



## 2011 CHAPTER 25

### **Part 14**

#### Miscellaneous and general provisions

##### *Miscellaneous and general provisions*

#### **Service of notices and documents**

**239.**—(1) Without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33), any notice or other document required or authorised to be served on or sent or given to any person under the provisions of this Act may be served, sent or given, in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in subsection (2), to that person at that address (subject to subsection (3)).

(2) The condition mentioned in subsection (1) is that the notice or other document is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) in a form sufficiently permanent to be used for subsequent reference,

and for this purpose “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if served or given by means of a notice or document in printed form.

(3) Subsection (1) does not apply to—

- (a) service of a copy of a notice under section 43(4);

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- (b) service of a building preservation notice under section 81;
- (c) giving of notice of the making of a tree preservation order or the service of a copy of such an order, in accordance with regulations under section 122;
- (d) service of a planning contravention notice under section 133;
- (e) service of a temporary stop notice under section 135;
- (f) service of a copy of an enforcement notice under section 138 or 139;
- (g) the variation or withdrawal of an enforcement notice under section 141 or 142;
- (h) service under section 149(4) of a notice of a council's intention to take steps required by an enforcement notice;
- (i) service of a stop notice, or notice of withdrawal of a stop notice, under section 150 or 151;
- (j) service of a breach of condition notice under section 152;
- (k) service of a notice under section 153 or 154;
- (l) service of a copy of a listed building enforcement notice, or notice of variation or withdrawal of a listed building enforcement notice under section 157 or 158;
- (m) service of a copy of a hazardous substances contravention notice, or notice of withdrawal of a hazardous substances contravention notice under section 162;
- (n) service of a copy of a notice varying a hazardous substances contravention notice under section 163;
- (o) service of a notice under section 240 requiring information as to estates in land.

(4) Where a person uses electronic communications to transmit any notice or other document for any purpose of this Act which is capable of being carried out electronically that person shall be taken to have agreed, except where a contrary intention appears, to the use of such communications and that his or her address for that purpose is the address incorporated into, or otherwise logically associated with the notice or document.

(5) Where a person is no longer willing to accept the use of electronic communications for any purpose of this Act which is capable of being carried out electronically, he or she must give notice in writing—

- (a) withdrawing any address notified to the council, the Department [<sup>F1</sup>for Communities, the Department for Infrastructure] or the planning appeals commission for that purpose; or
- (b) revoking any agreement entered into or deemed to have been entered into with the council, the Department [<sup>F2</sup>for Communities, the Department for Infrastructure] or the planning appeals commission for that purpose,

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and such withdrawal or revocation shall be final and shall take effect on a date specified by the person in the notice but not less than 7 days after the date on which the notice is given.

#### Textual Amendments

- F1** Words in s. 239(5)(a) inserted (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 6 para. 83(a)** (with art. 9(2))
- F2** Words in s. 239(5)(b) inserted (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 6 para. 83(b)** (with art. 9(2))

#### Commencement Information

- I1** S. 239 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, **Sch. 1**
- I2** S. 239 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49](#), art. 3, **Sch. 1** (with **Sch. 2**) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2)

#### Information as to estates in land

**240.**—(1) For the purpose of enabling a council [<sup>F3</sup>the Department for Infrastructure or the Department for Communities] to make an order or issue or serve a notice or other document which by any of the provisions of this Act a council [<sup>F3</sup>the Department for Infrastructure or the Department for Communities] is authorised or required to make, issue or serve, the council [<sup>F3</sup>the Department for Infrastructure or the Department for Communities] may by notice in writing require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to give, in writing, within 21 days after the date on which the notice is served, or such longer time as may be specified in the notice or as the council [<sup>F4</sup>or the Department for Infrastructure or the Department for Communities, as the case may be] may allow, such information as to the matters mentioned in subsection (2) as may be specified.

(2) The matters referred to in subsection (1) are—

- (a) the nature of the estate in the premises of the person on whom the notice is served;
- (b) the name and postal address of any other person known to that person as having an estate in the premises;
- (c) the purpose for which the premises are being used;
- (d) the time when that use began;
- (e) the name and postal address of any person known to the person on whom the notice is served as having used the premises for that purpose; and
- (f) the time when any activities being carried out on the premises began.

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(3) Any person who, without reasonable excuse, fails to comply with a notice served on that person under subsection (1), shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Any person who having been required by a notice under subsection (1) to give any information knowingly makes any misstatement in respect of that information shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

#### Textual Amendments

- F3** Words in s. 240(1) substituted (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 6 para. 84(a)** (with art. 9(2))
- F4** Words in s. 240(1) substituted (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 6 para. 84(b)** (with art. 9(2))

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

- C1** S. 240: transfer of functions (8.5.2016 for specified purposes) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))
- C2** S. 240: transfer of functions (8.5.2016 for specified purposes) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

#### Commencement Information

- I3** S. 240 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, **Sch. 1**
- I4** S. 240 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49](#), art. 3, **Sch. 1** (with **Sch. 2**) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2)

### Information as to estates in Crown land

**241.**—(1) This section applies to an estate in Crown land which is not a private estate.

(2) Section 240 does not apply to an estate to which this section applies.

(3) For a purpose mentioned in section 240(1) the Department may request the appropriate authority to give the Department such information as to the matters mentioned in section 240(2) as the Department specifies in the request.

(4) The appropriate authority must comply with a request under subsection (3) except to the extent—

- (a) that the matter is not within the knowledge of the authority, or

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(b) that to do so will disclose information as to any of the matters mentioned in section 232(3).

