



Caravan Sites and Control of Development Act 1960

1960 CHAPTER 62

PART II

GENERAL CONTROL OF DEVELOPMENT

33 Appeal to Minister against enforcement notice

- (1) A person on whom an enforcement notice is served under section twenty-three of the Act of 1947, or any other person having an interest in the land, may at any time within the period specified in the enforcement notice as the period at the expiration of which it is to take effect, appeal to the Minister against the enforcement notice on any of the following grounds, that is to say—
- (a) that permission ought to be granted under Part III of the Act of 1947 for the development to which the enforcement notice relates, or
 - (b) that permission has been granted under the said Part III for the development to which the enforcement notice relates, or
 - (c) that no permission was required under the said Part III in respect of the development to which the enforcement notice relates, or, as the case may be, that the conditions or limitations subject to which such permission was granted have been complied with, or
 - (d) that what is assumed in the enforcement notice to be development did not constitute or involve development for the purposes of the said Part III, or
 - (e) that the enforcement notice was not served on the owner or occupier of the land within the relevant period of four years specified in subsection (1) of section twenty-three of the Act of 1947, or
 - (f) that the requirements of the enforcement notice exceed what is necessary for restoring the land to its condition before the development to which the enforcement notice relates took place, or, as the case may be, for securing compliance with the conditions or limitations to which the enforcement notice relates, or

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- (g) that the period specified in the enforcement notice as the period within which any steps required by the enforcement notice are to be taken falls short of what should reasonably be allowed.
- (2) On an appeal under this section Part III of the Act of 1947 shall have effect as if an application for permission for retention on the land of any buildings or works, or for the continuance of any use of the land, to which the enforcement notice relates had been duly made under the said Part III and referred to the Minister under section fifteen of that Act.

The provisions of this subsection shall not be taken as applying sections thirty-six and thirty-seven of the Town and Country Planning Act, 1959 (which impose requirements to be complied with before certain applications for planning permission are entertained).

- (3) If an appeal is brought under this section the enforcement notice shall be of no effect pending the final determination or withdrawal of the appeal.
- (4) An appeal under this section shall be made to the Minister by a written notice which shall indicate the grounds on which the appeal is brought; and on an appeal under this section the Minister shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.
- (5) On an appeal under this section the Minister may correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not a material one.
- (6) On the determination of an appeal under this section the Minister shall give directions for giving effect to his determination, including where appropriate directions for quashing the enforcement notice or for varying the terms of the enforcement notice in favour of the appellant.
- (7) Subsection (5) of section two hundred and ninety of the Local Government Act, 1933 (which authorises a government department holding an inquiry under that section to make orders with respect to the costs of the parties), shall apply in relation to any proceedings before the Minister on an appeal under this Part of this Act as if those proceedings were an inquiry held by the Minister under the said section two hundred and ninety.
- (8) The validity of an enforcement notice which has been served under section twenty-four of the Act of 1947 on the owner and occupier of the land shall not be questioned in any proceedings whatsoever on any of the grounds specified in paragraphs (b), (c), (d) or (e) of subsection (1) of this section except by way of an appeal under this Part of this Act:

Provided that this subsection shall not apply to proceedings brought under subsection (3) of section twenty-four of the Act of 1947 (which makes it an offence to use land in a manner prohibited by an enforcement notice) against a person (other than a person on whom the enforcement notice was served under section twenty-three of the Act of 1947) who has held an interest in the land since before the enforcement notice was so served and who did not appeal against the enforcement notice under this section.

- (9) In the said section twenty-three, proviso (a) to subsection (3) (which provides that an enforcement notice shall be of no effect pending the determination of an application

for planning permission made before the enforcement notice comes into force), and the provisions conferring an appeal to a magistrates' court against an enforcement notice, shall cease to have effect.

34 Appeal from Minister to High Court on questions of law

- (1) Where the Minister gives any decision in proceedings on an appeal under this Part of this Act against an enforcement notice the appellant or the local planning authority or any person (other than the appellant) on whom the enforcement notice was served under Part III of the Act of 1947 may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Minister to state and sign a case for the opinion of the High Court.
- (2) The Minister may, at any stage of the proceedings on an appeal under this Part of this Act against an enforcement notice, state any question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court, and a decision of the High Court on a case stated by virtue of this subsection shall be deemed to be a judgment of the court within the meaning of section twenty-seven of the Supreme Court of Judicature (Consolidation) Act, 1925 (which relates to the jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).
- (3) In relation to any proceedings in the High Court or the Court of Appeal brought by virtue of this section the power to make rules of court shall include power to make rules—
 - (a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the Minister, and
 - (b) providing for the Minister, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.
- (4) Rules of court relating to such proceedings as aforesaid may provide for excluding so much of subsection (1) of section sixty-three of the Supreme Court of Judicature (Consolidation) Act, 1925, as requires appeals to the High Court to be heard and determined by a Divisional Court, but no appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.

