



Planning Act 2008

2008 CHAPTER 29

PART 8

ENFORCEMENT

Offences

160 Development without development consent

- (1) A person commits an offence if the person carries out, or causes to be carried out, development for which development consent is required at a time when no development consent is in force in respect of the development.
- (2) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding £50,000, or
 - (b) on conviction on indictment, to a fine.
- (3) The Secretary of State may by order amend subsection (2)(a) to increase the level of the fine for the time being specified in that provision.

161 Breach of terms of order granting development consent

- (1) A person commits an offence if without reasonable excuse the person—
 - (a) carries out, or causes to be carried out, development in breach of the terms of an order granting development consent, or
 - (b) otherwise fails to comply with the terms of an order granting development consent.
- (2) Subsection (1) is subject to sections 148(4) and 149(4).
- (3) It is a defence for a person charged with an offence under this section to prove that—
 - (a) the breach or failure to comply occurred only because of an error or omission in the order, and

Status: This is the original version (as it was originally enacted).

- (b) a correction notice specifying the correction of the error or omission has been issued under paragraph 2 of Schedule 4.
- (4) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding £50,000, or
 - (b) on conviction on indictment, to a fine.
- (5) The Secretary of State may by order amend subsection (4)(a) to increase the level of the fine for the time being specified in that provision.

162 Time limits

- (1) A person may not be charged with an offence under section 160 or 161 after the end of—
 - (a) the relevant 4-year period, or
 - (b) if subsection (3) applies, the extended period.
- (2) The “relevant 4-year period” means—
 - (a) in the case of an offence under section 160, the period of 4 years beginning with the date on which the development was substantially completed;
 - (b) in the case of an offence under section 161, the period of 4 years beginning with the later of—
 - (i) the date on which the development was substantially completed, and
 - (ii) the date on which the breach or failure to comply occurred.
- (3) This subsection applies if during the relevant 4-year period—
 - (a) an information notice has been served under section 167, or
 - (b) an injunction has been applied for under section 171.
- (4) The “extended period” means the period of 4 years beginning with—
 - (a) the date of service of the information notice, if subsection (3)(a) applies;
 - (b) the date of the application for the injunction, if subsection (3)(b) applies;
 - (c) the later (or latest) of those dates, if both paragraphs (a) and (b) of subsection (3) apply.

Rights of entry

163 Right to enter without warrant

- (1) This section applies in relation to any land if the relevant local planning authority has reasonable grounds for suspecting that an offence under section 160 or 161 is being, or has been, committed on or in respect of the land.
- (2) A person authorised in writing by the relevant local planning authority may at any reasonable hour enter the land for the purpose of ascertaining whether an offence under section 160 or 161 is being, or has been, committed on the land.
- (3) A person may enter a building used as a dwelling-house under subsection (2) only if 24 hours' notice of the intended entry has been given to the occupier of the building.

164 Right to enter under warrant

- (1) This section applies 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 suspecting that an offence under section 160 or 161 is being, or has been, committed on or in respect of any land, and
 - (b) that the condition in subsection (2) is met.
- (2) The condition is that—
 - (a) admission to the land has been refused, or a refusal is reasonably apprehended, or
 - (b) the case is one of urgency.
- (3) The justice of the peace may issue a warrant authorising any person who is authorised in writing for the purpose by the relevant local planning authority to enter the land.
- (4) For the purposes of subsection (2)(a) admission to land is to be regarded as having been refused if no reply is received to a request for admission within a reasonable period.
- (5) A warrant authorises entry on one occasion only and that entry must be—
 - (a) before the end of the period of one month beginning with the date of the issue of the warrant, and
 - (b) at a reasonable hour, unless the case is one of urgency.

165 Rights of entry: supplementary provisions

- (1) A person authorised to enter land in pursuance of a right of entry conferred under or by virtue of section 163 or 164 (“a relevant right of entry”)—
 - (a) must, if so required, produce evidence of the authority and state the purpose of entry before entering the land,
 - (b) may take on to the land such other persons as may be necessary, and
 - (c) must, if the person leaves the land at a time when the owner or occupier is not present, leave it as effectively secured against trespassers as it was found.
- (2) A person commits an offence if the person wilfully obstructs a person acting in the exercise of a relevant right of entry.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If any damage is caused to land or chattels in the exercise of a relevant right of entry, compensation may be recovered by any person suffering the damage from the local planning authority that authorised the entry.
- (5) Except so far as otherwise provided by regulations, any question of disputed compensation under subsection (4) is to be referred to and determined by the Lands Tribunal.
- (6) In relation to the determination of any such question, the provisions of sections 2 and 4 of the Land Compensation Act 1961 (c. 33) apply subject to any necessary modifications and to any other prescribed modifications.

Status: This is the original version (as it was originally enacted).

166 Rights of entry: Crown land

Sections 163 and 164 do not apply to Crown land.

