



# Building Act 1984

## 1984 CHAPTER 55

### PART I

#### BUILDING REGULATIONS

#### *[<sup>F1</sup>Notices in respect of contraventions*

#### Textual Amendments

- F1** Ss. 35B-35D and cross-heading inserted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), ss. [38\(1\)](#), [170\(4\)\(b\)\(c\)](#); S.I. [2023/362](#), [reg. 3\(1\)\(q\)](#); S.I. [2023/914](#), [reg. 2\(b\)\(v\)](#); S.I. [2023/993](#), [reg. 2\(h\)](#)

#### **35B Compliance notices**

- (1) The building control authority may give a compliance notice to a person who appears to the authority to have contravened, be contravening or be likely to contravene—
  - (a) a relevant provision of building regulations, or
  - (b) a requirement imposed by virtue of such a provision.
- (2) A “compliance notice” is—
  - (a) a notice requiring the recipient to take specified steps within a specified period, or
  - (b) a notice requiring the recipient to remedy the contravention or the matters giving rise to it within a specified period.
- (3) A notice of a kind mentioned in [subsection \(2\)\(a\)](#) may specify any steps relating to—
  - (a) the remedying of the contravention, or
  - (b) avoiding the contravention occurring.
- (4) A person who, without reasonable excuse, contravenes a compliance notice commits an offence.

*Status: Point in time view as at 01/10/2023.*

*Changes to legislation: Building Act 1984, Cross Heading: Notices in respect of contraventions is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
- and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.
- (6) A compliance notice may not be given in respect of a contravention which occurred more than 12 months before the day on which the notice is given.
- (7) In this section—
- (a) “relevant provision” means any provision of building regulations except one that is prescribed for the purposes of this paragraph;
  - (b) “specified” means specified in the notice.

### 35C Stop notices

- (1) The building control authority may give a stop notice to a person appearing to the authority to be in control of any work if it appears to the authority that—
- (a) the carrying out of the work would contravene a provision of building regulations prescribed for the purposes of this paragraph,
  - (b) a compliance notice relating to the work has been contravened, or
  - (c) the work contravenes a provision of building regulations or a requirement imposed by virtue of such a provision, and the risk of serious harm condition is met.
- (2) For the purposes of [subsection \(1\)\(c\)](#) the “risk of serious harm condition” is that use of the building in question without the contravention having been remedied would be likely to present a risk of serious harm to people in or about the building.
- (3) A “stop notice” is a notice prohibiting, either immediately or from a specified time, the carrying out of specified work until the occurrence of such of the following as may be specified—
- (a) the taking of specified steps;
  - (b) the occurrence of specified circumstances;
  - (c) the remedying of a specified contravention or the matters giving rise to it.
- (4) Where a stop notice is contravened, the person to whom the notice was given commits an offence.
- (5) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
- and (in either case) is liable on summary conviction to a further fine not exceeding level 1 on the standard scale for each day on which the default continues after the initial conviction.

*Status: Point in time view as at 01/10/2023.*

*Changes to legislation: Building Act 1984, Cross Heading: Notices in respect of contraventions is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (6) It is a defence for a person charged with an offence under this section to prove that the person took all reasonable precautions and exercised all due diligence to avoid the contravention of the stop notice.
- (7) In this section “specified” means specified in the notice.

### **35D Compliance and stop notices: supplementary**

- (1) Building regulations may make provision about compliance notices or stop notices.
- (2) The regulations may in particular make provision about—
  - (a) the form and content of notices;
  - (b) the giving of notices;
  - (c) the amendment or withdrawal of notices;
  - (d) the extension of any period specified in a compliance notice for the doing of a thing.
- (3) The regulations may require a building control authority which gives a notice to a person to take reasonable steps to notify other prescribed persons.
- (4) A compliance notice, or a stop notice under [section 35C\(1\)\(a\)](#), may not be given in respect of a contravention (including a future contravention) where—
  - (a) an application for building control approval was made to a building control authority in respect of any work that is not higher-risk building work,
  - (b) the application was granted, and
  - (c) the contravention consists (or would consist) of the carrying out of work or the doing of anything else in accordance with—
    - (i) the plans, or any other document, approved by the grant of building control approval, and
    - (ii) any requirement imposed by the building control authority in connection with the work or other thing.]

