



2011 CHAPTER 21

Enforcement powers, etc.

Offences

10.—(1) Where—

- (a) a remedial notice requires the taking of any action, and
- (b) that action is not taken in accordance with that notice within the compliance period or (as the case may be) by the subsequent time by which it is required to be taken,

every person who, at a relevant time, is an owner or occupier of the neighbouring land is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) In subsection (1) “relevant time”—

- (a) in relation to action required to be taken before the end of the compliance period, means a time after the end of that period and before the action is taken; and
- (b) in relation to any preventative action which is required to be taken after the end of that period, means a time after that at which the action is required to be taken but before it is taken.

(3) In proceedings against a person (“D”) for an offence under subsection (1) it is a defence for D to show that D did everything D could be expected to do to secure compliance with the notice.

(4) In any such proceedings, it is also a defence for D to show, in a case in which D—

- (a) is not a person to whom a copy of the remedial notice was sent in accordance with a provision of this Act, and

- (b) is not assumed under subsection (5) to have had knowledge of the notice at the time of the alleged offence,

that D was not aware of the existence of the notice at that time.

(5) D shall be assumed to have had knowledge of a remedial notice at any time if at that time—

- (a) D was an owner of the neighbouring land; and
- (b) the notice was at that time registered as a statutory charge.

(6) Where a person is convicted of an offence under subsection (1) and it appears to the court—

- (a) that a failure to comply with the remedial notice is continuing, and

(b) that it is within that person's power to secure compliance with the notice, the court may, in addition to or instead of imposing a punishment, order that person to take the steps specified in the order for securing compliance with the notice.

(7) An order under subsection (6) must require those steps to be taken within such reasonable period as may be fixed by the order.

(8) A person who fails without reasonable excuse to comply with an order under subsection (6) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(9) If a person continues after conviction of an offence under subsection (8) or this subsection to fail, without reasonable excuse, to take steps which that person has been ordered to take under subsection (6), that person is guilty of a further offence and liable, on summary conviction, to a fine not exceeding one-twentieth of level 3 on the standard scale for each day on which the failure has so continued.