



Infrastructure (Wales) Act 2024

2024 asc 3

PART 7

ENFORCEMENT

Offences

103 Development without infrastructure consent

- (1) A person commits an offence if the person carries out, or causes to be carried out, development for which infrastructure consent is required at a time when no infrastructure consent is in force in respect of the development.
- (2) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

104 Breach of terms of infrastructure consent order

- (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 infrastructure consent order, or
 - (b) otherwise fails to comply with the terms of an infrastructure consent order.
- (2) Subsection (1) is subject to section 83(3).
- (3) In proceedings against a person for an offence under this section it is a defence for the person to prove that—
 - (a) the breach or failure to comply occurred only because of an error in the order, and
 - (b) the error has been corrected under section 87.
- (4) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

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105 Time limits

- (1) A person may not be charged with an offence under section 103 or 104 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 103, the period of 4 years beginning with the day on which the development was substantially completed;
 - (b) in the case of an offence under section 104, the period of 4 years beginning with the later of—
 - (i) the day on which the development was substantially completed, and
 - (ii) the day 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 given under section 111, or
 - (b) an injunction has been applied for under section 122.
- (4) The “extended period” means the period of 4 years beginning with—
 - (a) the date on which the information notice was given, 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.

106 Powers to enter land for enforcement purposes

- (1) A person authorised in writing by a planning authority may enter land in the authority’s area to assess whether an offence under section 103 or 104 is being, or has been, committed on or in respect of the land.
- (2) A person authorised in writing by the Welsh Ministers may enter land in Wales to assess whether an offence under section 103 or 104 is being, or has been, committed on or in respect of the land.
- (3) A power to enter land under this section may be exercised—
 - (a) at any reasonable time, and
 - (b) only if there are reasonable grounds for entering the land for the purpose in question.
- (4) A person authorised to enter land under this section may not demand entry as of right to a building used as a dwelling unless 24 hours’ notice of the intended entry has been given to every occupier of the building.
- (5) A person authorised to enter land under this section—
 - (a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person’s authorisation and state the purpose of the entry before entering the land,
 - (b) may take on to the land any other persons that are necessary, and
 - (c) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.

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107 Warrant to enter land

- (1) This section applies if a justice of the peace is satisfied on sworn information in writing—
 - (a) that there are reasonable grounds for entering land to assess whether an offence under section 103 or 104 is being, or has been, committed on or in respect of the land, and
 - (b) that—
 - (i) admission to the land has been refused or a refusal is reasonably expected, or
 - (ii) the case is one of urgency.
- (2) The justice of the peace may issue a warrant conferring a power to enter the land on any person authorised in writing by a person who may authorise entry under section 106 for the purpose in question.
- (3) For the purposes of subsection (1)(b), admission to land is to be treated as having been refused if no reply is received to a request for admission within a reasonable period.
- (4) A warrant under this section confers a power to enter land—
 - (a) on one occasion only, and
 - (b) only at a reasonable time, unless the case is one of urgency.
- (5) A person authorised to enter land under this section—
 - (a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person's authorisation and state the purpose of the entry before entering the land,
 - (b) may take on to the land any other persons that are necessary, and
 - (c) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.
- (6) A warrant under this section ceases to have effect at the end of 1 month beginning with the day it is issued.

108 Rights of entry: supplementary provisions

- (1) This section applies where a person has a power to enter land conferred by section 106 or by a warrant under section 107.
- (2) A person who intentionally obstructs a person exercising the power of entry commits an offence.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine.
- (4) If damage is caused to land or other property in the exercise of the power of entry, a person suffering the damage may recover compensation from the planning authority that authorised the entry or (as the case may be) from the Welsh Ministers if they authorised the entry.
- (5) A claim for compensation under subsection (4) must be made in writing within 12 months beginning with the day the damage was caused (or if the damage was caused over more than one day, the last day it was caused).

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- (6) Any question of disputed compensation under subsection (4) is to be referred to and determined by the Upper Tribunal.
- (7) Section 4 of the Land Compensation Act 1961 (c. 33) (costs) applies to the determination of a question referred under subsection (6) as it applies to the determination of a question under section 1 of that Act, but as if references to the acquiring authority were references to the person from whom compensation is claimed.