(5) Expressions used in this section and in Part 11 shall be construed in accordance with that Part.

#### Commencement Information

**I5** S. 241 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49, art. 2, Sch. 1](#)

**I6** S. 241 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49, art. 3, Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159, art. 2](#))

#### Planning register

**242.**—(1) A council must keep, in such manner as may be specified by a development order, one or more registers containing such information as may be so specified with respect to—

- (a) applications made, or deemed to be made, under this Act to the council, to the Department or to the planning appeals commission for any permission, consent, approval or determination;
- (b) the manner in which such applications have been dealt with;
- (c) notices under section 27(2) (proposal of application notices);
- (d) pre-application community consultation reports under section 28;
- (e) the revocation or modification of any permission or consent granted under this Act;
- (f) enforcement notices or listed building enforcement notices;
- (g) stop notices;
- (h) orders under section 73;
- (i) simplified planning zones and enterprise zones;
- (j) directions given by the Department under—
  - (i) section 105(4);
  - (ii) section 118; and
  - (iii) any provision included in a development order by virtue of section 32;
- (k) hazardous substances contravention notices;
- (l) tree preservation orders;
- (m) notices under section 127;
- (n) breach of condition notices;
- (o) certificates under section 169 or 170;

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- (p) building preservation notices;
- (q) temporary stop notices issued under section 135; and
- (r) applications for a determination under paragraph 9 of Schedule 2 or paragraph 7 of Schedule 3.

(2) A development order may make provision for requiring [<sup>F5</sup>the Department for Infrastructure or the Department for Communities] to supply to a council such information as may be so specified in the order with regard to the matters mentioned in subsection (1)(a) to (j).

(3) Every register kept under subsection (1) must be available for inspection by the public at all reasonable hours.

(4) The council may provide a copy of, or of an extract from, any register kept under this section to any person on payment of such reasonable charge as the council may specify.

#### Textual Amendments

- F5** Words in s. 242(2) substituted (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 6 para. 85** (with art. 9(2))

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

- C3** S. 242 applied with modification(s) (1.4.2015) by [The Planning \(Conservation Areas\) \(Demolition\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/107\)](#), regs. 1, **11**

#### Commencement Information

- I7** S. 242 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, **Sch. 1**
- I8** S. 242 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49](#), art. 3, **Sch. 1** (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2)

### Power to appoint advisory bodies or committees

[<sup>F6</sup>**243.**—(1) The Minister for Infrastructure may appoint such advisory bodies or committees as the Minister considers necessary to assist the Department for Infrastructure in the exercise and performance of the functions conferred on that Department by this Act.

(2) The Minister for Communities may appoint such advisory bodies or committees as the Minister considers necessary to assist the Department for Communities in the exercise and performance of the functions conferred on that Department by this Act.]

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#### Textual Amendments

- F6** S. 243 substituted (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), [Sch. 6 para. 86](#) (with art. 9(2))

#### Commencement Information

- I9** S. 243 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, [Sch. 1](#)
- I10** S. 243 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49](#), art. 3, [Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2)

### Time limit for certain summary offences under this Act

**244** Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26), a magistrates' court shall have jurisdiction to hear and determine a complaint charging the commission of an offence under section 152 if the complaint is made within 3 years from the time when the offence was committed or ceased to continue.

#### Commencement Information

- I11** S. 244 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, [Sch. 1](#)
- I12** S. 244 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49](#), art. 3, [Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2)

### Registration of matters in Statutory Charges Register

**245** In Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (c. 18) (matters requiring to be registered in the Statutory Charges Register) for entry 27 substitute the following entry—

“**27** Any of the following matters under the Planning Act (Northern Ireland) 2011—

- (a) planning agreements under section 76;
- (b) an entry in a list compiled under section 80;
- (c) tree preservation orders;
- (d) enforcement notices which take effect in relation to any land;
- (e) listed building enforcement notices which take effect in relation to any land;
- (f) any conditions imposed on the grant of planning permission—
  - (i) relating to the occupancy of a dwelling house; or

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- (ii) requiring that a dwelling house on any land which is under the control of the applicant be demolished or cease to be used as a dwelling house;
- (g) notices under section 164 which take effect in relation to any land;
- (h) orders under section 68, 72 or 73;
- (i) any designation under section 104(1).”.

**Commencement Information**

- I13** S. 245 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49, art. 2, Sch. 1](#)
- I14** S. 245 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49, art. 3, Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159, art. 2](#))

**Directions**

**246** Any directions which may be given, or must be given, under this Act may be withdrawn or may be varied or revoked by a subsequent direction.

**Commencement Information**

- I15** S. 246 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49, art. 2, Sch. 1](#)
- I16** S. 246 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/49, art. 3, Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159, art. 2](#))

**Regulations and orders**

**247.**—(1) The Department may make regulations for prescribing anything which under this Act is authorised or required to be prescribed.

(2) Subject to subsection (3), any regulations made under this Act are subject to negative resolution.

(3) Regulations under sections 153(9) and 154(9) shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(4) Subject to subsection (5), orders made under sections 23(3)(e), 32, 38(3) and 251 are subject to negative resolution.

(5) Subsection (4) applies subject to section 251(4).

(6) Regulations and orders made by the Department under this Act may contain such incidental, supplementary, transitional and saving provisions as appear to the Department to be necessary or expedient.



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

- C4** S. 247: transfer of functions (8.5.2016 for specified purposes) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 5 Pt. 1** (with art. 9(2))
- C5** S. 247: transfer of functions (8.5.2016 for specified purposes) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

**Changes to legislation:**

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