



Enterprise and Regulatory Reform Act 2013

2013 CHAPTER 24

PART 5

REDUCTION OF LEGISLATIVE BURDENS

Heritage planning etc

61 Listed buildings in England: certificates of lawfulness

In the Planning (Listed Buildings and Conservation Areas) Act 1990 after section 26G insert—

“Buildings in England: certificates of lawfulness

26H Certificate of lawfulness of proposed works

- (1) A person who wishes to ascertain whether proposed works for the alteration or extension of a listed building in England would be lawful may make an application to the local planning authority specifying the building and describing the works.
- (2) For the purposes of this section works would be lawful if they would not affect the character of the listed building as a building of special architectural or historic interest.
- (3) If on an application under this section the local planning authority are provided with information satisfying them that the works described in the application would be lawful at the time of the application, they must issue a certificate to that effect; and in any other case they must refuse the application.
- (4) A certificate under this section must—

Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, Section 61. (See end of Document for details)

- (a) specify the building to which it relates;
 - (b) describe the works concerned;
 - (c) give the reasons for determining that the works would be lawful; and
 - (d) specify the date of issue of the certificate.
- (5) Works for which a certificate is issued under this section are to be conclusively presumed to be lawful, provided that—
- (a) they are carried out within 10 years beginning with the date of issue of the certificate, and
 - (b) the certificate is not revoked under section 26I.

26I Certificates under section 26H: supplementary

- (1) An application for a certificate under section 26H must be made in such manner as may be prescribed by regulations under this Act.
- (2) An application must include such particulars, and be verified by such evidence, as may be required—
 - (a) by the regulations,
 - (b) by any directions given under the regulations, or
 - (c) by the local planning authority.
- (3) Regulations under this Act may make provision about how applications for a certificate under section 26H are to be dealt with by local planning authorities.
- (4) In particular, regulations may provide for requiring the authority—
 - (a) to give to any applicant within a prescribed period such notice as may be prescribed as to the manner in which the application has been dealt with; and
 - (b) to give to the Secretary of State, and to such other persons as may be prescribed, prescribed information with respect to such applications made to the authority, including information as to the manner in which any application has been dealt with.
- (5) A certificate under section 26H may be issued--
 - (a) for the whole or part of the listed building specified in the application; and
 - (b) for all or part of the works described in the application;
 and must be in such form as may be prescribed.
- (6) A local planning authority may revoke a certificate under section 26H 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.
- (7) Regulations under this section may make provision for regulating the manner in which certificates may be revoked and the notice to be given of such revocation.

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26J Offences

- (1) A person is guilty of an offence if, for the purpose of procuring a particular decision on an application (whether or not by that person) for the issue of a certificate under section 26H, the person—
 - (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.
- (2) A person guilty of an offence under subsection (1) is 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 Magistrates' Courts Act 1980, a magistrates' court may try an information in respect of an offence under subsection (1) whenever laid.

26K Appeals against refusal or failure to give decision on application

- (1) Where an application is made to a local planning authority for a certificate under section 26H 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 under section 26I or within such extended period as may at any time be agreed in writing between the applicant and the authority,the applicant may by notice appeal to the Secretary of State.
- (2) A notice of appeal under this section—
 - (a) must be served within such time and in such manner as may be prescribed;
 - (b) must be accompanied by such information as may be prescribed.
- (3) The time prescribed for the service of a notice of appeal under this section must not be less than—
 - (a) 28 days from the date of notification of the decision on the application; or
 - (b) in the case of an appeal under subsection (1)(b), 28 days from—
 - (i) the end of the period prescribed as mentioned in subsection (1)(b), or
 - (ii) as the case may be, the extended period mentioned in subsection (1)(b).
- (4) On an appeal under this section, the Secretary of State must grant the appellant a certificate under section 26H or, in the case of a refusal in part, modify the certificate granted by the authority on the application, if and so far as the Secretary of State is satisfied—

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- (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.
- (5) 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, the Secretary of State must dismiss the appeal.
- (6) Where the Secretary of State grants a certificate under section 26H on an appeal under this section, the Secretary of State must give notice to the local planning authority of that fact.
- (7) References in this section to a refusal of an application in part include a modification or substitution of the description in the application of the works concerned.
- (8) Schedule 3 applies to an appeal under this section.”

Commencement Information

- I1** S. 61 partly in force; s. 61 in force for specified purposes at Royal Assent, see s. 103(1)(i)
- I2** S. 61 in force at 6.4.2014 in so far as not already in force by S.I. 2014/416, art. 3(b)

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