2011 CHAPTER 25

Part 14

Miscellaneous and general provisions

Review of Act

Review of Act

228.—(1) The Department must—

(a) not later than 3 years after the commencement of Part 3 of this Act, and

(b) at least once in every period of 5 years thereafter,

review and publish a report on the implementation of this Act.

(2) Regulations under this section shall set out the terms of the review.

Modifications etc. (not altering text)

C1 Ss. 228-235: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

I1 S. 228 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I2 S. 228 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Duty to respond to consultation

Duty to respond to consultation

229.—(1) This section applies to a prescribed requirement to consult any person or body (the consultee) which exercises functions for the purposes of any statutory provision.

(2) A prescribed requirement to consult is a requirement—

(a) with which the council or the Department must comply before granting any permission or consent under or by virtue of this Act; and

(b) which is prescribed for the purposes of this subsection.

(3) The consultee must give a substantive response to any consultation mentioned in subsection (2) before the end of—

(a) the period prescribed for the purposes of this subsection, or

(b) such other period as is agreed in writing between the consultee and the council or the Department (as the case may be).

(4) The Department may also prescribe—

(a) the procedure to be followed for the purposes of this section;

(b) the information to be provided to the consultee for the purposes of the consultation;

(c) the requirements of a substantive response.

(5) Anything prescribed for the purposes of subsections (1) to (4) must be prescribed by development order.

(6) A development order may—

(a) require consultees to give the Department a report as to their compliance with subsection (3);

(b) specify the form and content of the report;

(c) specify the times at which the report is to be made.

Modifications etc. (not altering text)

C1 Ss. 228-235: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

I3 S. 229 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I4 S. 229 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Application of Act in special cases

Minerals

230.—(1) This Act shall apply to development consisting of the winning and working of minerals subject to the adaptations and modifications specified in subsection (2).

(2) For the purposes of this Act "use" in relation to the development of land does not include the use of land by the carrying out of mining operations, so, however, that—

(a) section 23(5) shall apply in relation to the deposit of refuse or waste materials in the course of mining operations; and

(b) in the following provisions—

(i) section 24;

(ii) section 52(1)(b);

(iii) section 68(3);

(iv) section 73 or section 76;

(v) sections 133, 140(4), 145, 149 and 152;

(vi) section 168, 169 or 170,

references to the use of land or the purpose for which land may be used shall include the carrying out of mining operations and references to the continuance or discontinuance of a use of land shall include the continuance or discontinuance of mining operations.

Modifications etc. (not altering text)

C1 Ss. 228-235: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

I5 S. 230 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I6 S. 230 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Inquiries

Local inquiries

231.—(1) The Department may cause a public local inquiry to be held for the purpose of the exercise of any of its functions under this Act.

(2) Schedule A1 to the Interpretation Act (Northern Ireland) 1954 (c. 33) applies in relation to a public local inquiry held under this Act as it applies in relation to a local inquiry held under an enactment passed or made as mentioned in section 23 of that Act.

(3) Without prejudice to the provisions of Schedule A1 to the Interpretation Act (Northern Ireland) 1954, the Department may make rules regulating the procedure (except the procedure in relation to any matter for which rules under subsection (3) of section 233, subsection (3) of section 234 or subsection (2) or (5) of section 235 may make provision) to be followed in connection with inquiries held by or on behalf of the Department under this Act.

(4) Rules made under subsection (3) shall be subject to negative resolution.

Modifications etc. (not altering text)

C1 Ss. 228-235: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

I7 S. 231 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I8 S. 231 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Inquiries to be held in public subject to certain exceptions

232.—(1) Subject to subsections (2) and (4), at any public local inquiry or independent examination held under this Act oral evidence shall be heard in public and documentary evidence shall be open to public inspection.

