



# Planning etc. (Scotland) Act 2006

## 2006 asp 17

### PART 4

#### ENFORCEMENT

##### *Stop notices*

#### 26 Temporary stop notices

- (1) After section 144 of the principal Act (penalties for contravention of stop notice) insert—

##### *“Temporary stop notices*

#### **144A Temporary stop notices**

- (1) If a planning authority consider that—
- (a) there has been a breach of planning control in relation to any land,
  - (b) the breach consists in engagement in an activity, and
  - (c) it is expedient that the activity (or any part of the activity) is stopped immediately,
- they may issue a temporary stop notice.
- (2) The notice must be in writing and must—
- (a) specify the activity in question,
  - (b) prohibit engagement in the activity (or in so much of the activity as is specified in the notice), and
  - (c) set out the authority’s reasons for issuing the notice.
- (3) A temporary stop notice may be served on any of the following—
- (a) a person who appears to the authority to be engaged in the activity,
  - (b) a person who appears to the authority to have an interest in the land (whether as owner or occupier or otherwise).
- (4) The authority must display on the land—

- (a) a copy of the notice, and
  - (b) a statement as to the effect of section 144C.
- (5) A temporary stop notice has effect from the time a copy of it is first displayed in pursuance of subsection (4).
- (6) A temporary stop notice ceases to have effect at the end of the period of 28 days starting on the day the copy notice is so displayed.
- (7) Except that if a shorter period starting on that day is specified in the notice, the notice instead ceases to have effect at the end of that shorter period.
- (8) And if the notice is withdrawn by the authority before that period of 28 days, or as the case may be that shorter period, expires the notice ceases to have effect on being so withdrawn.

#### **144B Temporary stop notices: restrictions**

- (1) A temporary stop notice does not prohibit—
  - (a) the use of a building as a dwellinghouse, or
  - (b) engagement in an activity (either or both)—
    - (i) of such description,
    - (ii) in such circumstances,as may be prescribed.
- (2) A temporary stop notice does not prohibit engagement in any activity which has been engaged in (whether continuously or not) for a period of more than 4 years ending with the day on which a copy of the notice is first displayed in pursuance of section 144A(4).
- (3) But subsection (2) does not prevent a temporary stop notice prohibiting—
  - (a) activity consisting in, or incidental to, building, engineering, mining or other operations, or
  - (b) the deposit of refuse or waste materials.
- (4) For the purposes of subsection (2), any period during which the activity in question is authorised by planning permission is to be ignored.
- (5) A second or subsequent temporary stop notice must not be issued in respect of the same activity unless the planning authority have in the meantime taken some other enforcement action in relation to the breach of planning control which is constituted by the activity.
- (6) In subsection (5), “enforcement action” includes obtaining the grant of an interdict under section 146(2).

#### **144C Temporary stop notices: offences**

- (1) A person is guilty of an offence if he contravenes a temporary stop notice—
  - (a) which has been served on him, or
  - (b) a copy of which has been displayed in pursuance of section 144A(4).
- (2) Contravention of a temporary stop notice includes causing or permitting the contravention of it.

- (3) An offence under this section may be charged by reference to a day or to a period longer than a day.
- (4) A person may, in relation to the same temporary stop notice, be convicted of more than one offence under this section by reference to different days or different periods.
- (5) It is a defence in any proceedings under this section that—
  - (a) the temporary stop notice was not served on the accused, and
  - (b) he did not know, and could not reasonably have been expected to know, of its existence.
- (6) A person convicted of an offence under this section is liable—
  - (a) on summary conviction, to a fine not exceeding £20,000,
  - (b) on conviction on indictment, to a fine.
- (7) In determining the amount of the fine, the court is in particular to have regard to any financial benefit which has accrued or appears likely to accrue to the convicted person in consequence of the activity which constituted the offence.

#### **144D Temporary stop notices: compensation**

- (1) A person who, as at the date on which a temporary stop notice is first displayed in pursuance of section 144A(4), has an interest (whether as owner or occupier or otherwise) in the land to which the notice relates is entitled to be compensated by the planning authority in respect of any loss or damage directly attributable to the prohibition effected by that notice.
- (2) But subsection (1) applies only if the circumstances are as set out in at least one of the following paragraphs—
  - (a) the activity which is specified in the notice is authorised by planning permission granted on or before the date mentioned in that subsection,
  - (b) a certificate in respect of the activity is issued under section 150 or granted under that section by virtue of section 154,
  - (c) the authority withdraws the notice other than following such grant of planning permission as is mentioned in paragraph (a).
- (3) Subsections (3) to (7) of section 143 apply to compensation payable under this section as they apply to compensation payable under that section; and for the purpose of that application references in those subsections to a stop notice are to be taken to be references to a temporary stop notice.”.
- (2) In section 269 of that Act (rights of entry)—
  - (a) after subsection (1) insert—
    - “(1A) Any person duly authorised in writing by the planning authority may, at any reasonable time, enter upon land for the purposes of section 144A(4).”, and
  - (b) in subsection (2), after the words “stop notice” insert “, temporary stop notice”.