



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART VII

#### ENFORCEMENT

##### Modifications etc. (not altering text)

- C1** Pt. VII (ss. 172-196C) applied (with modifications) (17.7.1992) by S.I. 1992/1492, **regs. 2(1)(b)**, 3-11  
Pt. VII (ss. 172-196C) applied (with modifications) (1.4.1996) by 1994 c. 19, s. 20(3), Sch. 5 Pt. III  
paras. 15(1), **20** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 4, **Sch. 2**

VALID FROM 02/01/1992

#### <sup>F1</sup>Introductory

##### Textual Amendments

- F1** Ss. 171A, 171B and cross heading inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by **Planning and Compensation Act 1991** (c. 34, SIF 123:1), **s. 4(1)**, (with s. 84(5)); S.I. 1991/2905, **art.3** (subject to **art. 5**); S.I. 1992/1630, **art. 2** (with **art. 3(1)**)

#### <sup>F2</sup>171A Expressions used in connection with enforcement.

- (1) For the purposes of this Act—
- (a) carrying out development without the required planning permission; or
  - (b) failing to comply with any condition or limitation subject to which planning permission has been granted,
- constitutes a breach of planning control.
- (2) For the purposes of this Act—

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- (a) the issue of an enforcement notice (defined in section 172); or
  - (b) the service of a breach of condition notice (defined in section 187A),
- constitutes taking enforcement action.

- (3) In this Part “planning permission” includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

#### Textual Amendments

- F2** Ss. 171A, 171B inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 4\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#)); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)](#))

#### <sup>F3</sup>171B Time limits.

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—
  - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
  - (b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.]

#### Textual Amendments

- F3** Ss. 171A, 171B inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 4\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#)); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)](#))

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VALID FROM 02/01/1992

## *[<sup>F4</sup>Planning contravention notices*

### **Textual Amendments**

- F4** Ss. 171C, 171D and cross heading inserted (2.1.1992) by [Planning and Compensation Act 1991](#) (c. 34, SIF 123:1), [s.1](#) (with [s. 84\(5\)](#)); S.I. 1991/2905, [art.3](#) (subject to [art. 5](#))

### **[<sup>F5</sup>171C Power to require information about activities on land.**

- (1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land, they may serve notice to that effect (referred to in this Act as a “planning contravention notice”) on any person who—
  - (a) is the owner or occupier of the land or has any other interest in it; or
  - (b) is carrying out operations on the land or is using it for any purpose.
- (2) A planning contravention notice may require the person on whom it is served to give such information as to—
  - (a) any operations being carried out on the land, any use of the land and any other activities being carried out on the land; and
  - (b) any matter relating to the conditions or limitations subject to which any planning permission in respect of the land has been granted,as may be specified in the notice.
- (3) Without prejudice to the generality of subsection (2), the notice may require the person on whom it is served, so far as he is able—
  - (a) to state whether or not the land is being used for any purpose specified in the notice or any operations or activities specified in the notice are being or have been carried out on the land;
  - (b) to state when any use, operations or activities began;
  - (c) to give the name and address of any person known to him to use or have used the land for any purpose or to be carrying out, or have carried out, any operations or activities on the land;
  - (d) to give any information he holds as to any planning permission for any use or operations or any reason for planning permission not being required for any use or operations;
  - (e) to state the nature of his interest (if any) in the land and the name and address of any other person known to him to have an interest in the land.
- (4) A planning contravention notice may give notice of a time and place at which—
  - (a) any offer which the person on whom the notice is served may wish to make to apply for planning permission, to refrain from carrying out any operations or activities or to undertake remedial works; and
  - (b) any representations which he may wish to make about the notice,will be considered by the authority, and the authority shall give him an opportunity to make in person any such offer or representations at that time and place.
- (5) A planning contravention notice must inform the person on whom it is served—

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- (a) of the likely consequences of his failing to respond to the notice and, in particular, that enforcement action may be taken; and
  - (b) of the effect of section 186(5)(b).
- (6) Any requirement of a planning contravention notice shall be complied with by giving information in writing to the local planning authority.
- (7) The service of a planning contravention notice does not affect any other power exercisable in respect of any breach of planning control.
- (8) In this section references to operations or activities on land include operations or activities in, under or over the land.]

#### Textual Amendments

**F5** Ss. 171C, 171D inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s.1](#)(with s. 84(5)); [S.I. 1991/2905, art. 3](#) (subject to art. 5)

#### Modifications etc. (not altering text)

**C2** S. 171C: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762, art. 3](#)

**C3** S. 171C: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853, reg. 2\(1\), Sch. 1](#)

#### <sup>F6</sup>**171D Penalties for non-compliance with planning contravention notice.**

- (1) If, at any time after the end of the period of twenty-one days beginning with the day on which a planning contravention notice has been served on any person, he has not complied with any requirement of the notice, he shall be guilty of an offence.
- (2) An offence under subsection (1) 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 subsection by reference to any period of time following the preceding conviction for such an offence.
- (3) It shall be a defence for a person charged with an offence under subsection (1) to prove that he had a reasonable excuse for failing to comply with the requirement.
- (4) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) If any person—
  - (a) makes any statement purporting to comply with a requirement of a planning contravention notice which he knows to be false or misleading in a material particular; or
  - (b) recklessly makes such a statement which is false or misleading in a material particular,
 he shall be guilty of an offence.
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

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### Textual Amendments

- F6** Ss. 171C, 171D inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s.1](#)(with s. 84(5)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