(2) If the Secretary of State is satisfied in the case of any public local inquiry or independent examination—

(a) that giving evidence of a particular description or, as the case may be, making it available for inspection would be likely to result in the disclosure of information as to any of the matters mentioned in subsection (3); and

(b) that the public disclosure of that information would be contrary to the national interest,

the Secretary of State may direct that evidence of the description indicated in the direction shall only be heard or, as the case may be, open to inspection at that inquiry or examination by such persons or persons of such descriptions as may be specified in the direction.

(3) The matters referred to in subsection (2)(a) are—

(a) national security;

(b) the measures taken or to be taken to ensure the security of any premises or property belonging to Her Majesty in right of the Crown or belonging to a department of the government of the United Kingdom or held in trust for Her Majesty for the purposes of such a department;

(c) the measures taken or to be taken to ensure the security of any premises or property which is used for the purposes of the armed forces of the Crown or the Ministry of Defence Police.

(4) If the Department of Justice is satisfied in the case of any public local inquiry or independent examination—

(a) that giving evidence of a particular description or, as the case may be, making it available for inspection would be likely to result in the disclosure of information as to any of the matters mentioned in subsection (5); and

(b) that the public disclosure of that information would be contrary to the public interest,

the Department of Justice may direct that evidence of the description indicated in the direction shall only be heard or, as the case may be, open to inspection at that inquiry or examination by such persons or persons of such descriptions as may be specified in the direction.

(5) The matters referred to in subsection (4)(a) are the measures taken or to be taken to ensure the security of any premises or property (other than premises or property mentioned in subsection (3)(b) or (c)) except where those matters are matters of national security.

Modifications etc. (not altering text)

C1 Ss. 228-235: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

I9 S. 232 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I10 S. 232 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Directions: Secretary of State

233.—(1) If the Secretary of State is considering giving a direction under section 232(2), the Advocate General for Northern Ireland may appoint a person to represent the interests of any person who will be prevented from hearing or inspecting any evidence at any inquiry or examination if the direction is given.

(2) If before the Secretary of State gives a direction under section 232(2) no person is appointed under subsection (1), the Advocate General for Northern

Ireland may at any time appoint a person as mentioned in subsection (1) for the purposes of the inquiry or examination.

(3) The Lord Chancellor may by rules make provision—

(a) as to the procedure to be followed by the Secretary of State before a direction is given under section 232(2) in a case where a person has been appointed under subsection (1);

(b) as to the functions of a person appointed under subsection (1) or (2).

(4) Rules made under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

(5) If a person is appointed under subsection (1) or (2) (the appointed representative) the Secretary of State may direct any person who the Secretary of State thinks is interested in the inquiry or examination in relation to a matter mentioned in section 232(3) (the responsible person) to pay the fees and expenses of the appointed representative.

(6) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount shall be determined by the Secretary of State.

(7) The Secretary of State shall cause the amount agreed between the appointed representative and the responsible person or determined by the Secretary of State to be certified.

(8) An amount so certified is recoverable from the responsible person as a civil debt.

Modifications etc. (not altering text)

C1 Ss. 228-235: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

I11 S. 233 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I12 S. 233 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Directions: Department of Justice

234.—(1) If the Department of Justice is considering giving a direction under section 232(4) the Attorney General may appoint a person to represent the interests of any person who will be prevented from hearing or inspecting any evidence at any inquiry or examination if the direction is given.

(2) If before the Department of Justice gives a direction under section 232(4) no person is appointed under subsection (1), the Attorney General may at any time appoint a person as mentioned in subsection (1) for the purposes of the inquiry or examination.

(3) The Department of Justice may by rules make provision—

(a) as to the procedure to be followed by that Department before a direction is given under section 232(4) in a case where a person has been appointed under subsection (1);

(b) as to the functions of a person appointed under subsection (1) or (2).

(4) Rules made under subsection (3) shall be subject to negative resolution.

(5) If a person is appointed under subsection (1) or (2) (the appointed representative) the Department of Justice may direct any person who that Department thinks is interested in the inquiry or examination in relation to a matter mentioned in section 232(5) (the responsible person) to pay the fees and expenses of the appointed representative.

