.
- (5) If in any case the defence provided by subsection (4) involves an allegation that the commission of the offence was due to the act or default of another person or due to reliance on information supplied by another person, the person charged shall not, without the leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

190 Enforcement of orders under s. 102 and Schedule 9

- (1) This section applies where—
 - (a) any step required by an order under section 102 or paragraph 1 of Schedule 9 to be taken for the alteration or removal of any buildings or works or any plant or machinery;
 - (b) any step required by an order under paragraph 3 of that Schedule to be taken—
 - (i) for the alteration or removal of plant or machinery; or
 - (ii) for the removal or alleviation of any injury to amenity; or

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(c) any step for the protection of the environment required to be taken by an order under paragraph 5 or 6 of that Schedule, has not been taken within the period specified in the order or within such extended period as the local planning authority or, as the case may be, the mineral planning authority may allow.

(2) Where this section applies the local planning authority or, as the case may be, the mineral planning authority may enter the land and take the required step.

(3) Where the local planning authority or, as the case may be, the mineral planning authority have exercised their power under subsection (2) they may recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(4) Any expenses recoverable by a local planning authority or a mineral planning authority under subsection (3) shall be recoverable as a simple contract debt in any court of competent jurisdiction.

(5) Section 276 of the [1936 c. 49.] Public Health Act 1936 shall apply in relation to any works executed by an authority under subsection (2) as it applies in relation to works executed by a local authority under that Act.

Established use certificates

191 Meaning of “established use”

For the purposes of this Part a use of land is established if—

(a) it was begun before the beginning of 1964 without planning permission and has continued since the end of 1963;

(b) it was begun before the beginning of 1964 under a planning permission granted subject to conditions or limitations, which either have never been complied with or have not been complied with since the end of 1963; or

(c) it was begun after the end of 1963 as the result of a change of use not requiring planning permission and there has been, since the end of 1963, no change of use requiring planning permission.

192 Applications for established use certificates

(1) Subject to subsection (3), where a person having an interest in land claims that a particular use of it has become established, he may apply to the local planning authority for a certificate to that effect.

(2) Such a certificate is in this Act referred to as an “established use certificate”.

(3) No application may be made under subsection (1)—

(a) in respect of the use of land as a single dwellinghouse, or

(b) in respect of any use not subsisting at the time of the application.

(4) An established use certificate shall, as respects any matters stated in it, be conclusive for the purposes of an appeal to the Secretary of State against an enforcement notice a copy of which has been served in respect of any land to which the certificate relates, if the copy of the notice is served after the date of the application on which the certificate was granted.

(5) The Secretary of State may give directions requiring applications for established use certificates to be referred to him instead of being dealt with by local planning authorities.

(6) In section 69 references to applications for planning permission shall include references to applications for established use certificates.

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193 Supplementary provisions as to applications

(1) An application for an established use certificate shall be made in such manner as may be prescribed by a development order and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any directions given under such an order, or by the local planning authority or, in the case of an application referred to the Secretary of State, by him.

(2) A development order may provide that an application for an established use certificate shall not be entertained unless it is accompanied by a certificate in such form as may be prescribed by the order and corresponding to one of those described in section 66(1) or section 67(3).

(3) Any such order may also—

(a) include requirements corresponding to section 66(2) to (6) (or, as the case may be, section 67(5), (6) and (11)) and section 71(2); and

(b) make provision as to who, in the case of any land, is to be treated as the owner for the purposes of any provision of the order made by virtue of subsection (2) or this subsection.

(4) If any person—

(a) issues a certificate which purports to comply with any provision of a development order made by virtue of subsection (2) or (3) and contains a statement which he knows to be false or misleading in a material particular, or

(b) recklessly issues a certificate which purports to comply with any such provision and contains a statement which is false or misleading in a material particular, he shall be guilty of an offence.

(5) A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for an established use certificate—

(a) knowingly or recklessly makes a statement which is false in a material particular; or

(b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any document which is false in a material particular; or

(c) with intent to deceive, withholds any material information, he shall be guilty of an offence.

(7) A person guilty of such an offence shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

194 Determination of applications

(1) On an application to the local planning authority under section 192, or on a reference to the Secretary of State under subsection (5) of that section, the authority or, as the case may be, the Secretary of State shall—

(a) if and so far as they are or he is satisfied that the applicant's claim is made out, grant him an established use certificate accordingly; and

(b) if and so far as they are or he is not so satisfied, refuse the application.

(2) An established use certificate may be granted—

(a) either for the whole of the land specified in the application, or for a part of it;

(b) in the case of an application specifying two or more uses, either for all those uses or for some one or more of them.

(3) An established use certificate shall be in such form as may be prescribed by a development order and shall specify—

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(a) the land to which the certificate relates and any use of it which is certified by the certificate as established;

(b) by reference to the paragraphs of section 191, the grounds on which that use is so certified; and

(c) the date on which the application for the certificate was made.

(4) The date mentioned in subsection (3)(c) shall be the date at which the use is certified as established.

(5) Provision may be made by a development order for regulating the manner in which applications for established use certificates are to be dealt with by local planning authorities.

(6) Such an order may in particular provide for requiring the authority—

(a) to give to any applicant within such time as may be prescribed by the order such notice as may be so prescribed as to the manner in which his application has been dealt with;

(b) to give to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to such applications made to the authority, including information as to the manner in which any application has been dealt with.

195 Appeals against refusal or failure to give decision on application

(1) Where an application is made to a local planning authority for an established use certificate and—

(a) the application is refused or is refused in part, or

(b) the authority do not give notice to the applicant of their decision on the application within such period as may be prescribed by a development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority,

the applicant may by notice appeal to the Secretary of State.

(2) On any such appeal, if and so far as the Secretary of State is satisfied—

(a) in the case of an appeal under subsection (1)(a), that the authority's refusal is not well-founded, or

(b) in the case of an appeal under subsection (1)(b), that if the authority had refused the application their refusal would not have been well-founded,

he shall grant the appellant an established use certificate accordingly or, in the case of a refusal in part, modify the certificate granted by the authority on the application.

(3) If and so far as the Secretary of State is satisfied that the authority's refusal is or, as the case may be, would have been well-founded, he shall dismiss the appeal.

(4) In section 193(2) and (6) references to applications for established use certificates include references to appeals arising out of such applications.

(5) For the purposes of the application of section 288(10)(b) in relation to an appeal in a case within subsection (1)(b) it shall be assumed that the authority decided to refuse the application in question.

(6) Schedule 6 applies to appeals under this section.

196 Further provisions as to references and appeals to the Secretary of State

(1) Before determining an application referred to him under section 192(5) or an appeal to him under section 195(1), the Secretary of State shall, if either the applicant or appellant (as the case may be) or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

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(2) Where the Secretary of State grants an established use certificate on such a reference or such an appeal, he shall give notice to the local planning authority of that fact.

(3) The decision of the Secretary of State on such an application or appeal shall be final.

(4) The information which may be prescribed as being required to be contained in a register kept under section 69 shall include information with respect to established use certificates granted by the Secretary of State.

(5) On such an application or appeal the Secretary of State may, in respect of any use of land for which an established use certificate is not granted (either by him or by the local planning authority), grant planning permission for that use or, as the case may be, for the continuance of that use without complying with some condition subject to which a previous planning permission was granted.

(6) In the case of any use of land for which the Secretary of State has power to grant planning permission under this section, the applicant or appellant shall be deemed to have made an application for such planning permission.

(7) Any planning permission so granted shall be treated as granted on that application.