### Modifications etc. (not altering text)

- C4** S. 171D: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

VALID FROM 06/08/2004

## *[<sup>F7</sup>Temporary stop notices*

### Textual Amendments

- F7** Ss. 171E-171H and cross-heading inserted (6.8.2004 for certain purposes, 7.3.2005 for E. and otherwise prosp.) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 52, 121](#) (with [s. 111](#)); [S.I. 2004/2097](#), [art. 2](#); [S.I. 2005/204](#), [art. 2](#)

## **171E Temporary stop notice**

- (1) This section applies if the local planning authority think—
  - (a) that there has been a breach of planning control in relation to any land, and
  - (b) that it is expedient that the activity (or any part of the activity) which amounts to the breach is stopped immediately.
- (2) The authority may issue a temporary stop notice.
- (3) The notice must be in writing and must—
  - (a) specify the activity which the authority think amounts to the breach;
  - (b) prohibit the carrying on of the activity (or of so much of the activity as is specified in the notice);
  - (c) set out the authority's reasons for issuing the notice.
- (4) A temporary stop notice may be served on any of the following—
  - (a) the person who the authority think is carrying on the activity;
  - (b) a person who the authority think is an occupier of the land;
  - (c) a person who the authority think has an interest in the land.
- (5) The authority must display on the land—
  - (a) a copy of the notice;
  - (b) a statement of the effect of the notice and of section 171G.
- (6) A temporary stop notice has effect from the time a copy of it is first displayed in pursuance of subsection (5).
- (7) A temporary stop notice ceases to have effect—
  - (a) at the end of the period of 28 days starting on the day the copy notice is so displayed,

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(b) at the end of such shorter period starting on that day as is specified in the notice, or

(c) if it is withdrawn by the local planning authority.

#### **171F Temporary stop notice: restrictions**

(1) A temporary stop notice does not prohibit—

(a) the use of a building as a dwelling house;

(b) the carrying out of an activity of such description or in such circumstances as is prescribed.

(2) A temporary stop notice does not prohibit the carrying out of any activity which has been carried out (whether or not continuously) for a period of four years ending with the day on which the copy of the notice is first displayed as mentioned in section 171E(6).

(3) Subsection (2) does not prevent a temporary stop notice prohibiting—

(a) activity consisting of 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 is authorised by planning permission must be ignored.

(5) A second or subsequent temporary stop notice must not be issued in respect of the same activity unless the local planning authority has first 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 injunction under section 187B.

#### **171G Temporary stop notice: offences**

(1) A person commits 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 accordance with section 171E(5).

(2) Contravention of a temporary stop notice includes causing or permitting the contravention of the notice.

(3) An offence under this section may be charged by reference to a day or a longer period of time.

(4) A person may be convicted of more than one such offence in relation to the same temporary stop notice by reference to different days or periods of time.

(5) A person does not commit an offence under this section if he proves—

(a) that the temporary stop notice was not served on him, and

(b) that 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;

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(b) on conviction on indictment, to a fine.

(7) In determining the amount of the fine the court must have regard in particular to any financial benefit which has accrued or has appeared to accrue to the person convicted in consequence of the offence.

#### **171H Temporary stop notice: compensation**

(1) This section applies if and only if a temporary stop notice is issued and at least one of the following paragraphs applies—

- (a) the activity which is specified in the notice is authorised by planning permission or a development order or local development order;
- (b) a certificate in respect of the activity is issued under section 191 or granted under that section by virtue of section 195;
- (c) the authority withdraws the notice.

(2) Subsection (1)(a) does not apply if the planning permission is granted on or after the date on which a copy of the notice is first displayed as mentioned in section 171E(6).

(3) Subsection (1)(c) does not apply if the notice is withdrawn following the grant of planning permission as mentioned in subsection (2).

(4) A person who at the time the notice is served has an interest in the land to which the notice relates is entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition effected by the notice.

(5) Subsections (3) to (7) of section 186 apply to compensation payable under this section as they apply to compensation payable under that section; and for that purpose references in those subsections to a stop notice must be taken to be references to a temporary stop notice.]

#### *Enforcement notices*

#### **[<sup>F8</sup>172 Issue of enforcement notice.**

(1) The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them—

- (a) that there has been a breach of planning control; and
- (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served—

- (a) on the owner and on the occupier of the land to which it relates; and
- (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

(3) The service of the notice shall take place—

- (a) not more than twenty-eight days after its date of issue; and
- (b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.]

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### Textual Amendments

**F8** Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art.3 (subject to art. 5)

### Modifications etc. (not altering text)

**C5** S. 172: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

**C6** S. 172: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1

## 173 <sup>F9</sup>Contents and effect of notice.

- (1) An enforcement notice shall state—
  - (a) the matters which appear to the local planning authority to constitute the breach of planning control; and
  - (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.
- (2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.
- (3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
- (4) Those purposes are—
  - (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
  - (b) remedying any injury to amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require—
  - (a) the alteration or removal of any buildings or works;
  - (b) the carrying out of any building or other operations;
  - (c) any activity on the land not to be carried on except to the extent specified in the notice; or
  - (d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.
- (6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7), is as similar as possible to the demolished building.
- (7) A replacement building—
  - (a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;
  - (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;



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- (c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.
- (9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
- (10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.
- (11) Where—
- (a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and
  - (b) all the requirements of the notice have been complied with,
- then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
- (12) Where—
- (a) an enforcement notice requires the construction of a replacement building; and
  - (b) all the requirements of the notice with respect to that construction have been complied with,
- planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

