



Town and Country Planning Act 1962

1962 CHAPTER 38 10 and 11 Eliz 2

PART IV

ENFORCEMENT OF PLANNING CONTROL

Enforcement where planning permission required

45 Power to serve enforcement notices

- (1) Where it appears to the local planning authority—
 - (a) that any development of land has been carried out with out the grant of planning permission required in that behalf in accordance with Part III of this Act, or
 - (b) that any conditions or limitations subject to which planning permission was granted have not been complied with,then, subject to any directions given by the Minister, and to the following provisions of this section, the local planning authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may, within the period specified in the next following subsection, serve a notice under this section (in this Act referred to as an “enforcement notice”).
- (2) The period for the service of an enforcement notice—
 - (a) where the notice relates to the carrying out of development, is the period of four years from the carrying out of that development, and
 - (b) where the notice relates to non-compliance with a condition or limitation, is the period of four years from the date of the alleged failure to comply with it.
- (3) Where the local planning authority serve an enforcement notice, the notice—
 - (a) shall be served on the owner and occupier of the land to which it relates, and
 - (b) may, if the authority think fit, also be served on any other person having an interest in that land, being an interest which in their opinion is materially affected by the notice.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) An enforcement notice—
- (a) shall specify the development which is alleged to have been carried out without the grant of planning permission as mentioned in paragraph (a) of subsection (1) of this section or, as the case may be, the matters in respect of which it is alleged that any such conditions or limitations as are mentioned in paragraph (b) of that subsection have not been complied with, and
 - (b) may require such steps as may be specified in the notice to be taken, within such period as may be so specified, for the purpose of restoring the land to its condition before the development took place, or of securing compliance with the conditions or limitations, as the case may be, and in particular may, for that purpose, require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.
- (5) Subject to the following provisions of this Part of this Act, an enforcement notice shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

46 Appeal to Minister against enforcement notice

- (1) A person on whom an enforcement notice is served, or any other person having an interest in the land, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on any of the following grounds, that is to say—
- (a) that planning permission ought to be granted for the development to which the enforcement notice relates;
 - (b) that planning permission has been granted for that development;
 - (c) that no planning permission was required in respect of that development, or, as the case may be, that the conditions or limitations subject to which planning permission for that development was granted have been complied with;
 - (d) that what is assumed in the enforcement notice to be development did not constitute or involve development;
 - (e) that the enforcement notice was not served on the owner or occupier of the land within the relevant period of four years specified in subsection (2) of the last preceding section;
 - (f) that the requirements of the enforcement notice exceed what is necessary for restoring the land to its condition before the development in question took place, or, as the case may be, for securing compliance with the conditions or limitations to which the enforcement notice relates ;
 - (g) that the period specified in the enforcement notice as the period within which any steps required by that notice are to be taken falls short of what should reasonably be allowed.
- (2) Any appeal under this section shall be made by notice in writing to the Minister, which shall indicate the grounds of the appeal; and on any such appeal the Minister shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.
- (3) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or withdrawal of the appeal.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) On an appeal under this section the Minister may correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not a material one.
- (5) On the determination of an appeal under this section the Minister shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the enforcement notice or for varying the terms of the enforcement notice in favour of the appellant.

47 Penalties for non-compliance with enforcement notices

- (1) Subject to the provisions of this section, where an enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the land to which it relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person shall be liable on summary conviction to a fine not exceeding one hundred pounds.
- (2) If a person against whom proceedings are brought under the preceding subsection has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, 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 enforcement notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of a use of land) remain unfulfilled.
- (5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and if the use is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued.
- (6) Any reference in this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

such extended period as the local planning authority may allow for compliance with the notice.

- (7) In this section “owner”, in relation to any land, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let.

48 Execution by local planning authority of work required by enforcement notice

If, within the period specified in an enforcement notice for compliance therewith, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken, the local planning authority may enter upon the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in that behalf.

49 Supplementary provisions as to enforcement notices

- (1) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice served in respect of any development, and any sums paid by the owner of any land under the last preceding section in respect of expenses incurred by the local planning authority in taking steps required to be taken by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person by whom the development was carried out.
- (2) Regulations made under this Act may provide that, in relation to any steps required to be taken by an enforcement notice, all or any of the enactments specified in the next following subsection shall apply, subject to such adaptations and modifications as may be specified in the regulations, including, in the case of the enactment specified in paragraph (b) of that subsection, adaptations and modifications for the purpose of affording to the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.
- (3) The said enactments are the following provisions of the Public Health Act, 1936, that is to say—
- (a) section two hundred and seventy-six (which empowers local authorities to sell materials removed in executing works under that Act, subject to accounting for the proceeds of sale);
 - (b) section two hundred and eighty-nine (which confers power to require the occupier of any premises to permit works to be executed by the owner of the premises);
 - (c) section two hundred and ninety-two (which confers power on local authorities to include a sum in respect of establishment charges in their expenses in executing works); and
 - (d) section two hundred and ninety-four (which limits the liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act).
- (4) Any regulations made in accordance with subsection (2) of this section may provide for the charging on the land of any expenses recoverable by a local authority under the last preceding section.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

50 Effect of planning permission on enforcement notice

- (1) If, after the service of an enforcement notice, planning permission is granted for the retention on land of buildings or works, or for the continuance of a use of land, to which the enforcement notice relates, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for the demolition or alteration of those buildings or works, or the discontinuance of that use, as the case may be.
- (2) If the planning permission granted as mentioned in the preceding subsection is granted so as to permit the retention of buildings or works, or the continuance of a use of land, without complying with some condition subject to which a previous planning permission was granted, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.
- (3) The preceding provisions of this section shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the enforcement notice before the relevant provision of the enforcement notice ceased to have effect.

51 Enforcement notice to have effect against subsequent development

- (1) Compliance with an enforcement notice, whether in respect of—
 - (a) the demolition or alteration of any buildings or works, or
 - (b) the discontinuance of any use of land,or in respect of any other requirements contained in the enforcement notice, shall not discharge the enforcement notice.
- (2) Without prejudice to the preceding subsection, any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III of this Act; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.
- (3) Without prejudice to subsection (1) of this section, if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered; and, subject to the next following subsection, the provisions of section forty-eight of this Act, and of subsection (1) of section forty-nine of this Act, shall apply accordingly.
- (4) Where, at any time after an enforcement notice takes effect.—
 - (a) any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the notice, and
 - (b) the local planning authority propose, under section forty-eight of this Act, to take any steps required by the enforcement notice for the demolition or alteration of the buildings or works in consequence of the reinstatement or restoration,the local planning authority shall, not less than twenty-eight days before taking any such steps, serve on the owner and occupier of the land a notice of their intention to do so.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (5) A person who, without the grant of planning permission in that behalf, carries out any development on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and no person shall be liable under any of the provisions of subsections (1) to (4) of section forty-seven of this Act for failure to take any steps required to be taken by an enforcement notice by way of demolition or alteration of what has been so reinstated or restored.