



Public Health Act 1936

1936 CHAPTER 49 26 Geo 5 and 1 Edw 8

PART XII

GENERAL

Notices requiring the execution of works

290 Provisions as to appeals against, and the enforcement of, notices requiring execution of works.

- (1) The following provisions of this section shall, subject to any express modifications specified in the section under which the notice is given, apply in relation to any notice given under this Act which is expressly declared to be a notice in relation to which the provisions of this Part of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works are to apply.
- (2) Any such notice shall indicate the nature of the works to be executed, and state the time within which they are to be executed.
- (3) A person served with such a notice as aforesaid may appeal to a court of summary jurisdiction on any of the following grounds which are appropriate in the circumstances of the particular case:—
 - (a) that the notice or requirement is not justified by the terms of the section under which it purports to have been given or made;
 - (b) that there has been some informality, defect or error in, or in connection with, the notice;
 - (c) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
 - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;

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- (e) that the notice might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served;
 - (f) where the work is work for the common benefit of the premises in question and other premises, that some other person, being the owner or occupier of premises to be benefited, ought to contribute towards the expenses of executing any works required.
- (4) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in or in connection with the notice, the court shall dismiss the appeal, if it is satisfied that the informality, defect or error was not a material one.
- (5) Where the grounds upon which an appeal under this section is brought include a ground specified in paragraph (e) or paragraph (f) of subsection (3) of this section, the appellant shall serve a copy of his notice of appeal on each other person referred to, and in the case of any appeal under this section may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question, and on the hearing of the appeal the court may make such order as it thinks fit with respect to the person by whom any work is to be executed and the contribution to be made by any other person towards the cost of the work, or as to the proportions in which any expenses which may become recoverable by the local authority are to be borne by the appellant and such other person.
- In exercising its powers under this subsection, the court shall have regard—
- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required; and
 - (b) in any case, to the degree of benefit to be derived by the different persons concerned.
- (6) Subject to such right of appeal as aforesaid, if the person required by the notice to execute works fails to execute the works indicated within the time thereby limited, the local authority may themselves execute the works and recover from that person the expenses reasonably incurred by them in so doing and, without prejudice to their right to exercise that power, he shall be liable to a fine not exceeding [^{F1}level 4 on the standard scale], and to a further fine not exceeding [^{F2}£2] for each day on which the default continues after conviction therefor.
- (7) In proceedings by the local authority against the person served with the notice for the recovery of any expenses which the authority are entitled to recover from him, it shall not be open to him to raise any question which he could have raised on an appeal under this section.

Textual Amendments

F1 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**

F2 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), **s. 10(1)**

Modifications etc. (not altering text)

C1 S. 290 amended by [Public Health Act 1961 \(c. 64\)](#), **ss. 21(2)(3)**, 29(10)(11), 32(3)-(5), 46(4)

C2 S. 290 applied by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), ss. 10, 23(2), 27(2), **Sch. 5 para. 11(2)**

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- C3** S. 290 restored for specified purposes by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 69, **Sch. 8 para. 1(3)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 13(2)(3), 17, 40(4), 57(6), 58)
- C4** S. 290 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), 9, **Sch. 1**
- C5** S. 290(6) extended by [Highways Act 1980 \(c. 66, SIF 59\)](#), s. **166(4)**

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