#### Textual Amendments

**F9** Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art.3 (subject to art. 5)

#### Modifications etc. (not altering text)

**C7** S. 173: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

**C8** S. 173(10) applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, Sch.

### 173A <sup>F10</sup>Variation and withdrawal of enforcement notices.

- (1) The local planning authority may—
- (a) withdraw an enforcement notice issued by them; or
  - (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

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- (2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.
- (3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.
- (4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

#### Textual Amendments

**F10** Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art. 3 (subject to art. 5)

#### Modifications etc. (not altering text)

**C9** S. 173A applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, Sch.  
S. 173A: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

### 174 Appeal against enforcement notice.

- (1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
- (2) An appeal may be brought on any of the following grounds—
  - (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;
  - (b) that the matters alleged in the notice do not constitute a breach of planning control;
  - (c) that the breach of planning control alleged in the notice has not taken place;
  - (d) in the case of a notice to which section 172(4) applies, that the period of four years from the date of the breach of planning control to which the notice relates had elapsed at the date when the notice was issued;
  - (e) in the case of a notice not falling within paragraph (d), that the breach of planning control alleged by the notice occurred before the beginning of 1964;
  - (f) that copies of the enforcement notice were not served as required by section 172(6);
  - (g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 173(4);
  - (h) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.
- (3) An appeal under this section shall be made by notice in writing to the Secretary of State before the specified date.
- (4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—

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- (a) specifying the grounds on which he is appealing against the enforcement notice; and
  - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.
- (6) In this section “relevant occupier” means a person who—
- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence in writing; and
  - (b) continues so to occupy the land when the appeal is brought.

**Modifications etc. (not altering text)**

**C10** S. 174: power to apply conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(b\)](#), 41

**175 Appeals: supplementary provisions.**

- (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—
- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
  - (b) specify the matters to be included in such a statement;
  - (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
  - (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.
- (3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) Where an appeal is brought under section 174 the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

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[<sup>F11</sup>(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.]

#### Textual Amendments

**F11** S. 175(7) inserted (*temp.*) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 6, Sch. 4 paras. 1, 3

#### Modifications etc. (not altering text)

**C11** S. 175(1)–(4)(6): power to apply conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), ss. **25(1)(b)**, 41

### 176 General provisions relating to determination of appeals.

- (1) On the determination of an appeal under section 174, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.
- (2) On such an appeal if the Secretary of State is satisfied that to do so will not cause the appellant or the local planning authority injustice, he may—
  - (a) correct any informality, defect or error in the enforcement notice; or
  - (b) give directions for varying its terms.
- (3) The Secretary of State—
  - (a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and
  - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.
- (4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).
- (5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

#### Modifications etc. (not altering text)

**C12** Ss. 176, 177: power to apply conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), ss. **25(1)(b)**, 41

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## **177 Grant or modification of planning permission on appeals against enforcement notices.**

- (1) On the determination of an appeal under section 174, the Secretary of State may—
  - (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.
- (2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.
- (3) Any planning permission granted by the Secretary of State under subsection (1) may—
  - (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
  - (b) be granted subject to such conditions as the Secretary of State thinks fit;and section 72(1) and (5) shall apply with any necessary modifications in relation to the grant of permission under subsection (1) as it applies to a grant of permission under section 70(1).
- (4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.
- (5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates.
- (6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.
- (7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.
- (8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

### **Modifications etc. (not altering text)**

**C13** Ss. 176, 177: power to apply conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(b\)](#), 41

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## 178 Execution and cost of works required by enforcement notice.

- (1) If any steps which by virtue of section 173(2)(a) are required by an enforcement notice to be taken (other than the discontinuance of a use of land) have not been taken within the compliance period, the local planning authority may—
  - (a) enter the land and take those steps, and
  - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
- (2) Where a copy of an enforcement notice has been served in respect of any breach of planning control (as defined in section 172(3))—
  - (a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and
  - (b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken,
 shall be deemed to be incurred or paid for the use and at the request of the person by whom the breach of planning control was committed.
- (3) Regulations made under this Act may provide that—
  - (a) section 276 of the <sup>M1</sup>Public Health Act 1936, (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);
  - (b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); and
  - (c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),
 shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by an enforcement notice.
- (4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving 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.
- (5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local planning authority under subsection (1).
- (6) Where by virtue of this section any expenses are recoverable by a local planning authority, those expenses shall be recoverable as a simple contract debt in any court of competent jurisdiction.
- (7) In this section and in sections 179, 183 and 184 any reference to the compliance period, in relation to an enforcement notice, is a reference to the period specified in the notice for compliance with it or such extended period as the local planning authority may allow for compliance with it.

### Modifications etc. (not altering text)

**C14** Ss. 178(1)–(5)(7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), **ss. 25(1)(c)**, 41

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#### Marginal Citations

M1 1936 c. 49.