(6) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount shall be determined by the Department of Justice.

(7) The Department of Justice shall cause the amount agreed between the appointed representative and the responsible person or determined by that Department to be certified.

(8) An amount so certified is recoverable from the responsible person as a civil debt.

Modifications etc. (not altering text)

C1 Ss. 228-235: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

I13 S. 234 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I14 S. 234 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

National security

235.—(1) Where, in relation to an application for planning permission or an application for any consent or approval under this Act or a development order, the Secretary of State is of the opinion—

(a) that the consideration by the council or, as the case may be, the Department of the Environment of the application or of any representations or objections made in respect of the application raises matters relating to—

(i) national security;

(ii) the measures taken or to be taken to ensure the security of any premises or property belonging to Her Majesty in right of the Crown or belonging to a department of the government of the United Kingdom or held in trust for Her Majesty for the purposes of such a department;

(iii) the measures taken or to be taken to ensure the security of any premises or property which is used for the purposes of the armed forces of the Crown or the Ministry of Defence Police; and

(b) that the public disclosure of information as to any of those matters would be contrary to the national interest,

the Secretary of State may certify that the application is one to which this subsection applies.

(2) The Secretary of State may by rules make provision—

(a) for the procedure to be followed in relation to the issue of a certificate under subsection (1);

(b) enabling the Department of the Environment to dispense with an inquiry where that Department or the relevant council has not received any objections or representations in respect of an application to which subsection (1) applies or where every objection or representation made in respect of such an application is withdrawn.

(3) Rules made under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

(4) Where, in relation to an application for planning permission or an application for any consent or approval under this Act or a development order, the Department of Justice is of the opinion—

(a) that the consideration by the council or, as the case may be, the Department of the Environment of the application or of any representations or objections made in respect of the application raises matters relating to the measures taken or to be taken to ensure the security of any premises or property, other than premises or property mentioned in subsection (1)(a)(ii) or (iii); and

(b) that the public disclosure of information as to any of those matters would be contrary to the public interest,

the Department of Justice may certify that the application is one to which this subsection applies.

(5) The Department of Justice may by rules make provision—

(a) for the procedure to be followed in relation to the issue of a certificate under subsection (4);

(b) enabling the Department of the Environment to dispense with an inquiry where that Department or the relevant council has not received any objections or representations in respect of an application to which subsection (4) applies or where every objection or representation made in respect of such an application is withdrawn.

(6) Rules made under subsection (5) shall be subject to negative resolution.

Modifications etc. (not altering text)

C1 Ss. 228-235: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

I15 S. 235 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I16 S. 235 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Rights of entry

Rights of entry

236.—(1) Any person duly authorised in writing by a council may at any reasonable time enter any land for the purpose—

(a) of surveying it in connection with—

(i) the preparation, revision or adoption of a local development plan relating to the land under Part 2;

(ii) the making or altering of a simplified planning zone scheme relating to the land;

(iii) any application under Part 3 or 4, or under any order or regulations made thereunder, for any permission, consent, agreement, approval or determination to be given or made in connection with that land or any other land under Part 3 or 4 or under any such order or regulations;

(iv) any proposal by the council to make, issue or serve any order or notice under Part 3 or 4, or under any order or regulations made thereunder;

(b) of ascertaining—

(i) whether any listed building on the land is being maintained in a proper state of repair;

(ii) whether any order or notice made, issued or served as mentioned in paragraph (a)(iv) in respect of the land has been complied with;

(c) of affixing a notice in accordance with section 82(1) or displaying a notice in accordance with section 150(10) or (11).

