



2011 CHAPTER 25

Part 5

Enforcement

Trees

Appeals against section 164 notices

165.—(1) A person on whom a notice under section 164(1) is served may appeal to the planning appeals commission against the notice on any of the following grounds—

- (a) that the provisions of section 125 or, as the case may be, the conditions mentioned in section 164(1)(b) are not applicable or have been complied with;
- (b) that in all the circumstances of the case the duty imposed by section 125(1) should be dispensed with in relation to any tree;
- (c) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified in it;
- (d) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;
- (e) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose.

(2) An appeal under subsection (1) shall be made by serving written notice of the appeal on the planning appeals commission before the end of the period

Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 165. (See end of Document for details)

specified in accordance with section 164(3) and such notice shall indicate the grounds of the appeal and state the facts on which it is based.

(3) On any such appeal the planning appeals commission must, if either the appellant or the council so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(4) Where an appeal is brought under this section, the notice under section 164(1) shall be of no effect pending the final determination or the withdrawal of the appeal.

(5) On an appeal under this section the planning appeals commission may—

- (a) correct any defect, error or misdescription in the notice; or
- (b) vary any of its requirements,

if it is satisfied that the correction or variation will not cause injustice to the appellant or the council.

(6) Where the planning appeals commission determines to allow the appeal, it may quash the notice.

(7) The planning appeals commission must give any directions necessary to give effect to its determination on the appeal.

(8) Where any person has appealed to the planning appeals commission under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

Modifications etc. (not altering text)

- C1** Pt. 5 applied with modification(s) (1.4.2015) by [The Planning \(Conservation Areas\) \(Demolition\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/107\)](#), regs. 1, **11**
- C2** Pt. 5 (except ss. 157-163) applied with modification(s) (1.4.2015) by [The Planning General Regulations \(Northern Ireland\) 2015 \(S.R. 2015/39\)](#), regs. 1(1), **2** (with regs. 3-10)
- C3** Ss. 162-175: transfer of functions (8.5.2016) 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

- I1** S. 165 in operation at 13.2.2015 for specified purposes by [S.R. 2015/49](#), art. 2, **Sch. 1**
- I2** S. 165 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)

Changes to legislation:

There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 165.