### **36 Removal or alteration of offending work.**

- (1) If any work to which building regulations are applicable contravenes any of those regulations [<sup>F2</sup>or a requirement imposed by virtue of any of those regulations], the [<sup>F3</sup>local authority][<sup>F3</sup>building control authority], without prejudice to their right to take proceedings for a fine in respect of the contravention, may by notice require the owner—
  - (a) to pull down or remove the work, or
  - (b) if he so elects, to effect such alterations in it as may be necessary to make it comply with the regulations.
- (2) If, in a case where the [<sup>F3</sup>local authority][<sup>F3</sup>building control authority] are, by [<sup>F4</sup>any section of this Part of this Act other than section 16][<sup>F4</sup>any of sections 19 to 25], expressly required or authorised to reject [<sup>F5</sup>plans][<sup>F5</sup>an application for building control approval], any work to which building regulations are applicable is executed—
  - (a) [<sup>F6</sup>without such an application having been made,]
  - (b) [<sup>F6</sup>notwithstanding the refusal of such an application, or]
  - (c) otherwise than in accordance with any requirements subject to which the authority [<sup>F7</sup>passed the plans][<sup>F7</sup>granted such an application],

*Status: Point in time view as at 01/10/2023.*

*Changes to legislation: Building Act 1984, Cross Heading: Notices in respect of contraventions is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

the authority may by notice to the owner—

- (i) require him to pull down or remove the work, or
  - (ii) require him either to pull down or remove the work or, if he so elects, to comply with any other requirements specified in the notice, being requirements that they might have made under the section in question as a condition of [F8 passing plans][F8 granting such an application].
- (3) If a person to whom a notice has been given under subsection (1) or (2) above fails to comply with the notice before the expiration of 28 days, or such longer period as [F9 a magistrates' court][F9 the appropriate court or tribunal] may on his application allow, the [F3 local authority][F3 building control authority] may—
- (a) pull down or remove the work in question, or
  - (b) effect such alterations in it as they deem necessary,
- and may recover from him the expenses reasonably incurred by them in doing so.
- (4) A notice under subsection (1) or (2) above (called a “section 36 notice”) shall not be given after the expiration of [F10 12 months][F10 10 years] from the date of the completion of the work in question.
- (5) [F11 Subsection (5A) applies where—
- (a) an application for building control approval is made to a building control authority in respect of any work that is not higher-risk building work,
  - (b) the application is granted, and
  - (c) work that is shown on the plans approved by the granting of the application (“the work”) is executed in accordance with—
    - (i) the plans, and
    - (ii) any requirement imposed by the building control authority.
- (5A) A section 36 notice may not be given on the ground that the work contravenes—
- (a) any building regulations or any requirement imposed by virtue of the regulations, or (as the case may be)
  - (b) any requirement under any of sections 19 to 25.]
- (6) This section [F12 does][F12, and sections 35B and 35C, do] not affect the right of a [F13 local authority][F13 building control authority], the Attorney General [F14, the Counsel General to the Welsh Government] or any other person to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any regulation or any provision of this Act; but if—
- (a) [F15 an application for building control approval was made to the local authority in respect of the work,]
  - (b) [F15 the application was granted,]
  - (c) [F15 the work was executed in accordance with—
    - (i) the plans approved by the granting of the application, and
    - (ii) any requirement imposed by the authority, and
  - (d) the work was not higher-risk building work,]

the court on granting an injunction has power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall in accordance with rules of court cause the local authority, if not a party to the proceedings, to be joined as a party to them.

*Status: Point in time view as at 01/10/2023.*

*Changes to legislation: Building Act 1984, Cross Heading: Notices in respect of contraventions is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F2** Words in s. 36(1) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(3\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 7)
- F3** Words in s. 36(1)-(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(2\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 4, 7)
- F4** Words in s. 36(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(4\)\(a\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F5** Words in s. 36(2) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(4\)\(b\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F6** S. 36(2)(a)(b) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(4\)\(c\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F7** Words in s. 36(2)(c) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(4\)\(d\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F8** Words in s. 36(2)(ii) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(4\)\(e\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F9** Words in s. 36(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(g\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)
- F10** Words in s. 36(4) substituted (6.4.2023 for specified purposes except in relation to W., 5.9.2023 for W. for specified purposes, 1.10.2023 in so far as not already in force except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), [ss. 39\(3\)](#), 170(4)(b)(c); S.I. 2023/362, reg. 3(1)(r); S.I. 2023/914, reg. 2(b)(vi); S.I. 2023/993, reg. 2(i) (with reg. 7)
- F11** S. 36(5)(5A) substituted for s. 36(5) (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(5\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)
- F12** Words in s. 36(6) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(6\)\(a\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 7)
- F13** Words in s. 36(6) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(6\)\(b\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 4, 7)
- F14** Words in s. 36(6) inserted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(6\)\(c\)](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 7)
- F15** S. 36(6)(a)-(d) substituted for s. 36(6)(a)-(c) (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 32\(6\)\(d\)](#); S.I. 2023/993, reg. 2(n)(xi) (with regs. 3, 7)