109 Rights of entry: Crown land

Sections 106 and 107 do not apply to Crown land.

110 Marine enforcement powers

After section 243 of the Marine and Coastal Access Act 2009 (c. 23) insert—

“243A Infrastructure planning: enforcement in the Welsh inshore region

- (1) The Welsh Ministers may appoint persons for the purposes of enforcing the Infrastructure (Wales) Act 2024.
- (2) For the purposes referred to in subsection (1), a person appointed under this section has—
 - (a) the common enforcement powers conferred by this Act;
 - (b) the power conferred by section 263.
- (3) The powers that a person appointed under this section has for the purposes referred to in subsection (1) may be exercised—
 - (a) in the Welsh inshore region (and in relation to any vessel, aircraft or marine structure in that region);
 - (b) in Wales.
- (4) But the powers which a person appointed under this section has for the purposes referred to in subsection (1) may not be exercised in relation to any British warship.”

Information notices

111 Power to require information

- (1) This section applies where—
 - (a) the relevant planning authority consider that an offence under section 103 or 104 may have been committed on or in respect of the land in its area;
 - (b) the Welsh Ministers consider that an offence under section 103 or 104 may have been committed on or in respect of land in Wales;
 - (c) the Welsh Ministers consider that an offence under section 103 or 104 may have been committed in or in respect of the Welsh marine area.
- (2) The relevant planning authority may serve an information notice on any person—
 - (a) who is the owner or occupier of the land or has any other interest in it, or

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- (b) carrying out operations on the land or is using it for any purpose.
- (3) The Welsh Ministers may serve an information notice on any person who—
 - (a) is the owner or occupier of the land or has any other interest in it,
 - (b) is carrying out operations on the land or is using it for any purpose, or
 - (c) is carrying out operations in the Welsh marine area.
- (4) The information notice must—
 - (a) specify the matters that the planning authority, or Welsh Ministers, consider may constitute an offence, and
 - (b) require the person on whom it is served (“the recipient”) to give the information specified in the notice, so far as the recipient is able to do so.
- (5) The information that may be specified in the notice is information about—
 - (a) any operations being carried out,
 - (b) any use of land,
 - (c) any other activities being carried out, and
 - (d) any matter relating to the provisions of an infrastructure consent order.
- (6) An information notice must inform the person on whom it is served of the likely consequences of a failure to respond to the notice and, in particular, that enforcement action may be taken.
- (7) The recipient of an information notice must comply with the requirements of the notice by giving the required information in writing to the relevant planning authority, or if the notice was given by the Welsh Ministers, to the Welsh Ministers.

112 Offences of failing to comply with information notices

- (1) A person on whom an information notice has been served commits an offence if, at any time after the end of 21 days beginning with the day on which the notice is served, the person has not complied with a requirement of the notice.
- (2) In proceedings against a person for an offence under subsection (1), it is a defence for the person to prove that the person had a reasonable excuse for failing to comply with the requirement.
- (3) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same information notice by reference to different periods.
- (4) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.
- (5) A person commits an offence if, in purported compliance with a requirement of an information notice the person—
 - (a) provides information which the person knows to be false or misleading in a material respect, or
 - (b) recklessly provides information which is false or misleading in a material respect.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction or on conviction on indictment to a fine.

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Notices of unauthorised development

113 Notice of unauthorised development

- (1) Subsection (2) applies if a person is found guilty of an offence under section 103 committed on or in respect of any land in Wales.
- (2) The relevant planning authority or the Welsh Ministers may give a notice of unauthorised development to the person specifying the steps required 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 104 committed on or in respect of any land in Wales.
- (4) The relevant planning authority or the Welsh Ministers may give a notice of unauthorised development to the person requiring the person to remedy the breach or failure to comply.
- (5) A notice of unauthorised development must specify the period within which any steps specified in the notice must be taken.
- (6) A notice of unauthorised development may specify different periods for taking different steps.
- (7) 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.
- (8) Regulations may specify additional matters that must be specified in a notice of unauthorised development.

