



2011 CHAPTER 25

Part 3

Planning control

Planning applications

Notice requiring planning application to be made

43.—(1) Where it appears to a council that development has been carried out—

- (a) without the grant of the planning permission required in that behalf in accordance with this Part; or
- (b) without the grant of any approval of the council required in that behalf under a development order;

the council may issue a notice under this section requiring the making of an application for such planning permission or approval to the council within 28 days from the service of the notice.

(2) A notice under this section may be issued only within the period of 5 years from the date on which the development to which it relates was begun, and the provisions of section 63(2) apply in determining for the purpose of this section when development shall be taken to be begun.

(3) A notice under this section must specify the matters alleged to constitute the development to which the notice relates.

(4) A copy of a notice under this section must be served on the owner and on the occupier of the land to which it relates.

(5) Where a copy of a notice under this section has been served on any person referred to in subsection (4), then if the application referred to in the notice is not made to the council within the period allowed for compliance with the notice, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) If a person against whom proceedings are brought under subsection (5)—

(a) was, at the time when the copy of the notice under this section was served on that person, the owner of the land to which the notice relates; but

(b) has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of that land,

that person shall, upon duly making a complaint and on giving to the prosecution not less than 3 days' notice of his or her intention, be entitled to have the person who then became the owner of the land (in subsection (7) referred to as the "subsequent owner") brought before the court in the proceedings.

(7) If after it has been proved, in a case to which subsection (6) applies, that the application referred to in the notice under this section has not been made within the period allowed for compliance with the notice, the original defendant proves that the failure to make that application was attributable, in whole or in part, to the default of the subsequent owner—

(a) the subsequent owner may be convicted of the offence; and

(b) the original defendant, if that person further proves that all reasonable steps were taken to secure compliance with the notice, shall be acquitted of the offence.

(8) If, after a person has been convicted under subsections (5) to (7), the application referred to in the notice under this section is not made to the council, that person shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day following the first conviction on which the offence continues.

(9) The council may, at any time before the end of the period allowed for compliance with a notice under this section, withdraw the notice.

(10) If it does so the council must as soon as is reasonably possible give notice of the withdrawal to every person who was served with a copy of the notice.

(11) Any reference in this section and section 44 to the period allowed for compliance with a notice under this section is a reference to the period mentioned in subsection (1) or such extended period as may be allowed by the council for compliance with the notice.

(12) For the purposes of this section an application to the council for any planning permission or approval shall not be taken to be made unless it is accompanied by the fee prescribed under section 223 in relation to that application.

Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 43. (See end of Document for details)

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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)
- C2** S. 43 applied with modification(s) (1.4.2015) by [The Planning \(Control of Advertisements\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/66\)](#), regs. 1, 14, **Sch. 4 Pts. 1, 2**
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Commencement Information

- I1** S. 43 in operation at 1.2.2015 for specified purposes by [S.R. 2015/25](#), **art. 2**
- I2** S. 43 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/25](#), **art. 3**

Changes to legislation:

There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 43.