(2) Any person duly authorised in writing by the Department may at any reasonable time enter any land for the purpose—

(a) of surveying it in connection with—

(i) the preparation, revision or approval of a local development plan relating to the land under Part 2;

(ii) any application under Part 3 or 4, or under any order or regulations made thereunder, for any permission, consent, agreement, approval or determination to be given or made in connection with that land or any other land under Part 3 or 4 or under any such order or regulations;

(iii) any proposal by the Department to make, issue or serve any order or notice under Part 3 or 4, or under any order or regulations made thereunder, or any notice under section 202;

(b) of surveying any building on the land in connection with a proposal to include the building in, or exclude it from, a list compiled under section 80;

(c) of ascertaining—

(i) whether any listed building on the land is being maintained in a proper state of repair;

(ii) whether any order or notice made, issued or served as mentioned in paragraph (a)(iii) in respect of the land has been complied with;

(d) of displaying a notice in accordance with section 150(10) or (11) (as applied by section 151).

(3) Any member of the planning appeals commission may at any reasonable time enter any land for the purpose of surveying it in connection with the exercise of the functions of the commission under this Act.

(4) Any person, being an officer of the Department of Finance and Personnel or a person duly authorised in writing by the **[**[F1]Department for Communities or the Department for Infrastructure**]** or a council, may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with—

(a) any proposal to acquire that land or any other land under this Act or any claim for compensation in respect of any such acquisition;

(b) any claim for compensation in respect of that land under any of sections 181 to 187.

(5) Any power conferred by this section to survey land shall be construed as conferring power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein, but a person shall not carry out any works authorised by virtue of this subsection unless notice of that person's intention to do so was included in the notice required by section 237(1)(b).

(6) Where it is proposed to search or bore in pursuance of subsection (5) in a street within the meaning of the Street Works (Northern Ireland) Order 1995 (NI 19)—

(a) Article 15 of that Order (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street which is likely to be affected by the works;

(b) Article 29 of that Order (requirements to be complied with where works likely to affect another person's apparatus in the street); and

(c) Article 42 of that Order (liability for damage or loss caused),

have effect in relation to the searching or boring as if they were street works within the meaning of that Order.

Textual Amendments

F1 Words in s. 236(4) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 81** (with art. 9(2))

Modifications etc. (not altering text)

C2 S. 236 (except subsections (2)(a) for specified purposes, (2)(b) and (c)(i)): transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

C3 S. 236(2)(a): transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

C4 S. 236(2)(b): transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

C5 S. 236(2)(c)(i): transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

C6 S. 236(5) applied by S.I. 1981/607 (N.I. 15), art. 9(2) (as substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 34** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Commencement Information

I17 S. 236 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I18 S. 236 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Supplementary provisions as to powers of entry

237.—(1) A person authorised or permitted under section 236 to enter upon any land—

(a) must, if so required, produce evidence of that person's authority or of that person's appointment as a member of the planning appeals commission and state the purpose of entry before so entering;

(b) must not demand admission as of right to any land which is occupied unless 3 days' notice of the intended entry has been given to the occupier.

(2) Any person who wilfully obstructs a person acting in the exercise of powers under section 236 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If any person who, in compliance with section 236, is admitted into a factory, workshop or work place discloses to any person any information obtained by the first-mentioned person as to any manufacturing process or trade secret, that person shall, unless the disclosure is made in the course of performing a duty in connection with the survey or estimate for which that person was authorised to enter the land, be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

(4) Where any property is damaged in the exercise of a right of entry conferred under section 236, or in the making of a survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the property from the council on whose behalf the entry was effected or, as the case may be, **[**[F2]the relevant department**]** .

(5) Any question of disputed compensation recoverable under subsection (4) shall be determined by the Lands Tribunal.

Textual Amendments

F2 Words in s. 237(4) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 82** (with art. 9(2))

Modifications etc. (not altering text)

C7 S. 237 applied by S.I. 1981/607 (N.I. 15), art. 9(2) (as substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 34** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

C8 S. 237: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

C9 S. 237: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

I19 S. 237 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I20 S. 237 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Supplementary provisions as to powers of entry: Crown land

238.—(1) Section 236 applies to Crown land subject to the following modifications.

