



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART VII

#### ENFORCEMENT

#### <sup>F1</sup>Introductory

#### Textual Amendments

**F1** Ss. 171A, 171B and cross heading inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 4\(1\)](#), (with s. 84(5)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#)); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)](#))

#### <sup>F2</sup>171A Expressions used in connection with enforcement.

- (1) For the purposes of this Act—
  - (a) carrying out development without the required planning permission; or
  - (b) failing to comply with any condition or limitation subject to which planning permission has been granted,constitutes a breach of planning control.
- (2) For the purposes of this Act—
  - (a) the issue of an enforcement notice (defined in section 172); or
  - (b) the service of a breach of condition notice (defined in section 187A),constitutes taking enforcement action.
- (3) In this Part “planning permission” includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

*Status: Point in time view as at 02/10/2013.*

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#### Textual Amendments

**F2** Ss. 171A, 171B inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 4\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#)); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)](#))

#### <sup>F3</sup>171B Time limits.

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
  - (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- [ There is no restriction on when enforcement action may be taken in relation to a
- <sup>F4</sup>(2A) breach of planning control in respect of relevant demolition (within the meaning of section 196D).]
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
  - (4) The preceding subsections do not prevent—
    - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
    - (b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.]

#### Textual Amendments

**F3** Ss. 171A, 171B inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 4\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#)); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)](#))

**F4** S. 171B(2A) inserted (1.10.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), [s. 103\(3\)](#), [Sch. 17 para. 4](#); [S.I. 2013/2227](#), [art. 2\(m\)](#)

#### Modifications etc. (not altering text)

**C1** S. 171B(2A) transitional provisions for effects of 2003 c. 24, s. 63, Sch. 17 paras. 1-6 (2.10.2013) by [The Town and Country Planning \(Isles of Scilly\) Order 2013 \(S.I. 2013/2148\)](#), [arts. 1\(1\)](#), [5\(4\)\(b\)](#)

#### [<sup>F5</sup>171BA]Time limits in cases involving concealment

- (1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land in England, the authority may apply to a magistrates' court for an order under this subsection (a “planning enforcement order”) in relation to that apparent breach of planning control.

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- (2) If a magistrates' court makes a planning enforcement order in relation to an apparent breach of planning control, the local planning authority may take enforcement action in respect of—
  - (a) the apparent breach, or
  - (b) any of the matters constituting the apparent breach,at any time in the enforcement year.
- (3) “The enforcement year” for a planning enforcement order is the year that begins at the end of 22 days beginning with the day on which the court's decision to make the order is given, but this is subject to subsection (4).
- (4) If an application under section 111(1) of the Magistrates' Courts Act 1980 (statement of case for opinion of High Court) is made in respect of a planning enforcement order, the enforcement year for the order is the year beginning with the day on which the proceedings arising from that application are finally determined or withdrawn.
- (5) Subsection (2)—
  - (a) applies whether or not the time limits under section 171B have expired, and
  - (b) does not prevent the taking of enforcement action after the end of the enforcement year but within those time limits.

#### Textual Amendments

- F5** Ss. 171BA-171BC inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 124(1), 240(2)** (with s. 144); [S.I. 2012/628, art. 8\(b\)](#) (with [arts. 9, 12, 13, 16, 18-20](#)) (as amended (3.8.2012) by [S.I. 2012/2029](#), [arts. 2, 4](#))

### 171BB Planning enforcement orders: procedure

- (1) An application for a planning enforcement order in relation to an apparent breach of planning control may be made within the 6 months beginning with the date on which evidence of the apparent breach of planning control sufficient in the opinion of the local planning authority to justify the application came to the authority's knowledge.
- (2) For the purposes of subsection (1), a certificate—
  - (a) signed on behalf of the local planning authority, and
  - (b) stating the date on which evidence sufficient in the authority's opinion to justify the application came to the authority's knowledge,is conclusive evidence of that fact.
- (3) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.
- (4) Where the local planning authority apply to a magistrates' court for a planning enforcement order in relation to an apparent breach of planning control in respect of any land, the authority must serve a copy of the application—
  - (a) on the owner and on the occupier of the land, and
  - (b) on any other person having an interest in the land that is an interest which, in the opinion of the authority, would be materially affected by the taking of enforcement action in respect of the apparent breach.

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- (5) The persons entitled to appear before, and be heard by, the court hearing an application for a planning enforcement order in relation to an apparent breach of planning control in respect of any land include—
- (a) the applicant,
  - (b) any person on whom a copy of the application was served under subsection (4), and
  - (c) any other person having an interest in the land that is an interest which, in the opinion of the court, would be materially affected by the taking of enforcement action in respect of the apparent breach.
- (6) In this section “planning enforcement order” means an order under section 171BA(1).

#### Textual Amendments

**F5** Ss. 171BA-171BC inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 124(1), 240(2)** (with s. 144); [S.I. 2012/628](#), art. 8(b) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)

### 171BC Making a planning enforcement order

- (1) A magistrates' court may make a planning enforcement order in relation to an apparent breach of planning control only if—
- (a) the court is satisfied, on the balance of probabilities, that the apparent breach, or any of the matters constituting the apparent breach, has (to any extent) been deliberately concealed by any person or persons, and
  - (b) the court considers it just to make the order having regard to all the circumstances.
- (2) A planning enforcement order must—
- (a) identify the apparent breach of planning control to which it relates, and
  - (b) state the date on which the court's decision to make the order was given.
- (3) In this section “planning enforcement order” means an order under section 171BA(1).]

#### Textual Amendments

**F5** Ss. 171BA-171BC inserted (6.4.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 124(1), 240(2)** (with s. 144); [S.I. 2012/628](#), art. 8(b) (with arts. 9, 12, 13, 16, 18-20) (as amended (3.8.2012) by [S.I. 2012/2029](#), arts. 2, 4)

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