Compliance with notices of unauthorised development

114 Order to permit steps required by notice of unauthorised development

- (1) An owner of land may apply by way of complaint to a magistrates' court for an order requiring another person who has an interest in the land to permit the owner to take steps required by a notice of unauthorised development.
- (2) The court may make such an order if it is satisfied that the other person is preventing the owner from taking steps required by the notice.

115 Power to enter land and take steps required by notice of unauthorised development

- (1) If the period within which a notice of unauthorised development requires any step to be taken has ended and the step has not been taken, the planning authority that issued the notice, or the Welsh Ministers, if they issued the notice, may at any reasonable time enter the land to which the notice relates and take the step.
- (2) A person who intentionally obstructs a person exercising a power under subsection (1) commits an offence.

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- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine.

116 Recovery of costs of compliance with notice of unauthorised development

- (1) Where a relevant planning authority or the Welsh Ministers exercise the power under section 115(1) to enter land and take a step required by a notice of unauthorised development, the planning authority or the Welsh Ministers (as the case may be) may recover from a person who is then an owner of the land the costs reasonably incurred in doing so.
- (2) If a relevant planning authority or the Welsh Ministers seek to recover costs under subsection (1) from an owner of land who—
- (a) is entitled to receive the rack rent of the land merely as agent or trustee for another person (the “principal”), and
 - (b) does not have, and has not had at any time since the day payment of the costs was demanded, enough money on behalf of the principal to pay the costs in full,
- the liability of the agent or trustee is limited to the total amount of money that the agent or trustee has had on behalf of the principal since that day.
- (3) If subsection (2) prevents a relevant planning authority or the Welsh Ministers recovering the whole of its or their costs from an agent or trustee, the relevant planning authority, or the Welsh Ministers may recover the costs from the principal, or partly from the principal and partly from the agent or trustee.
- (4) Where a notice of unauthorised development has been served in respect of development—
- (a) costs incurred by the owner or occupier of the land for the purpose of complying with the notice, and
 - (b) amounts paid by the owner of the land under subsection (1) in respect of costs incurred by the relevant planning authority, or the Welsh Ministers, in taking steps required by it or them,
- 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 103 or 104.
- (5) The costs recoverable by a relevant planning authority or the Welsh Ministers under subsection (1) are, until recovered, a charge on the land to which the notice of unauthorised development relates.
- (6) The charge takes effect as a local land charge at the beginning of the day after the day the planning authority or the Welsh Ministers complete the step to which the costs relate.
- (7) Subsection (8) applies where—
- (a) a relevant planning authority or the Welsh Ministers remove materials from land in the course of taking steps required by a notice of unauthorised development, and
 - (b) the owner of the materials does not, within 3 days after the day they are removed, claim the materials and take them away.
- (8) The relevant planning authority or the Welsh Ministers—
- (a) may sell the materials, and

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- (b) if it or they do so, must pay the proceeds to the person who owned the materials, after deducting any costs recoverable by them from the person.
- (9) Costs may not be recovered under this section from the Crown.

Temporary stop notices

117 Power to issue temporary stop notice

- (1) A relevant planning authority may issue a temporary stop notice if it considers that—
 - (a) an activity has been or is being carried out in relation to land in its area that constitutes an offence under section 103 or 104, and
 - (b) the activity (or any part of that activity) ought to be stopped immediately.
- (2) A temporary stop notice must—
 - (a) specify the activity that the planning authority considers to constitute an offence,
 - (b) prohibit the carrying out 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, and
 - (d) state the effect of section 120 (offence of breaching temporary stop notice).
- (3) The planning authority must display a copy of the temporary stop notice on the land to which it relates; and the copy must specify the date on which it is first displayed.
- (4) But if it is not reasonably practicable to display a copy of the notice on the land, the planning authority may instead display a copy in a prominent place as near to the land as is reasonably practicable.
- (5) The planning authority may serve a copy of a temporary stop notice on any person the authority considers—
 - (a) to be carrying out the activity that the notice prohibits,
 - (b) to be an occupier of the land to which the notice relates,
 - (c) to have an interest in the land, or
 - (d) to be a person who has the benefit of an infrastructure consent order to which the notice relates.