(2) A person must not enter Crown land unless that person has the relevant permission.

(3) Relevant permission is the permission of—

(a) a person appearing to the person seeking entry to the land to be entitled to give it; or

(b) the appropriate authority.

(4) In subsection (5) the words from “, but a person” to the end of that subsection shall be omitted.

(5) Section 237 does not apply to anything done by virtue of this section.

(6) “Appropriate authority” and “Crown land” shall be construed in accordance with section 212(1).

Commencement Information

I21 S. 238 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I22 S. 238 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Miscellaneous and general provisions

Service of notices and documents

239.—(1) Without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33), any notice or other document required or authorised to be served on or sent or given to any person under the provisions of this Act may be served, sent or given, in a case where an address for service

using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in subsection (2), to that person at that address (subject to subsection (3)).

(2) The condition mentioned in subsection (1) is that the notice or other document is—

(a) capable of being accessed by the recipient;

(b) legible in all material respects; and

(c) in a form sufficiently permanent to be used for subsequent reference,

and for this purpose "legible in all material respects" means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if served or given by means of a notice or document in printed form.

(3) Subsection (1) does not apply to—

(a) service of a copy of a notice under section 43(4);

(b) service of a building preservation notice under section 81;

(c) giving of notice of the making of a tree preservation order or the service of a copy of such an order, in accordance with regulations under section 122;

(d) service of a planning contravention notice under section 133;

(e) service of a temporary stop notice under section 135;

(f) service of a copy of an enforcement notice under section 138 or 139;

(g) the variation or withdrawal of an enforcement notice under section 141 or 142;

(h) service under section 149(4) of a notice of a council's intention to take steps required by an enforcement notice;

(i) service of a stop notice, or notice of withdrawal of a stop notice, under section 150 or 151;

(j) service of a breach of condition notice under section 152;

(k) service of a notice under section 153 or 154;

(l) service of a copy of a listed building enforcement notice, or notice of variation or withdrawal of a listed building enforcement notice under section 157 or 158;

(m) service of a copy of a hazardous substances contravention notice, or notice of withdrawal of a hazardous substances contravention notice under section 162;

(n) service of a copy of a notice varying a hazardous substances contravention notice under section 163;

(o) service of a notice under section 240 requiring information as to estates in land.

(4) Where a person uses electronic communications to transmit any notice or other document for any purpose of this Act which is capable of being carried out electronically that person shall be taken to have agreed, except where a contrary intention appears, to the use of such communications and that his or her address for that purpose is the address incorporated into, or otherwise logically associated with the notice or document.

(5) Where a person is no longer willing to accept the use of electronic communications for any purpose of this Act which is capable of being carried out electronically, he or she must give notice in writing—

(a) withdrawing any address notified to the council, the Department **[**[F3]for Communities, the Department for Infrastructure**]** or the planning appeals commission for that purpose; or

(b) revoking any agreement entered into or deemed to have been entered into with the council, the Department **[**[F4]for Communities, the Department for Infrastructure**]** or the planning appeals commission for that purpose,

and such withdrawal or revocation shall be final and shall take effect on a date specified by the person in the notice but not less than 7 days after the date on which the notice is given.

Textual Amendments

F3 Words in s. 239(5)(a) inserted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 83(a)** (with art. 9(2))

F4 Words in s. 239(5)(b) inserted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 83(b)** (with art. 9(2))

Commencement Information

I23 S. 239 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I24 S. 239 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Information as to estates in land

240.—(1) For the purpose of enabling a council **[**[F5]the Department for Infrastructure or the Department for Communities**]** to make an order or issue or serve a notice or other document which by any of the provisions of this Act a council **[**[F5]the Department for Infrastructure or the Department for Communities**]** is authorised or required to make, issue or serve, the council **[**[F5]the Department for Infrastructure or the Department for Communities**]** may by notice in writing require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to give, in writing, within 21 days after the date on which the notice is served, or such longer time as may be specified in the notice or as the council **[**[F6]or the Department

for Infrastructure or the Department for Communities, as the case may be**]** may allow, such information as to the matters mentioned in subsection (2) as may be specified.

