

*These notes refer to the Commons Act 2006 (c.26)
which received Royal Assent on 19 July 2006*

COMMONS ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Works

Section 41 Enforcement

196. Contravention of the controls on works in section 38 leaves the works open to civil enforcement action, as set out in section 41, but not to criminal prosecution. Under section 194 of the Law of Property Act 1925, only certain persons, such as the lord of the manor and local authorities, may seek an order of the court to enforce against a breach of the requirement for consent under that section. *Subsection (1)* enables any person (including local authorities) to apply to a county court for an order in respect of a breach of the requirement for consent to works under section 38.
197. *Subsection (2)* specifies the orders which a county court may make. Where no consent has been given by the appropriate national authority, the court may order the removal of works and restoration of the land to its previous condition. Where consent has been given but the works have not been carried out in accordance with its terms, the court may either order that the works should be modified to conform to the consent, or that the works be removed and the land restored to its previous condition.