### Modifications etc. (not altering text)

- C1** S. 36(2)-(6) amended by [Midland Metro Act 1989 \(c. xv\)](#), [s. 45\(10\)](#)s. 36(2)-(6) extended (27.7.1993) by 1993 c. xv, [s. 55\(10\)](#).S. 36(2)-(6) applied with modifications (21.7.1994) by 1994 c. XV, s. 58(10)

## 37 Obtaining of report where section 36 notice given.

(1) In a case where—

- (a) a person to whom a section 36 notice has been given gives to the <sup>[F16]</sup>local authority<sup>[F16]</sup>building control authority] by whom the notice was given notice of his intention to obtain from a suitably qualified person a written report concerning work to which the section 36 notice relates, and
- (b) such a report is obtained and submitted to the <sup>[F16]</sup>local authority<sup>[F16]</sup>building control authority] and, as a result of their consideration of it, the <sup>[F16]</sup>local authority<sup>[F16]</sup>building control authority] withdraw the section 36 notice,

the <sup>[F16]</sup>local authority<sup>[F16]</sup>building control authority] may pay to the person to whom the section 36 notice was given such amount as appears to them to represent the expenses reasonably incurred by him in consequence of their having given him that notice including, in particular, his expenses in obtaining the report.

*Status: Point in time view as at 01/10/2023.*

*Changes to legislation: Building Act 1984, Cross Heading: Notices in respect of contraventions is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Subject to subsection (3) below, if a person to whom a section 36 notice has been given gives notice under subsection (1)(a) above, then, so far as regards the matters to which the section 36 notice relates, the reference to 28 days in section 36(3) above shall be construed as a reference to 70 days.
- (3) Notice under subsection (1)(a) above shall be given before the expiry of the period of 28 days referred to in section 36(3) above, or, as the case may be, within such longer period as [<sup>F17</sup>a court][<sup>F17</sup>the appropriate court or tribunal] allows under section 36(3); and, where such a longer period has been so allowed before notice is given under subsection (1)(a) above, subsection (2) above does not apply.

#### Textual Amendments

- F16** Words in s. 37(1) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 33](#); S.I. 2023/993, reg. 2(n)(xi) (with reg. 4)
- F17** Words in s. 37(3) substituted (1.10.2023 except in relation to W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 13](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6)

## 38 Civil liability.

- (1) Subject to this section—
- (a) breach of a duty imposed by building regulations, so far as it causes damage, is actionable, except in so far as the regulations provide otherwise, and
  - (b) as regards such a duty, building regulations may provide for a prescribed defence to be available in an action for breach of that duty brought by virtue of this subsection.
- (2) Subsection (1) above, and any defence provided for in regulations made by virtue of it, do not apply in the case of a breach of such a duty in connection with a building erected before the date on which that subsection comes into force unless the regulations imposing the duty apply to or in connection with the building by virtue of section 2(2) [<sup>F18</sup>or 2A] above or paragraph 8 of Schedule 1 to this Act.
- (3) This section does not affect the extent (if any) to which breach of—
- (a) a duty imposed by or arising in connection with this Part of this Act or any other enactment relating to building regulations, or
  - (b) a duty imposed by building regulations in a case to which subsection (1) above does not apply,
- is actionable, or prejudice a right of action that exists apart from the enactments relating to building regulations.
- (4) In this section, “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).

#### Textual Amendments

- F18** Words in s. 38(2) inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), [ss. 4\(3\)](#), [11\(4\)](#)

#### Commencement Information

- II** S. 38 in force at 1.12.1984 for specified purposes, see [s. 134\(1\)\(a\)](#)

**Status:**

Point in time view as at 01/10/2023.

**Changes to legislation:**

Building Act 1984, Cross Heading: Notices in respect of contraventions is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.