(2) The matters referred to in subsection (1) are—

(a) the nature of the estate in the premises of the person on whom the notice is served;

(b) the name and postal address of any other person known to that person as having an estate in the premises;

(c) the purpose for which the premises are being used;

(d) the time when that use began;

(e) the name and postal address of any person known to the person on whom the notice is served as having used the premises for that purpose; and

(f) the time when any activities being carried out on the premises began.

(3) Any person who, without reasonable excuse, fails to comply with a notice served on that person under subsection (1), shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Any person who having been required by a notice under subsection (1) to give any information knowingly makes any misstatement in respect of that information shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

Textual Amendments

F5 Words in s. 240(1) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 84(a)** (with art. 9(2))

F6 Words in s. 240(1) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 84(b)** (with art. 9(2))

Modifications etc. (not altering text)

C10 S. 240: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

C11 S. 240: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Commencement Information

I25 S. 240 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I26 S. 240 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Information as to estates in Crown land

241.—(1) This section applies to an estate in Crown land which is not a private estate.

(2) Section 240 does not apply to an estate to which this section applies.

(3) For a purpose mentioned in section 240(1) the Department may request the appropriate authority to give the Department such information as to the matters mentioned in section 240(2) as the Department specifies in the request.

(4) The appropriate authority must comply with a request under subsection (3) except to the extent—

(a) that the matter is not within the knowledge of the authority, or

(b) that to do so will disclose information as to any of the matters mentioned in section 232(3).

(5) Expressions used in this section and in Part 11 shall be construed in accordance with that Part.

Commencement Information

I27 S. 241 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I28 S. 241 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Planning register

242.—(1) A council must keep, in such manner as may be specified by a development order, one or more registers containing such information as may be so specified with respect to—

(a) applications made, or deemed to be made, under this Act to the council, to the Department or to the planning appeals commission for any permission, consent, approval or determination;

(b) the manner in which such applications have been dealt with;

(c) notices under section 27(2) (proposal of application notices);

(d) pre-application community consultation reports under section 28;

(e) the revocation or modification of any permission or consent granted under this Act;

(f) enforcement notices or listed building enforcement notices;

(g) stop notices;

(h) orders under section 73;

(i) simplified planning zones and enterprise zones;

(j) directions given by the Department under—

(i) section 105(4);

(ii) section 118; and

(iii) any provision included in a development order by virtue of section 32;

(k) hazardous substances contravention notices;

(l) tree preservation orders;

(m) notices under section 127;

(n) breach of condition notices;

(o) certificates under section 169 or 170;

(p) building preservation notices;

(q) temporary stop notices issued under section 135; and

(r) applications for a determination under paragraph 9 of Schedule 2 or paragraph 7 of Schedule 3.

(2) A development order may make provision for requiring **[**[F7]the Department for Infrastructure or the Department for Communities**]** to supply to a council such information as may be so specified in the order with regard to the matters mentioned in subsection (1)(a) to (j).

(3) Every register kept under subsection (1) must be available for inspection by the public at all reasonable hours.

(4) The council may provide a copy of, or of an extract from, any register kept under this section to any person on payment of such reasonable charge as the council may specify.

Textual Amendments

F7 Words in s. 242(2) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 85** (with art. 9(2))

Modifications etc. (not altering text)

C12 S. 242 applied with modification(s) (1.4.2015) by The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 (S.R. 2015/107), regs. 1, **11**

Commencement Information

I29 S. 242 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I30 S. 242 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Power to appoint advisory bodies or committees

[[F8]243.—(1) The Minister for Infrastructure may appoint such advisory bodies or committees as the Minister considers necessary to assist the Department for Infrastructure in the exercise and performance of the functions conferred on that Department by this Act.