### 179 Penalties for non-compliance with enforcement notice.

- (1) Where—
  - (a) a copy of an enforcement notice has been served on the person who at the time when the copy was served was the owner of the land to which the notice relates, and
  - (b) any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the compliance period,then, subject to the provisions of this section, that person shall be guilty of an offence.
- (2) A person who is guilty of an offence under subsection (1) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to a fine.
- (3) Where proceedings have been brought under subsection (1) against a person (“the original owner”) who has, at some time before the end of the compliance period, ceased to be the owner of the land, if he—
  - (a) duly lays information to that effect, and
  - (b) gives the prosecution not less than three clear days’ notice of his intention,he shall be entitled to have the person who then became the owner of the land (“the subsequent owner”) brought before the court in the proceedings.
- (4) Where in such proceedings—
  - (a) it has been proved that any steps required by the enforcement notice have not been taken within the compliance period, and
  - (b) the original owner proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent ownerthen—
  - (i) the subsequent owner may be convicted of the offence; and
  - (ii) if the original owner also proves that he took all reasonable steps to secure compliance with the enforcement notice, he shall be acquitted of the offence.
- (5) If, after a person has been convicted under the previous 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—
  - (a) on summary conviction to a fine not exceeding £200 for each day following his first conviction on which any of the requirements of the notice (other than the discontinuance of the use of land) remain unfulfilled; or
  - (b) on conviction on indictment, to a fine.
- (6) Where, by virtue of an enforcement notice—
  - (a) a use of land is required to be discontinued, or
  - (b) 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 on it,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.

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- (7) A person who is guilty of an offence under subsection (6) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment, to a fine.
- (8) Where a person is convicted under subsection (6) in respect of any use of land and the use is continued after the conviction he shall be guilty of a further offence and liable—
- (a) on summary conviction, to a fine not exceeding £200 for each day on which the use is so continued, or
  - (b) on conviction on indictment, to a fine.

**Modifications etc. (not altering text)**

**C15** Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(c\)](#), 41

**180 Effect of planning permission on enforcement notice.**

- (1) If, after the service of a copy of an enforcement notice, planning permission is granted—
- (a) for the retention on land of buildings or works, or
  - (b) 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, as the case may be, the discontinuance of that use.
- (2) If the planning permission granted as mentioned in subsection (1) 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 fact that an enforcement notice has wholly or partly ceased to have effect under subsection (1) or (2) shall not affect the liability of any person for an offence in respect of a previous failure to comply with the notice.

**Modifications etc. (not altering text)**

**C16** Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(c\)](#), 41

**181 Enforcement notice to have effect against subsequent development.**

- (1) Compliance with an enforcement notice, whether in respect of—
- (a) the completion, demolition or alteration of any buildings or works;
  - (b) the discontinuance of any use of land; or
  - (c) any other requirements contained in the notice,
- shall not discharge the notice.



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- (2) Without prejudice to subsection (1), 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; 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), 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 subsection (4), the provisions of section 178(1) and (2) 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 178(1), 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 28 days before taking any such steps, serve on the owner and occupier of the land a notice of their intention to do so.
- (5) Where without planning permission a person 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—
  - (a) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, and
  - (b) no person shall be liable under any of the provisions of section 179(1) to (5) 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.

**Modifications etc. (not altering text)**

C17 Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(c\)](#), 41

**182 Enforcement by the Secretary of State.**

- (1) If it appears to the Secretary of State to be expedient that an enforcement notice should be issued in respect of any land, he may issue such a notice.
- (2) The Secretary of State shall not issue such a notice without consulting the local planning authority.
- (3) An enforcement notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority.

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- (4) In relation to an enforcement notice issued by the Secretary of State, sections 178 and 181 shall apply as if for any reference in those sections to the local planning authority there were substituted a reference to the Secretary of State.

**Modifications etc. (not altering text)**

**C18** S. 182: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

*Stop notices*

**183 Stop notices.**

- (1) Where in respect of any land the local planning authority—
- (a) have served a copy of an enforcement notice requiring a breach of planning control to be remedied; but
  - (b) consider it expedient to prevent, before the expiry of the compliance period, the carrying out of any activity which is, or is included in, a matter alleged by the notice to constitute the breach,
- they may at any time before the notice takes effect serve a notice prohibiting the carrying out of that activity on the land, or any part of it specified in the notice.
- (2) A notice under subsection (1) is in this Act referred to as a “stop notice”.
- (3) A stop notice shall not prohibit—
- (a) the use of any building as a dwellinghouse, or
  - (b) the use of land as the site for a caravan occupied by any person as his only or main residence, or
  - (c) the taking of any steps specified in the enforcement notice as required to be taken in order to remedy the breach of planning control.
- (4) For the purposes of subsection (3) “caravan” has the same meaning as it has for the purposes of Part I of the <sup>M2</sup>Caravan Sites and Control of Development Act 1960.
- (5) Where the period during which an activity has been carried out on land (whether continuously or otherwise) began more than 12 months earlier, a stop notice shall not prohibit the carrying out of that activity on that land unless it is, or is incidental to, building, engineering, mining or other operations or the deposit of refuse or waste materials.
- (6) A stop notice may be served by the local planning authority on any person who appears to them to have an interest in the land or to be engaged in any activity prohibited by the notice.
- (7) The local planning authority may at any time withdraw a stop notice (without prejudice to their power to serve another) by serving notice to that effect on persons served with the stop notice.

**Modifications etc. (not altering text)**

**C19** Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), ss. 25(1)(c), 41

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### Marginal Citations

M2 1960 c. 62.