35 Service of enforcement notices

- (1) Where any person has appealed to the Minister against an enforcement notice under this Part of this Act neither that person nor any other shall be entitled to claim in any other proceedings, being proceedings instituted after the making of the appeal, that the enforcement notice was not served in accordance with the provisions of section one hundred and five of the Act of 1947 on the person who appealed.
- (2) At the end of subsection (1) of section twenty-three of the Act of 1947 (which directs that an enforcement notice shall be served on the owner and occupier of the land) there shall be added the words " and may also, if they think fit, serve the notice on any other person having an interest in the land, being an interest which is in their opinion materially affected by the notice ".

36 Liability of owner of land for failure to comply with requirements of an enforcement notice other than the discontinuance of a use of land

- (1) Subject to the provisions of this section, where an enforcement notice has been served under Part III of the Act of 1947 on the person who was, when the notice was served on him, the owner of the land to which the enforcement notice relates and within the period specified in the enforcement notice, or within such extended period as the local planning authority may allow, any steps required by the enforcement notice to be taken (other than the discontinuance of any use of land) have not been taken, that person shall be liable on summary conviction to a fine not exceeding one hundred pounds.
- (2) If a person against whom proceedings are brought under this section has at some time before the end of the said period specified in the enforcement notice for compliance with the notice (or of such extended period as the local planning authority may allow for compliance with the notice) ceased to be the owner of the land, he shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the enforcement notice have not been taken as aforesaid, the original defendant proves that the failure to take the steps was attributable in whole or in part to the default of the said other person, that other person may be convicted of the offence and, if the original defendant further proves that he took all reasonable steps to secure compliance with the enforcement notice, he shall be acquitted of the offence.
- (4) If after a person is convicted under 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 shall be liable on summary conviction to a fine not exceeding twenty pounds for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of any use of land) remain unfulfilled.
- (5) In this section the expression " owner ", in relation to any land, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let.

37 Provisions enabling an owner to comply with an enforcement notice

The adaptations and modifications subject to which regulations under paragraph (b) of subsection (5) of section twenty-four of the Act of 1947 may apply section two hundred and eighty-nine of the Public Health Act, 1936 (which confers power to apply to a magistrates' court for an order requiring the occupier of any premises to permit works to be executed by the owner of the premises), to enforcement notices may include adaptations and modifications made for the purpose of affording to 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.

38 Discontinuance of enforcement notice on grant of planning permission

- (1) If after an enforcement notice has been served under section twenty-three of the Act of 1947 permission for the retention on the land of any buildings or works, or for the continuance of any use of the land, to which the enforcement notice relates is granted

under Part III of the Act of 1947 the enforcement notice shall, 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, for the discontinuance of the use, cease to have effect; and if the permission was granted so as to permit the retention of buildings or works or the continuance of any use of land without complying with some condition subject to which a previous permission under the said Part III was granted, the enforcement notice shall cease to have effect so far as it requires steps to be taken for compliance with that condition.

- (2) The provisions of the foregoing subsection shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the enforcement notice before the relevant provision of the enforcement notice ceased to have effect.
- (3) In subsection (3) of section twenty-four of the Act of 1947 the words " without the grant of permission in that behalf under this Part of this Act" shall cease to have effect.
- (4) Subsection (1) of this section shall apply to an enforcement notice whether served before or after the commencement of this Act, but not in relation to any permission granted under Part III of the Act of 1947 before the commencement of this Act.

39 Increase of penalty for using land in contravention of planning control

- (1) In subsection (3) of section twenty-four of the Act of 1947 (which imposes liability to a penalty not exceeding fifty pounds for failure to comply with an enforcement notice by continuing the use of land and in certain other circumstances) for the words " fifty pounds " there shall be substituted the words " one hundred pounds ".
- (2) In subsection (4) of section twenty-six of the said Act (which imposes liability to a penalty not exceeding fifty pounds for failure to comply with an order under that section) for the words " fifty pounds " there shall be substituted the words " one hundred pounds ".
- (3) This section shall not apply to an offence committed before the commencement of this Act.

40 Repeated operation of enforcement notices

- (1) Compliance with an enforcement notice, whether as respects—
 - (a) the demolition or alteration of any buildings or works, or
 - (b) the discontinuance of any use of land,or as respects any other requirements in the enforcement notice, shall not discharge the enforcement notice.
- (2) Without prejudice to subsection (1) of this section, any requirement in an enforcement notice for the discontinuance of any use of land shall operate as a requirement for the permanent discontinuance of the use to the extent that the use is in contravention of Part III of the Act of 1947, and accordingly the resumption of the use at any time after its discontinuance in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.
- (3) Without prejudice to subsection (1) of this section, 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 enforcement 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

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the buildings or works before they were demolished or altered, and, subject to the provisions of this section, subsections (1) and (2) of section twenty-four of the Act of 1947 (which authorise the local planning authority themselves to take the steps required by an enforcement notice in certain cases) shall apply accordingly.