(2) The Minister for Communities may appoint such advisory bodies or committees as the Minister considers necessary to assist the Department for Communities in the exercise and performance of the functions conferred on that Department by this Act.**]**

Textual Amendments

F8 S. 243 substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 86** (with art. 9(2))

Commencement Information

I31 S. 243 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I32 S. 243 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Time limit for certain summary offences under this Act

244 Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26), a magistrates' court shall have jurisdiction to hear and determine a complaint charging the commission of an offence under section 152 if the complaint is made within 3 years from the time when the offence was committed or ceased to continue.

Commencement Information

I33 S. 244 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I34 S. 244 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Registration of matters in Statutory Charges Register

245 In Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (c. 18) (matters requiring to be registered in the Statutory Charges Register) for entry 27 substitute the following entry—

"**27** Any of the following matters under the Planning Act (Northern Ireland) 2011—

(a) planning agreements under section 76;

(b) an entry in a list compiled under section 80;

(c) tree preservation orders;

(d) enforcement notices which take effect in relation to any land;

(e) listed building enforcement notices which take effect in relation to any land;

(f) any conditions imposed on the grant of planning permission—

(i) relating to the occupancy of a dwelling house; or

(ii) requiring that a dwelling house on any land which is under the control of the applicant be demolished or cease to be used as a dwelling house;

(g) notices under section 164 which take effect in relation to any land;

(h) orders under section 68, 72 or 73;

(i) any designation under section 104(1).”.

Commencement Information

I35 S. 245 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I36 S. 245 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Directions

246 Any directions which may be given, or must be given, under this Act may be withdrawn or may be varied or revoked by a subsequent direction.

Commencement Information

I37 S. 246 in operation at 13.2.2015 for specified purposes by S.R. 2015/49, art. 2, **Sch. 1**

I38 S. 246 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/49, art. 3, **Sch. 1** (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Regulations and orders

247.—(1) The Department may make regulations for prescribing anything which under this Act is authorised or required to be prescribed.

(2) Subject to subsection (3), any regulations made under this Act are subject to negative resolution.

(3) Regulations under sections 153(9) and 154(9) shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(4) Subject to subsection (5), orders made under sections 23(3)(e), 32, 38(3) and 251 are subject to negative resolution.

(5) Subsection (4) applies subject to section 251(4).

(6) Regulations and orders made by the Department under this Act may contain such incidental, supplementary, transitional and saving provisions as appear to the Department to be necessary or expedient.

Modifications etc. (not altering text)

C13 S. 247: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))

C14 S. 247: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Amendment of the Planning (Northern Ireland) Order 1991

Amendment of certain time periods in relation to enforcement

248.—(1) In Article 23 of the Planning (Northern Ireland) Order 1991 (NI 11) (in this section referred to as "the 1991 Order") (notice requiring planning application) in paragraph (2) for "four" substitute " 5 ".

(2) In Article 24 of the 1991 Order (appeal against notice under Article 23) in paragraph (2)(c) for "four" substitute " 5 ".

(3) In Article 67B of the 1991 Order (time limits)—

(a) in paragraphs (1), (2) and (4)(b) for "4" substitute " 5 ";

(b) in paragraph (3) for "10" substitute " 5 ".

(4) In Article 67F of the 1991 Order (temporary stop notice: restrictions) in paragraph (2) for "4" substitute " 5 ".

(5) In Article 73 of the 1991 Order (service of stop notice) in paragraph (3D) for "4" substitute " 5 ".

(6) In Article 82 of the 1991 Order (enforcement of duties as to replacement of trees) in paragraph (2) for "4" substitute " 5 ".

Increased penalties for certain offences under the Planning (Northern Ireland) Order 1991

[F9]249 . . . . . .

Textual Amendments

F9 S. 249 repealed (1.4.2015) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 7** (with s. 211); S.R. 2015/49, art. 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Status:
Point in time view as at 08/05/2016.

Changes to legislation:
There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Part 14.