
STATUTORY INSTRUMENTS

1991 No. 1220

The Planning(Northern Ireland) Order 1991

PART VI

ENFORCEMENT

Discontinuance orders

Enforcement of orders under Article 39

83.—(1) Any person who, without the grant of planning permission in that behalf, uses land, or causes or permits land to be used—

- (a) after the expiry of the period allowed for compliance with an order under Article 39, for any purpose for which an order under that Article has required that its use shall be discontinued; or
- (b) in contravention of any condition imposed by such an order by virtue of paragraphs (1) (a) of that Article,

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

(2) If the use is continued after the conviction of a person of an offence under paragraph (1), he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the use is so continued.

(3) It shall be a defence for a person charged with an offence under paragraph (1) or (2) to prove that he took all reasonable measures and exercised all due diligence to avoid commission of the offence by himself or by any person under his control.

(4) If in any case the defence provided by paragraph (3) involves an allegation that the commission of the offence was due to the act or default of another person or due to reliance on information supplied by another person, the person charged shall not, without the leave of the court, be entitled to rely on the defence unless, within a period ending seven days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

(5) If any steps required by an order under Article 39 to be taken for the alteration or removal of any buildings or works have not been taken within the period allowed for compliance with the order, a person authorised in writing by the Department may enter the land and take those steps, and the Department may recover from the person who is then the owner of the land any expenses reasonably incurred by it in that behalf; and those expenses shall be a civil debt recoverable summarily.

(6) Where a copy of an order under Article 39 has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the order relates, then, if any steps required by the order to be taken for the alteration or removal of any buildings or works have not been taken within the period allowed for compliance with the order, 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) If a person against whom proceedings are brought under paragraph (6) has, at some time before the end of the period allowed for compliance with the order, ceased to be the owner of the land, he shall, upon a complaint duly made by him and on giving to the prosecution not less than three days' notice of his intention, be entitled to have the person who then became the owner of the land (in paragraph (8) referred to as "the subsequent owner") brought before the court in the proceedings.

(8) If after it has been proved, in a case to which paragraph (7) applies, that any steps required by the order under Article 39 have not been taken within the period allowed for compliance with the order, the original defendant proves that the failure to take those steps 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 he further proves that he took all reasonable steps to secure compliance with the order, shall be acquitted of the offence.

(9) If after a person has been convicted of an offence under paragraphs (6) to (8) he does not as soon as practicable do everything in his power to secure compliance with the order under Article 39 in so far as it requires steps to be taken for the alteration or removal of any buildings or works, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day following his first conviction on which any requirements of the order remain unfulfilled.

(10) Any reference in this Article to the period allowed for compliance with an order under Article 39 is a reference to the period specified in the order for compliance therewith or such extended period as may be allowed by the Department for compliance with the notice.