118 Restrictions on power to issue temporary stop notice

- (1) A temporary stop notice may not prohibit—
 - (a) the use of a building as a dwelling, or
 - (b) the carrying out of an activity of a kind, or in circumstances, specified in regulations.
- (2) A temporary stop notice may not prohibit the carrying out of an activity that has been carried out (whether or not continuously) for at least 4 years before the day on which a copy of the notice is first displayed in accordance with section 117.
- (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 waste.

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119 Duration etc. of temporary stop notice

- (1) A temporary stop notice takes effect when a copy of it is first displayed in accordance with section 117.
- (2) A temporary stop notice ceases to have effect—
 - (a) at the end of the period of 28 days beginning with the day the copy of it is first displayed in accordance with section 117,
 - (b) if it specifies a shorter period beginning with that day, at the end of that period, or
 - (c) on the date on which the court grants an injunction under section 122.
- (3) But if the planning authority withdraws the notice before the end of the period for which it would otherwise have effect, the notice ceases to have effect when it is withdrawn.
- (4) A planning authority may not issue a second or subsequent temporary stop notice in relation to the same activity unless the authority has, since issuing the previous notice, taken other enforcement action in relation to the activity referred to in section 117(1).
- (5) In subsection (4) the reference to taking other enforcement action is a reference to—
 - (a) issuing a notice of unauthorised development under section 113;
 - (b) obtaining an injunction under section 122.

120 Offence of breaching temporary stop notice

- (1) A person commits an offence if, at any time when a temporary stop notice has effect, the person carries out an activity prohibited by the notice or causes or permits such an activity to be carried out.
- (2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same temporary stop notice by reference to different periods.
- (3) In proceedings against a person for an offence under this section, it is a defence for a person to prove that—
 - (a) a copy of the temporary stop notice was not served on the person, and
 - (b) the person did not know, and could not reasonably have been expected to know, of the existence of the notice.
- (4) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

121 Compensation for loss due to notice

- (1) This section applies where—
 - (a) an activity specified in a temporary stop notice is, at the time the notice takes effect, authorised by an infrastructure consent order granted before the day the notice takes effect, or
 - (b) a relevant planning authority withdraws a temporary stop notice after it has taken effect.
- (2) This section does not apply by virtue of subsection (1)(b) where—

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- (a) an activity specified in the temporary stop notice is authorised by an infrastructure consent order granted on or after the day the notice takes effect, or
 - (b) the planning authority withdraws the notice after the grant of that consent.
- (3) Any person who has an interest in the land to which the notice relates on the day the notice takes effect is entitled, on making a claim to the relevant planning authority, to be paid compensation by the authority for any loss or damage suffered by the person that is directly attributable to the effect of the notice.
- (4) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by taking action necessary to comply with the notice.
- (5) No compensation is payable under this section in respect of the prohibition of an activity which, at any time when the temporary stop notice has effect, constitutes or contributes to an offence under section 103 or 104.
- (6) No compensation is payable under this section for loss or damage that the claimant could have avoided by—
- (a) providing information that the claimant was required to provide by a notice served by the planning authority under section 111 of this Act or section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57), or
 - (b) co-operating with the planning authority in any other way when responding to the notice.
- (7) A claim for compensation under this section must be made in writing within 12 months beginning—
- (a) in a case falling within subsection (1)(a) but not within subsection (1)(b), with the day the temporary stop notice takes effect;
 - (b) in a case falling within subsection (1)(b), with the day the notice is withdrawn.

122 Injunction to restrain prohibited activity

- (1) A planning authority may apply to the High Court or the county court for an injunction restraining an actual or expected activity that constitutes an offence under section 103 or 104 in relation to land in the area of the planning authority.
- (2) The Welsh Ministers may apply to the High Court or the county court for an injunction restraining an actual or expected activity that constitutes an offence under section 103 or 104 in relation to land in Wales.
- (3) On an application under this section the court may grant an injunction on any terms it considers appropriate for the purpose of restraining the activity.
- (4) An injunction may not be issued under this section against the Crown.

General

123 Meaning of “relevant planning authority”

In this Part, the relevant planning authority in relation to any land is the planning authority for the area in which the land is situated.