

Status: Point in time view as at 02/06/2014. This version of this provision is not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 150. (See end of Document for details)



2011 CHAPTER 25

Part 5

Enforcement

Enforcement notices

VALID FROM 13/02/2015

Service of stop notices by councils

150.—(1) Where the council considers it expedient that any relevant activity should cease before the expiry of the period for compliance with an enforcement notice, it may, when it serves the copy of the enforcement notice or afterwards, serve a notice (in this Act referred to as a “stop notice”) referring to, and having annexed to it a copy of, the enforcement notice and prohibiting the carrying out of that activity on the land to which the enforcement notice relates, or any part of that land specified in the stop notice.

(2) In this section and section 185 “relevant activity” means any activity specified in the enforcement notice as an activity which the council requires to cease and any activity carried out as part of that activity or associated with that activity.

(3) A stop notice may not be served where the enforcement notice has taken effect.

(4) A stop notice shall not prohibit any person from continuing to use any building, caravan or other structure situated upon the land as that person's permanent residence whether as owner, occupier, tenant, patient, guest or otherwise.

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(5) A stop notice shall not take effect until such date as it may specify (and it cannot be contravened until that date).

(6) The date specified in a stop notice must be the date when the notice is served, unless the council considers that there are special reasons for specifying a later date, but the date specified in the notice must, in any case, be a date not later than 28 days from the date when the notice is first served on any person.

(7) A stop notice shall not prohibit the carrying out of any activity if the activity has been carried out (whether continuously or not) for a period of more than 5 years ending with the service of the notice; and for the purposes of this subsection no account is to be taken of any period during which the activity was authorised by planning permission.

(8) Subsection (7) does not prevent a stop notice prohibiting any activity consisting of, or incidental to, building, engineering, mining or other operations or the deposit of refuse or waste materials.

(9) A stop notice shall cease to have effect when—

- (a) the enforcement notice referred to in it is withdrawn or quashed; or
- (b) the period for compliance with the enforcement notice expires; or
- (c) notice of withdrawal of the stop notice is first served under subsection (11); or
- (d) if or to the extent that the activities prohibited by it cease, on a variation of the enforcement notice referred to in it, to be relevant activities.

(10) A stop notice may be served by the council on any person who appears to it to have an estate in the land or to be engaged in any activity prohibited by the notice; and where a stop notice has been served in respect of any land, the council may display there a notice (in this section referred to as a “site notice”) stating—

- (a) that a stop notice has been served; and
- (b) that any person contravening the stop notice may be prosecuted for an offence under this section, giving the date when the stop notice takes effect and indicating its requirements.

(11) The council may at any time withdraw a stop notice (without prejudice to its power to serve another)—

- (a) by serving notice to that effect on persons served with the stop notice; and
- (b) if a site notice was displayed in respect of the stop notice, displaying a notice of the withdrawal in place of the site notice.

(12) A person who contravenes a stop notice after a site notice has been displayed or the stop notice has been served on that person shall be guilty of an offence.

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(13) An offence under this section 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 this section by reference to any period of time following the preceding conviction for such an offence.

(14) References in this section to contravening a stop notice include causing or permitting its contravention.

(15) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding £100,000;
- (b) on conviction on indictment, to a fine.

(16) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to that person in consequence of the offence.

(17) In proceedings for an offence under this section it is a defence for the accused to prove that the stop notice was not served on the accused and that the accused did not know, and could not reasonably have been expected to know, of its existence.

(18) 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 138 or, as the case may be, 139 if it is shown that the council took all such steps as were reasonably practicable to effect proper service.

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