## 184 Stop notices: supplementary provisions.

- (1) A stop notice must refer to the enforcement notice to which it relates and have a copy of that notice annexed to it.
- (2) A stop notice must specify the date on which it will take effect (and it cannot be contravened until that date).
- (3) That date must not be earlier than three nor later than 28 days from the day on which the notice is first served on any person.
- (4) A stop notice shall cease to have effect when—
  - (a) the enforcement notice to which it relates is withdrawn or quashed; or
  - (b) the compliance period expires; or
  - (c) notice of the withdrawal of the stop notice is first served under section 183(7).
- (5) A stop notice shall also cease to have effect if or to the extent that the activities prohibited by it cease, on a variation of the enforcement notice, to be included in the matters alleged by the enforcement notice to constitute a breach of planning control.
- (6) Where a stop notice has been served in respect of any land, the local planning authority may display there a notice (in this section and section 187 referred to as a “site notice”)—
  - (a) stating that a stop notice has been served and that any person contravening it may be prosecuted for an offence under section 187,
  - (b) giving the date when the stop notice takes effect, and
  - (c) indicating its requirements.
- (7) If under section 183(7) the local planning authority withdraw a stop notice in respect of which a site notice was displayed, they must display a notice of the withdrawal in place of the site notice.
- (8) A stop notice shall not be invalid by reason that a copy of the enforcement notice to which it relates was not served as required by section 172(6) if it is shown that the local planning authority took all such steps as were reasonably practicable to effect proper service.

### Modifications etc. (not altering text)

**C20** Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [ss. 25\(1\)\(c\), 41](#)

## 185 Service of stop notices by Secretary of State.

- (1) If it appears to the Secretary of State to be expedient that a stop notice should be served in respect of any land, he may himself serve such a notice.
- (2) A notice served by the Secretary of State under subsection (1) shall have the same effect as if it had been served by the local planning authority.

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- (3) The Secretary of State shall not serve such a notice without consulting the local planning authority.

**Modifications etc. (not altering text)**

**C21** S. 185: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

**186 Compensation for loss due to stop notice.**

- (1) Where a stop notice is served under section 183 compensation may be payable under this section in respect of a prohibition contained in the notice only if—
- (a) the enforcement notice is quashed on grounds other than those mentioned in paragraph (a) of section 174(2);
  - (b) the enforcement notice is varied (otherwise than on the grounds mentioned in that paragraph) so that matters alleged to constitute a breach of planning control cease to include one or more of the activities prohibited by the stop notice;
  - (c) the enforcement notice is withdrawn by the local planning authority otherwise than in consequence of the grant by them of planning permission for the development to which the notice relates or for its retention or continuance without compliance with a condition or limitation subject to which a previous planning permission was granted; or
  - (d) the stop notice is withdrawn.
- (2) A person who, when the stop notice is first served, has an interest in or occupies the land to which the notice relates shall be entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice or, in a case within subsection (1)(b), so much of that prohibition as ceases to have effect.
- (3) A claim for compensation under this section shall be made to the local planning authority within the prescribed time and in the prescribed manner.
- (4) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include any sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.
- (5) In the assessment of compensation under this section, account shall be taken of the extent (if any) to which the claimant's entitlement is attributable—
- (a) to his failure to comply with a notice under section 330, or
  - (b) to any mis-statement made by him in response to such a notice.
- (6) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under this Part shall be referred to and determined by the Lands Tribunal.
- (7) In relation to the determination of any such question, the provisions of sections 2 and 4 of the <sup>M3</sup>Land Compensation Act 1961 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

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### Marginal Citations

M3 1961 c.33.

## 187 Penalties for contravention of stop notice.

- (1) If any person contravenes or causes or permits the contravention of a stop notice—
  - (a) after a site notice has been displayed, or
  - (b) if a site notice has not been displayed, more than two days after the stop notice has been served on him,then, subject to subsection (3), he shall be guilty of an offence.
- (2) A person who is guilty of an offence under subsection (1) shall be liable—
  - (a) on summary conviction to a fine not exceeding the statutory maximum, or
  - (b) on conviction on indictment to a fine;and if the offence is continued after conviction he shall be guilty of a further offence and liable—
  - (i) on summary conviction to a fine not exceeding £200 for each day on which the offence is continued, or
  - (ii) on conviction on indictment to a fine.
- (3) In proceedings for an offence under this section it shall be a defence for the accused to prove—
  - (a) that the stop notice was not served on him, and
  - (b) that he did not know, and could not reasonably have been expected to know, of its existence.

### Modifications etc. (not altering text)

C22 Ss. 178(1)–(5), (7), 179–181, 183, 184, 187, 188: power to modify conferred (*prosp.*) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), ss. 25(1)(c), 41

VALID FROM 27/07/1992

### <sup>F12</sup>Breach of condition

#### Textual Amendments

F12 S. 187A and cross heading inserted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s.2 (with s. 84(5)); S.I. 1992/1630, art. 2 (with art. 3(1))

## <sup>F13</sup>187A Enforcement of conditions.

- (1) This section applies where planning permission for carrying out any development of land has been granted subject to conditions.

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- (2) The local planning authority may, if any of the conditions is not complied with, serve a notice (in this Act 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 section 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 subsection (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 authority consider ought to be taken, or the activities which the authority consider ought to cease, to secure compliance with the conditions specified in the notice.
- (6) The authority 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 twenty-eight 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 local planning authority 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 subsection (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 subsection 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 subsection (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 subsection (2)(b), that he no longer had control of the land.
- (12) A person who is guilty of an offence under subsection (9) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (13) In this section—
  - (a) “conditions” includes limitations; and

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- (b) references to carrying out any development include causing or permitting another to do so.]