Information notices

167 Power to require information

- (1) This section applies in relation to any land if it appears to the relevant local planning authority that an offence under section 160 or 161 may have been committed on or in respect of the land.
- (2) The relevant local planning authority may serve an information notice.
- (3) The information notice may be served 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.
- (4) The information notice may require the person on whom it is served to give such of the following information as may be specified in the notice—
 - (a) information about any operations being carried out in, on, over or under the land, any use of the land and any other activities being carried out in, on, over or under the land, and
 - (b) information about the provisions of any order granting development consent for development of the land.
- (5) An information notice must inform the person on whom it is served of the likely consequences of a failure to respond to the notice.
- (6) A requirement of an information notice is complied with by giving the required information to the relevant local planning authority in writing.

168 Offences relating to information notices

- (1) A person commits an offence if without reasonable excuse the person fails to comply with any requirement of an information notice served under section 167 before the end of the period mentioned in subsection (2).
- (2) The period referred to in subsection (1) is the period of 21 days beginning with the day on which the information notice is served.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) A person commits an offence if the person—
 - (a) makes any statement purporting to comply with a requirement of an information notice which he knows to be false or misleading in a material respect, or
 - (b) recklessly makes such a statement which is false or misleading in a material respect.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Notices of unauthorised development

169 Notice of unauthorised development

- (1) Subsection (2) applies if a person is found guilty of an offence under section 160 committed on or in respect of any land.
- (2) The relevant local planning authority may serve a notice of unauthorised development on the person requiring such steps as may be specified in the notice to be taken—
 - (a) to remove the development, and
 - (b) to restore the land on which the development has been carried out to its condition before the development was carried out.
- (3) Subsection (4) applies if a person is found guilty of an offence under section 161 committed on or in respect of any land.
- (4) The relevant local planning authority may serve a notice of unauthorised development on the person requiring the person to remedy the breach or failure to comply.
- (5) A notice of unauthorised development—
 - (a) must specify the period within which any steps are required to be taken, and
 - (b) may specify different periods for different steps.
- (6) Where different periods apply to different steps, references in this Part to the period for compliance with a notice of unauthorised development, in relation to any step, are to the period within which the step is required to be taken.
- (7) A notice of unauthorised development must specify such additional matters as may be prescribed.

170 Execution of works required by notice of unauthorised development

- (1) If any of the steps specified in a notice of unauthorised development have not been taken before the end of the period for compliance with the notice, the relevant local planning authority may—
 - (a) enter the land on which the development has been carried out and take those steps, and
 - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by it in doing so.
- (2) Where a notice of unauthorised development has been served in respect of development—
 - (a) any expenses incurred by the owner or occupier of the land for the purposes of complying with it, and
 - (b) any sums paid by the owner of the land under subsection (1) in respect of expenses incurred by the relevant local planning authority in taking steps required by it,are to be deemed to be incurred or paid for the use and at the request of the person found guilty of the offence under section 160 or 161.
- (3) Regulations may provide that all or any of the following sections of the Public Health Act 1936 (c. 49) are to apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a notice of unauthorised development—

Status: This is the original version (as it was originally enacted).

section 276 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

section 289 (power to require the occupier of any premises to permit works to be executed by the owner of the premises);

section 294 (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act).

- (4) Regulations under subsection (3) applying all or any of section 289 of that Act may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.
- (5) Regulations under subsection (3) may also provide for the charging on the land on which the development is carried out of any expenses recoverable by the relevant local planning authority under subsection (1).
- (6) A person commits an offence if the person wilfully obstructs a person acting in the exercise of powers under subsection (1).
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Injunctions

171 Injunctions

- (1) A local planning authority may apply to the court for an injunction if it considers it necessary or expedient for any actual or apprehended prohibited activity to be restrained by injunction.
- (2) Prohibited activity means activity that constitutes an offence under section 160 or 161 in relation to land in the area of the local planning authority.
- (3) On an application under this section the court may grant such an injunction as the court thinks fit for the purpose of restraining the prohibited activity.
- (4) In this section “the court” means the High Court or a county court.

Isles of Scilly

172 Isles of Scilly

- (1) The Secretary of State may by order provide for the exercise by the Council of the Isles of Scilly in relation to land in the Council’s area of any functions exercisable by a local planning authority under any provision of this Part.
- (2) Before making an order under this section the Secretary of State must consult the Council of the Isles of Scilly.

The relevant local planning authority

173 The relevant local planning authority

- (1) This section applies for the purposes of this Part.
- (2) The relevant local planning authority in relation to any land is the local planning authority for the area in which the land is situated.

This is subject to subsections (3) to (5).
- (3) Subsections (4) and (5) apply if the land is in an area for which there is both a district planning authority and a county planning authority.
- (4) If any of the relevant development is the construction or alteration of a hazardous waste facility within section 14(1)(p), the relevant local planning authority is the county planning authority.
- (5) In any other case, the relevant local planning authority is the district planning authority.
- (6) “The relevant development” is—
 - (a) if the relevant offence is an offence under section 160 or 161(1)(a), the development referred to in section 160(1) or 161(1)(a);
 - (b) if the relevant offence is an offence under section 161(1)(b), the development to which the order granting development consent mentioned in section 161(1)(b) relates.
- (7) “The relevant offence” is the offence by reference to which a provision of this Part confers a function on a local planning authority.