
STATUTORY INSTRUMENTS

2003 No. 430

The Planning (Amendment) (Northern Ireland) Order 2003

New enforcement powers

Enforcement of conditions

4. After Article 76 of the principal Order there is inserted—

“Breach of condition

Enforcement of conditions

76A.—(1) This Article applies where planning permission for carrying out any development of land has been granted subject to conditions.

(2) The Department may, if any of the conditions is not complied with, serve a notice (in this Order referred to as a “breach of condition notice”) on—

- (a) any person who is carrying out or has carried out the development; or
- (b) any person having control of the land,

requiring him to secure compliance with such of the conditions as are specified in the notice.

(3) References in this Article to the person responsible are to the person on whom the breach of condition notice has been served.

(4) The conditions which may be specified in a notice served by virtue of paragraph (2) (b) are any of the conditions regulating the use of the land.

(5) A breach of condition notice shall specify the steps which the Department considers ought to be taken, or the activities which the Department considers ought to cease, to secure compliance with the conditions specified in the notice.

(6) The Department may by notice served on the person responsible withdraw the breach of condition notice, but its withdrawal shall not affect the power to serve on him a further breach of condition notice in respect of the conditions specified in the earlier notice or any other conditions.

(7) The period allowed for compliance with the notice is—

- (a) such period of not less than 28 days beginning with the date of service of the notice as may be specified in the notice; or
- (b) that period as extended by a further notice served by the Department on the person responsible.

(8) If, at any time after the end of the period allowed for compliance with the notice—

- (a) any of the conditions specified in the notice is not complied with; and
- (b) the steps specified in the notice have not been taken or, as the case may be, the activities specified in the notice have not ceased,

the person responsible is in breach of the notice.

(9) If the person responsible is in breach of the notice he shall be guilty of an offence.

(10) An offence under paragraph (9) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that paragraph by reference to any period of time following the preceding conviction for such an offence.

(11) It shall be a defence for a person charged with an offence under paragraph (9) to prove—

- (a) that he took all reasonable measures to secure compliance with the conditions specified in the notice; or
- (b) where the notice was served on him by virtue of paragraph (2)(b), that he no longer had control of the land.

(12) A person who is guilty of an offence under paragraph (9) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) In this Article—

- (a) “conditions” includes limitations; and
- (b) references to carrying out any development include causing or permitting another to do so.”.