#### Textual Amendments

**F13** S. 187A and cross heading inserted (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s.2](#) (with [s. 84\(5\)](#)); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)](#))

#### Modifications etc. (not altering text)

- C23** S. 187A: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)
- C24** S. 187A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#)
- S. 187A restricted (E.) (13.4.2001) by [S.I. 2001/1478](#), [reg. 3\(a\)](#)

### *F<sup>14</sup>Injunctions*

#### Textual Amendments

**F14** S. 187B and cross heading inserted (25.11.1991 for certain purposes and otherwise 2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s.3](#) (with [s. 84\(5\)](#)); [S.I. 1991/2728](#), [art.2](#); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

### **F<sup>15</sup>187B Injunctions restraining breaches of planning control.**

- (1) Where a local planning authority consider it necessary or expedient for any actual or apprehended breach of planning control to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Part.
- (2) On an application under subsection (1) the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the breach.
- (3) Rules of court may provide for such an injunction to be issued against a person whose identity is unknown.
- (4) In this section “the court” means the High Court or the county court.]

#### Textual Amendments

**F15** S. 187B and cross heading inserted (25.11.1991 for certain purposes and otherwise 2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s.3](#) (with [s. 84\(5\)](#)); [S.I. 1991/2728](#), [art.2](#); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

#### Modifications etc. (not altering text)

- C25** S. 187B: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)
- C26** S. 187B: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#)

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## Registers

### 188 Register of enforcement and stop notices.

- (1) Every district planning authority and the council of every metropolitan district or London borough shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect—
  - (a) to enforcement notices; and
  - (b) to stop notices,
 which relate to land in their area.
- (2) A development order may make provision—
  - (a) for the entry relating to any enforcement notice or stop notice, and everything relating to any such notice, to be removed from the register in such circumstances as may be specified in the order; and
  - (b) for requiring a county planning authority to supply to a district planning authority such information as may be so specified with regard to enforcement notices issued and stop notices served by the county planning authority.
- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

#### Modifications etc. (not altering text)

- C27** S. 188: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by [Planning \(Hazardous Substances\) Act 1990](#) (c. 10, SIF 123:1), [s. 25\(1\)\(c\)](#); S.I. 1992/725, [arts. 2, 3](#)
- C28** S. 188 applied (27.7.1992) by S.I. 1992/1562, [reg. 2](#), [Sch.](#)  
S. 188 applied (with modifications) (1.6.1992) by S.I. 1992/656, [reg. 21\(1\)](#), [Sch. 4 Pt. 3](#)

#### *Enforcement of orders for discontinuance of use, etc.*

### 189 Penalties for contravention of orders under s. 102 and Schedule 9.

- (1) Any person who without planning permission—
  - (a) uses land, or causes or permits land to be used—
    - (i) for any purpose for which an order under section 102 or paragraph 1 of Schedule 9 has required that its use shall be discontinued; or
    - (ii) in contravention of any condition imposed by such an order by virtue of subsection (1) of that section or, as the case may be, sub-paragraph (1) of that paragraph; or
  - (b) resumes, or causes or permits to be resumed, development consisting of the winning and working of minerals [<sup>F16</sup> or involving the depositing of mineral waste] the the resumption of which an order under paragraph 3 of that Schedule has prohibited; or
  - (c) contravenes, or causes or permits to be contravened, any such requirement as is specified in sub-paragraph (3) or (4) of that paragraph,
 shall be guilty of an offence.



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- (2) Any person who contravenes any requirement of an order under paragraph 5 or 6 of that Schedule or who causes or permits any requirement of such an order to be contravened shall be guilty of an offence.
- (3) Any person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment, to a fine.
- (4) It shall be a defence for a person charged with an offence under this section 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.
- (5) If in any case the defence provided by subsection (4) 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 clear 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.

#### Textual Amendments

**F16** Words in s. 189(1)(b) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 21 Sch. 1 para. 11](#) (with [s. 84\(5\)](#)); [S.I. 1991/2067](#), [art.3](#) (subject to [art. 4](#))

#### Modifications etc. (not altering text)

**C29** S. 189: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

### 190 Enforcement of orders under s. 102 and Schedule 9.

- (1) This section applies where—
  - (a) any step required by an order under section 102 or paragraph 1 of Schedule 9 to be taken for the alteration or removal of any buildings or works or any plant or machinery;
  - (b) any step required by an order under paragraph 3 of that Schedule to be taken—
    - (i) for the alteration or removal of plant or machinery; or
    - (ii) for the removal or alleviation of any injury to amenity; or
  - (c) any step for the protection of the environment required to be taken by an order under paragraph 5 or 6 of that Schedule,has not been taken within the period specified in the order or within such extended period as the local planning authority or, as the case may be, the mineral planning authority may allow.
- (2) Where this section applies the local planning authority or, as the case may be, the mineral planning authority may enter the land and take the required step.
- (3) Where the local planning authority or, as the case may be, the mineral planning authority have exercised their power under subsection (2) they may recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

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- (4) Any expenses recoverable by a local planning authority or a mineral planning authority under subsection (3) shall be recoverable as a simple contract debt in any court of competent jurisdiction.
- (5) Section 276 of the <sup>M4</sup>Public Health Act 1936 shall apply in relation to any works executed by an authority under subsection (2) as it applies in relation to works executed by a local authority under that Act.

