

SCHEDULES

SCHEDULE 7

PLANNING IN ENGLAND AND WALES: MINOR AND CONSEQUENTIAL AMENDMENTS

Part VII

- 22 In section 174(6) “in writing” is omitted.
- 23 For section 176(1) and (2) there is substituted—
- “(1) On an appeal under section 174 the Secretary of State may—
- (a) correct any defect, error or misdescription in the enforcement notice;
- or
- (b) vary the terms of the enforcement notice,
- if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
- (2) Where the Secretary of State determines to allow the appeal, he may quash the notice.
- (2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.”
- 24 (1) In section 177(1)—
- (a) for paragraph (a) there is substituted—
- “(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;” and
- (b) for paragraph (c) there is substituted—
- “(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.
- (1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—
- (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

Status: This is the original version (as it was originally enacted).

(b) references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194”.

(2) For section 177(3) there is substituted—

“(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.”

(3) In section 177(5) for “for the development to which the notice relates” there is substituted “in respect of the matters stated in the enforcement notice as constituting a breach of planning control”.

25 In section 178(2) “(as defined in section 172(3))” is omitted.

26 For section 180 there is substituted—

“180 Effect of planning permission, etc., on enforcement or breach of condition notice

(1) Where, after the service of—

- (a) a copy of an enforcement notice; or
- (b) a breach of condition notice,

planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.

(2) Where after a breach of condition notice has been served any condition to which the notice relates is discharged, the notice shall cease to have effect so far as it requires any person to secure compliance with the condition in question.

(3) The fact that an enforcement notice or breach of condition notice has wholly or partly ceased to have effect by virtue of this section shall not affect the liability of any person for an offence in respect of a previous failure to comply, or secure compliance, with the notice.”

27 In section 181—

- (a) in subsections (1)(a), (4)(b) and (5)(b) for “demolition”, in each place where it occurs, there is substituted “removal”;
- (b) in subsections (3), (4) and (5) for “demolished”, in each place where it occurs, there is substituted “removed”; and
- (c) in subsection (5)(b) for “any of the provisions of section 179(1) to (5)” there is substituted “section 179(2)”.

28 In section 184—

- (a) in subsection (4)(b) for “compliance period” there is substituted “period for compliance with the enforcement notice”;
- (b) in subsection (5) for the words from “included” to the end there is substituted “relevant activities”;
- (c) in subsection (8) for “172(6)” there is substituted “172”.

29 In section 186—

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- (a) in subsection (1)(b) for the words from “matters” to the end there is substituted “any activity the carrying out of which is prohibited by the stop notice ceases to be a relevant activity”; and
 - (b) in subsection (1)(c) the words from “or for its retention” to “granted” are omitted;
 - (c) in subsection (2) for the words from “so much” to the end there is substituted “the prohibition of such of the activities prohibited by the stop notice as cease to be relevant activities”.
- 30 In section 188—
- (a) after subsection (1)(b) there is inserted “and
 - (c) to breach of condition notices”, and the “and” immediately preceding paragraph (b) is omitted;
 - (b) in subsection (2)(a) for “or stop notice” there is substituted “stop notice or breach of condition notice”, and
 - (c) in subsection (2)(b) after “stop notices” there is inserted “and breach of condition notices”.
- 31 Section 190(4) is omitted.
- 32 In section 195—
- (a) in subsection (1) for “an established use certificate” there is substituted “a certificate under section 191 or 192”,
 - (b) in subsection (2) for “an established use certificate” there is substituted “a certificate under section 191 or, as the case may be, 192”, and
 - (c) for subsection (4) there is substituted—
 - “(4) References in this section to a refusal of an application in part include a modification or substitution of the description in the application of the use, operations or other matter in question.”
- 33 In section 196—
- (a) in subsection (1) “an application referred to him under section 192(5) or” is omitted and for “applicant or appellant (as the case may be)” there is substituted “appellant”,
 - (b) in subsection (2) for “an established use certificate on such a reference or” there is substituted “a certificate under section 191 or 192 on”,
 - (c) in subsection (3) “application or” is omitted,
 - (d) in subsection (4) for “established use certificates” there is substituted “certificates under section 191 or 192”, and
 - (e) subsections (5) to (7) are omitted.