- (4) If at any time after an enforcement notice takes effect 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 enforcement notice, the local planning authority shall, not less than twenty-eight days before, under subsection (1) of section twenty-four of the Act of 1947, taking any steps required by the enforcement notice for the demolition or alteration of the buildings or works in consequence of the reinstatement or restoration, serve on the owner and occupier of the land a notice of their intention to take those steps.
- (5) A person who, without the grant of permission in that behalf under Part III of the Act of 1947, 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 shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds ; and no person shall be liable under section thirty-six of this Act 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.
- (6) This section shall apply in relation to an enforcement notice served before the commencement of this Act as well as in relation to one served after the commencement of this Act.

41 Explanation of provisions of 1947 Act relating to planning permission

- (1) It is hereby declared that where permission has been granted under section eighteen of the Act of 1947 for the retention on land of any buildings or works, or for the continuance of any use of land, subject to any condition or limitation, -the references in subsections (1) and (2) of section twenty-three of that Act to any conditions or limitations subject to which permission was granted in respect of any development include references to any such condition or limitation.
- (2) It is hereby declared that the power conferred by subsection (1) of the said section eighteen is exercisable not only where development has been carried out without permission or where a previous permission has been granted for a limited period only, but also so as to permit the retention of buildings or works or the continuance of any use of land without complying with some condition subject to which a previous permission under Part III of the Act of 1947 was granted.
- (3) It is hereby declared that where—
 - (a) permission is granted under Part III of the Act of 1947 for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition, and
 - (b) any building or other operations are commenced after the time so specified, the commencement and carrying out of those operations do not constitute development for which that permission was granted.

42 Amendments as to orders under s. 26 of Act of 1947

- (1) Where a local planning authority submit an order to the Minister for his confirmation under section twenty-six of the Act of 1947 (under which orders may be made restricting the use of land or requiring the alteration or removal of buildings or works) the power of the Minister to confirm the order subject to modifications shall include power to include in the order any grant of permission for development of the land which might have been included in the order submitted to him, as well as power to modify any provision for the grant of such permission which was so included.
- (2) In relation to the power to grant permission to develop land by an order under the said section twenty-six, section eighteen of the Act of 1947 shall apply as if for the reference in subsection (1) of that section to the date of the application for permission there were substituted a reference to the date of submission of the order to the Minister.

43 Additional powers of entry for purposes of control of development

- (1) In section one hundred and three of the Act of 1947 (which confers powers of entry for the purposes of that Act) after subsection (1) there shall be added the following subsection:—
 - “(1A) Any person duly authorised in writing by the Minister or by a local planning authority may, at any reasonable time, enter upon any land as respects which a notice or order has been served or made under Part III of this Act, or under any order or regulations made under Part III of this Act, for the purpose of ascertaining whether the notice or order has been complied with”.
- (2) This section shall apply in relation to a notice or order served or made before the commencement of this Act as well as in relation to one served or made after the commencement of this Act.

44 Enforcement notices under s. 75 of Act of 1947

In relation to an enforcement notice served by virtue of section seventy-five of the Act of 1947 (which relates to development contravening planning control carried out before the coming into force of that Act and during the war period) subsection (1) of section thirty-three of this Act shall have effect as if for paragraphs (b) and (c) of that subsection there were substituted the following paragraph:—

- “(b) that the works or use to which the enforcement notice relates are not works or a use to which section seventy-five of the Act of 1947 applies”.

45 Notices under sections 30 and 33 of Act of 1947

- (1) The Third Schedule to this Act shall have effect as regards notices under subsection (8) of section thirty and notices under section thirty-three of the Act of 1947 (which relate to buildings of special interest, and to the proper maintenance of waste land) and, subject to the provisions of that Schedule, sections twenty-three and twenty-four of the Act of 1947 shall not apply to such notices.
- (2) Subsection (1) of this section shall not apply in relation to a notice served before the commencement of this Act.

46 Construction of Part II

- (1) This Part of this Act shall be construed as one with Part III of the Act of 1947.
- (2) Without prejudice to the provisions of subsection (1) of this section, section eighty-seven of the Act of 1947, and in particular paragraph (b) of subsection (2) of that section (which provides that any restrictions and powers imposed and conferred by Part III of the Act of 1947 shall apply to Crown land to the extent of any interest therein for the time being held otherwise than by or on behalf of the Crown), shall apply in relation to this Part of this Act as it applies in relation to Part III of the Act of 1947.

47 Interpretation, transitional provisions and extent

- (1) In this Part of this Act, unless the context otherwise requires,—
 - " decision " includes any direction or order and references to the giving of a decision shall be construed accordingly;
 - " enforcement notice " means a notice served under section twenty-three of the Act of 1947 by a local planning authority or, in accordance with section one hundred of that Act, by the Minister and, in relation to an enforcement notice served by the Minister, references in section thirty-six and section forty of this Act to the local planning authority shall be taken as references to the Minister.
- (2) Save as otherwise expressly provided, this Part of this Act shall not apply in relation to an enforcement notice served before the commencement of this Act on the owner and occupier of the land.
- (3) This Part of this Act shall not extend to Scotland.