#### Marginal Citations

**M4** 1936 c.49.

*<sup>F17</sup> Certificate of lawful use or development*

#### Textual Amendments

**F17** Ss. 191 - 194 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **s. 10(1)** (with [s. 84\(5\)](#)); [S.I. 1991/2728](#), **art.2**; [S.I. 1992/1630](#), **art. 2** (with [art. 3\(1\)\(2\)](#))

#### <sup>F18</sup>**191 Certificate of lawfulness of existing use or development.**

- (1) If any person wishes to ascertain whether—
  - (a) any existing use of buildings or other land is lawful;
  - (b) any operations which have been carried out in, on, over or under land are lawful; or
  - (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,
 he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.
- (2) For the purposes of this Act uses and operations are lawful at any time if—
  - (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
  - (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
- (3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—
  - (a) the time for taking enforcement action in respect of the failure has then expired; and
  - (b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.
- (4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified

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by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

- (5) A certificate under this section shall—
- (a) specify the land to which it relates;
  - (b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
  - (c) give the reasons for determining the use, operations or other matter to be lawful; and
  - (d) specify the date of the application for the certificate.
- (6) The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.
- (7) A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission—
- (a) section 3(3) of the <sup>M5</sup>Caravan Sites and Control of Development Act 1960;
  - (b) section 5(2) of the <sup>M6</sup>Control of Pollution Act 1974; and
  - (c) section 36(2)(a) of the <sup>M7</sup>Environmental Protection Act 1990.

#### Textual Amendments

**F18** S. 191 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **s. 10(1)** (with s. 84(5)); [S.I. 1991/2728](#), **art.2**; [S.I. 1992/1630](#), **art. 2** (with art. 3(1)(2))

#### Modifications etc. (not altering text)

**C30** S. 191: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), **art. 3**  
**C31** S. 191 modified (1.8.2000) by [S.I. 2000/1973](#), **reg. 10(3)** (with reg. 10(14))  
**C32** S. 191(4): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), **reg. 2(1)**, **Sch. 1**

#### Marginal Citations

**M5** 1960 c. 62.  
**M6** 1974 c. 40.  
**M7** 1990 c. 43.

### <sup>F19</sup>**192 Certificate of lawfulness of proposed use or development.**

- (1) If any person wishes to ascertain whether—
- (a) any proposed use of buildings or other land; or
  - (b) any operations proposed to be carried out in, on, over or under land,
- would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.
- (2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
- (3) A certificate under this section shall—

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- (a) specify the land to which it relates;
  - (b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
  - (c) give the reasons for determining the use or operations to be lawful; and
  - (d) specify the date of the application for the certificate.
- (4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

#### Textual Amendments

**F19** S. 192 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 10\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2728](#), [art.2](#); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)\(2\)](#))

#### Modifications etc. (not altering text)

**C33** S. 192: power to apply conferred (10.11.1993) by [1993 c. 28](#), [s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

**C34** S. 192 modified (1.8.2000) by [S.I. 2000/1973](#), [reg. 10\(5\)](#) (with [reg. 10\(14\)](#))

**C35** S. 192(2): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#)

#### <sup>F20</sup> 193 Certificates under sections 191 and 192: supplementary provisions.

- (1) An application for a certificate under section 191 or 192 shall be made in such manner as may be prescribed by a development order and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any directions given under such an order or by the local planning authority.
- (2) Provision may be made by a development order for regulating the manner in which applications for certificates under those sections are to be dealt with by local planning authorities.
- (3) In particular, such an order may provide for requiring the authority—
  - (a) to give to any applicant within such time as may be prescribed by the order such notice as may be so prescribed as to the manner in which his application has been dealt with; and
  - (b) to give to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to such applications made to the authority, including information as to the manner in which any application has been dealt with.
- (4) A certificate under either of those sections may be issued—
  - (a) for the whole or part of the land specified in the application; and
  - (b) where the application specifies two or more uses, operations or other matters, for all of them or some one or more of them;
 and shall be in such form as may be prescribed by a development order.

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- (5) A certificate under section 191 or 192 shall not affect any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted unless that matter is described in the certificate.
- (6) In section 69 references to applications for planning permission shall include references to applications for certificates under section 191 or 192.
- (7) A local planning authority may revoke a certificate under either of those sections if, on the application for the certificate—
  - (a) a statement was made or document used which was false in a material particular; or
  - (b) any material information was withheld.
- (8) Provision may be made by a development order for regulating the manner in which certificates may be revoked and the notice to be given of such revocation.

#### Textual Amendments

**F20** S. 193 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 10\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2728](#), [art.2](#); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)\(2\)](#))

#### Modifications etc. (not altering text)

**C36** S. 193: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

### <sup>F21</sup>194 Offences.

- (1) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for the issue of a certificate under section 191 or 192—
  - (a) knowingly or recklessly makes a statement which is false or misleading in a material particular;
  - (b) with intent to deceive, uses any document which is false or misleading in a material particular; or
  - (c) with intent to deceive, withholds any material information,he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.
- (3) Notwithstanding section 127 of the <sup>M8</sup>Magistrates' Courts Act 1980, a magistrates' court may try an information in respect of an offence under subsection (1) whenever laid.]

#### Textual Amendments

**F21** S. 194 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 10\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2728](#), [art.2](#); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)\(2\)](#))

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#### **Modifications etc. (not altering text)**

**C37** S. 194: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762, art. 3](#)

#### **Marginal Citations**

**M8** [1980 c. 43.](#)

### **195 Appeals against refusal or failure to give decision on application.**

- (1) Where an application is made to a local planning authority for an established use certificate and—
  - (a) the application is refused or is refused in part, or
  - (b) the authority do not give notice to the applicant of their decision on the application within such period as may be prescribed by a development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority,
 the applicant may by notice appeal to the Secretary of State.
- (2) On any such appeal, if and so far as the Secretary of State is satisfied—
  - (a) in the case of an appeal under subsection (1)(a), that the authority's refusal is not well-founded, or
  - (b) in the case of an appeal under subsection (1)(b), that if the authority had refused the application their refusal would not have been well-founded,
 he shall grant the appellant an established use certificate accordingly or, in the case of a refusal in part, modify the certificate granted by the authority on the application.
- (3) If and so far as the Secretary of State is satisfied that the authority's refusal is or, as the case may be, would have been well-founded, he shall dismiss the appeal.
- (4) In section 193(2) and (6) references to applications for established use certificates include references to appeals arising out of such applications.
- (5) For the purposes of the application of section 288(10)(b) in relation to an appeal in a case within subsection (1)(b) it shall be assumed that the authority decided to refuse the application in question.
- (6) Schedule 6 applies to appeals under this section.

