
STATUTORY INSTRUMENTS

2003 No. 430

The Planning (Amendment) (Northern Ireland) Order 2003

Other changes relating to enforcement

Offence where enforcement notice not complied with

9. For Article 72 of the principal Order (penalties for non-compliance with enforcement notice) there is substituted—

“Offence where enforcement notice not complied with

72.—(1) Where, at any time after the end of the period for compliance with an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner of the land is in breach of the notice.

(2) Where the owner of the land is in breach of an enforcement notice he shall be guilty of an offence.

(3) In proceedings against any person for an offence under paragraph (2), it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.

(4) A person who has control of or an estate in the land to which an enforcement notice relates (other than the owner) must not carry on any activity which is required by the notice to cease or cause or permit such an activity to be carried on.

(5) A person who, at any time after the end of the period for compliance with the notice, contravenes paragraph (4) shall be guilty of an offence.

(6) An offence under paragraph (2) or (5) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under the paragraph in question by reference to any period of time following the preceding conviction for such an offence.

(7) Where—

(a) a person charged with an offence under this Article has not been served with a copy of the enforcement notice; and

(b) the notice is not contained in the appropriate register kept under Article 124,

it shall be a defence for him to show that he was not aware of the existence of the notice.

(8) A person guilty of an offence under this Article shall be liable—

(a) on summary conviction, to a fine not exceeding £30,000;

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

(9) In determining the amount of any fine to be imposed on a person convicted of an offence under this Article, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.”