



2011 CHAPTER 25

Part 3

Planning control

Planning applications

Notification of applications to certain persons

42.—(1) Subject to subsection (2), a council or, as the case may be, the Department must not entertain an application for planning permission in relation to any land (in this section and in section 43 referred to as “the designated land”) unless it is accompanied by one or other of the following certificates, that is to say—

- (a) a certificate stating that the application is made by or on behalf of a person who at the date of the application is in the actual possession of all the designated land, being a person entitled to one of the following estates in that land, namely—
 - (i) a legal or equitable fee simple absolute, a legal or equitable fee tail or a legal or equitable life estate;
 - (ii) a tenancy of which not less than 40 years of the term thereof remain unexpired;
- (b) a certificate stating that the application is made by or on behalf of the trustees of a trust or settlement which affects all the designated land and that, at the date of the application—
 - (i) a beneficiary under the trust or settlement is in the actual possession of the designated land; and

Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 42. (See end of Document for details)

- (ii) no person other than a beneficiary under the trust or settlement is entitled to enter into the actual possession of the designated land within a period of 40 years;
 - (c) a certificate stating that the requisite notice of the application has been given by or on behalf of the applicant to each person who at the beginning of the period of 21 days ending with the date of the application, in relation to the designated land or any part thereof, fell into any of the following classes, namely—
 - (i) that that person was such a person as is described in paragraph (a) or (b);
 - (ii) that (not being such a person as is described in paragraph (a) or (b)) that person was in the actual possession of the designated land;
 - (iii) that (not being a person falling under sub-paragraph (i) or (ii)) that person was entitled to enter into the actual possession of the designated land within a period of 40 years;
 - (d) a certificate stating—
 - (i) that the applicant is unable to issue a certificate in accordance with paragraph (a) or (b); and
 - (ii) that the applicant has made due inquiries and is of the opinion, for the reasons specified in the certificate, that he or she is unable to issue a certificate which would satisfy the requirements of paragraph (c); and
 - (iii) that the applicant has given the requisite notice of the application to any person who, at the beginning of the period of 21 days ending with the date of the application, was in the actual possession of any part of the designated land.
- (2) Subsection (1) does not apply to an application for planning permission made—
- (a) by the Northern Ireland Housing Executive in pursuance of a redevelopment scheme approved by the Department for Social Development or proposed by the Executive;
 - (b) by an electricity undertaker to place an electricity line above or below ground across any land;
 - (c) by a gas undertaker to lay pipes for the conveyance or supply of gas;
 - (d) by a water or sewerage undertaker to lay a main, sewer or pipe for the purposes of its functions under the Water and Sewerage Services (Northern Ireland) Order 2006 (NI 21).
- (3) A certificate for the purposes of paragraph (c) or (d) of subsection (1) shall set out the names and postal addresses of the persons to whom the requisite notice was given in accordance with that paragraph and the date of service of the notice.

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(4) Where an application for planning permission is accompanied by such a certificate as is mentioned in subsection (1)(c) or (d), the council or, as the case may be, the Department, must not determine the application before the end of the period of 14 days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate.

(5) Where a tenancy subsists in any land, and—

- (a) it is necessary, for the purposes of this section, to determine whether a person is entitled to enter into the actual possession of that land; and
- (b) by reason of any option or other contractual right with respect to the determination, renewal or continuance of the tenancy the date of expiry of the tenancy is not ascertainable with certainty;

that date shall be taken to be such as appears reasonable and probable having regard to the interests of the party by whom the option is exercisable, or in whose favour the right operates, and to any other material consideration.

(6) If any person—

- (a) issues a certificate which purports to comply with the requirements of this section and which contains a statement which that person knows to be false or misleading in a material particular; or
- (b) recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular;

that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) Any certificate issued for the purposes of this section shall be in such form as may be specified in a development order; and any reference in this section to the requisite notice is a reference to a notice in the form so specified.

Modifications etc. (not altering text)

- C1** Pt. 3 applied with modification(s) (1.4.2015) by [The Planning General Regulations \(Northern Ireland\) 2015 \(S.R. 2015/39\)](#), regs. 1(1), 2 (with regs. 3-10)

Commencement Information

- I1** S. 42 in operation at 1.2.2015 for specified purposes by [S.R. 2015/25](#), **art. 2**
- I2** S. 42 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/25](#), **art. 3**

Changes to legislation:

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