### **196 Further provisions as to references and appeals to the Secretary of State.**

- (1) Before determining an application referred to him under section 192(5) or an appeal to him under section 195(1), the Secretary of State shall, if either the applicant or appellant (as the case may be) or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (2) Where the Secretary of State grants an established use certificate on such a reference or such an appeal, he shall give notice to the local planning authority of that fact.
- (3) The decision of the Secretary of State on such an application or appeal shall be final.
- (4) The information which may be prescribed as being required to be contained in a register kept under section 69 shall include information with respect to established use certificates granted by the Secretary of State.

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- (5) On such an application or appeal the Secretary of State may, in respect of any use of land for which an established use certificate is not granted (either by him or by the local planning authority), grant planning permission for that use or, as the case may be, for the continuance of that use without complying with some condition subject to which a previous planning permission was granted.
- (6) In the case of any use of land for which the Secretary of State has power to grant planning permission under this section, the applicant or appellant shall be deemed to have made an application for such planning permission.
- (7) Any planning permission so granted shall be treated as granted on that application.
- [<sup>F22</sup>(8) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 195 as if those proceedings were an inquiry held by the Secretary of State under section 250.]

#### Textual Amendments

**F22** S. 196(8) inserted (temp.) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 6, Sch. 4 paras. 1, 4](#) (which temp. insertion falls (2.1.1992) for specified purposes only by virtue of [S.I. 1991/2698, art. 3](#)); [S.I. 1991/2698, art. 3](#)

VALID FROM 02/01/1992

#### [<sup>F23</sup>Rights of entry for enforcement purposes

#### Textual Amendments

**F23** Ss. 196A - 196C inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 11\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905, art.3](#) (subject to [art. 5](#))

#### <sup>F24</sup>196A Rights to enter without warrant.

- (1) Any person duly authorised in writing by a local planning authority may at any reasonable hour enter any land—
- to ascertain whether there is or has been any breach of planning control on the land or any other land;
  - to determine whether any of the powers conferred on a local planning authority by this Part should be exercised in relation to the land or any other land;
  - to determine how any such power should be exercised in relation to the land or any other land;
  - to ascertain whether there has been compliance with any requirement imposed as a result of any such power having been exercised in relation to the land or any other land,
- if there are reasonable grounds for entering for the purpose in question.

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- (2) Any person duly authorised in writing by the Secretary of State may at any reasonable hour enter any land to determine whether an enforcement notice should be issued in relation to the land or any other land, if there are reasonable grounds for entering for that purpose.
- (3) The Secretary of State shall not so authorise any person without consulting the local planning authority.
- (4) Admission to any building used as a dwellinghouse shall not be demanded as of right by virtue of subsection (1) or (2) unless twenty-four hours' notice of the intended entry has been given to the occupier of the building.

#### Textual Amendments

**F24** S. 196A: ss. 196A - 196C inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 11\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

#### Modifications etc. (not altering text)

**C38** S. 196A: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

**C39** S. 196A: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#)

#### <sup>F25</sup>196B Right to enter under warrant.

- (1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
  - (a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 196A(1) or (2); and
  - (b) that—
    - (i) admission to the land has been refused, or a refusal is reasonably apprehended; or
    - (ii) the case is one of urgency,
 the justice may issue a warrant authorising any person duly authorised in writing by a local planning authority or, as the case may be, the Secretary of State to enter the land.
- (2) For the purposes of subsection (1)(b)(i) admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.
- (3) A warrant authorises entry on one occasion only and that entry must be—
  - (a) within one month from the date of the issue of the warrant; and
  - (b) at a reasonable hour, unless the case is one of urgency.

#### Textual Amendments

**F25** 196B: Ss. 196A- 196C inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 11\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

#### Modifications etc. (not altering text)

**C40** S. 196B: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)



*Status: Point in time view as at 25/11/1991. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

## <sup>F26</sup> 196C Rights of entry: supplementary provisions.

- (1) A person authorised to enter any land in pursuance of a right of entry conferred under or by virtue of section 196A or 196B (referred to in this section as “a right of entry”)
  - (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;
  - (b) may take with him such other persons as may be necessary; and
  - (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.
- (2) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) If any damage is caused to land or chattels in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State.
- (4) The provisions of section 118 shall apply in relation to compensation under subsection (3) as they apply in relation to compensation under Part IV.
- (5) If any person who enters any land, in exercise of a right of entry, discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.
- (6) Subsection (5) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.
- (7) A person who is guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.
- (8) In sections 196A and 196B and this section references to a local planning authority include, in relation to a building situated in Greater London, a reference to the Historic Buildings and Monuments Commission for England.]

### Textual Amendments

**F26** S. 196C: ss. 196A- 196C inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 11\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

### Modifications etc. (not altering text)

**C41** S. 196C: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

**Status:**

Point in time view as at 25/11/1991. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

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