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STATUTORY INSTRUMENTS

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**2006 No. 1252**

**The Planning Reform (Northern Ireland) Order 2006**

**PART II**

**PLANNING REFORM**

**Temporary stop notice**

**13.**—(1) After Article 67D of the principal Order insert—

*“Temporary stop notices*

**Temporary stop notice**

**67E.**—(1) This Article applies if the Department thinks—

- (a) that there has been a breach of planning control in relation to any land; and
- (b) that it is expedient that the activity (or any part of the activity) which amounts to the breach is stopped immediately.

(2) The Department may issue a temporary stop notice.

(3) The notice shall be in writing and shall—

- (a) specify the activity which the Department thinks amounts to the breach;
- (b) prohibit the carrying on of the activity (or of so much of the activity as is specified in the notice);
- (c) set out the Department’s reasons for issuing the notice.

(4) A temporary stop notice may be served on any of the following—

- (a) the person who the Department thinks is carrying on the activity;
- (b) a person who the Department thinks is an occupier of the land;
- (c) a person who the Department thinks has an estate in the land.

(5) The Department shall display on the land—

- (a) a copy of the notice;
- (b) a statement of the effect of the notice and of Article 67G.

(6) A temporary stop notice has effect from the time a copy of it is first displayed in pursuance of paragraph (5).

(7) A temporary stop notice ceases to have effect—

- (a) at the end of the period of 28 days starting on the day the copy notice is so displayed;
- (b) at the end of such shorter period starting on that day as is specified in the notice; or
- (c) if it is withdrawn by the Department.

### **Temporary stop notice: restrictions**

**67F.**—(1) A temporary stop notice does not prohibit—

- (a) any person from continuing to use any building, caravan or other structure situated on land to which the temporary stop notice relates as his permanent residence whether as owner, occupier, tenant, patient, guest or otherwise;
- (b) the carrying out of an activity of such description or in such circumstances as is prescribed.

(2) A temporary stop notice does not prohibit the carrying out of any activity which has been carried out (whether continuously or not) for a period of 4 years ending with the day on which the copy of the notice is first displayed as mentioned in Article 67E(6).

(3) Paragraph (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 refuse or waste materials.

(4) For the purposes of paragraph (2) any period during which the activity is authorised by planning permission shall be ignored.

(5) A second or subsequent temporary stop notice shall not be issued in respect of the same activity unless the Department has first taken some other enforcement action in relation to the breach of planning control which is constituted by the activity.

(6) In paragraph (5) enforcement action includes obtaining the grant of an injunction under Article 76B.

### **Temporary stop notice: offences**

**67G.**—(1) A person commits an offence if he contravenes a temporary stop notice—

- (a) which has been served on him; or
- (b) a copy of which has been displayed in accordance with Article 67E(5).

(2) Contravention of a temporary stop notice includes causing or permitting the contravention of the notice.

(3) An offence under this Article may be charged by reference to a day or a longer period of time.

(4) A person may be convicted of more than one such offence in relation to the same temporary stop notice by reference to different days or periods of time.

(5) A person does not commit an offence under this Article if he proves—

- (a) that the temporary stop notice was not served on him; and
- (b) that he did not know, and could not reasonably have been expected to know, of its existence.

(6) A person convicted of an offence under this Article is liable—

- (a) on summary conviction, to a fine not exceeding £30,000;
- (b) on conviction on indictment, to a fine.

(7) In determining the amount of the fine the court shall have regard in particular to any financial benefit which has accrued or has appeared to accrue to the person convicted in consequence of the offence.”.

(2) After Article 67A of the [Planning \(Northern Ireland\) Order 1972 \(NI 17\)](#) insert—

**“Compensation for loss due to temporary stop notice**

**67B.**—(1) This Article applies if and only if a temporary stop notice is issued and at least one of the following sub-paragraphs applies—

- (a) the activity which is specified in the notice is authorised by planning permission or a development order;
- (b) a certificate in respect of the activity is issued under Article 83A of the Planning Order or granted under that Article by virtue of Article 83E of that Order;
- (c) the Department withdraws the notice.

(2) Paragraph (1)(a) does not apply if the planning permission is granted on or after the date on which a copy of the notice is first displayed as mentioned in Article 67E(6) of the Planning Order.

(3) Paragraph (1)(c) does not apply if the notice is withdrawn following the grant of planning permission as mentioned in paragraph (2).

(4) A person who at the time the notice is served has an estate in the land to which the notice relates is entitled to be compensated by the Department in respect of any loss or damage directly attributable to the prohibition effected by the notice.

(5) A claim for compensation under this Article shall be made to the Department within the time and in the manner specified by a development order.

(6) The loss or damage in respect of which compensation is payable under this Article in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.

(7) No compensation is payable under this Article—

- (a) in respect of the prohibition in a temporary stop notice of any activity which, at any time when the notice is in force, constitutes or contributes to a breach of planning control; or
- (b) in the case of a claimant who was required to provide information under Article 67C or 125 of the Planning Order in respect of any loss or damage suffered by him which could have been avoided if he had provided the information or had otherwise co-operated with the Department when responding to the notice.

(8) Any question of disputed compensation under this Article shall be determined by the Lands Tribunal.”.

(3) In Article 124 of the principal Order (planning register), in paragraph (1) after sub-paragraph (m) add—

“(n) temporary stop notices issued under Article 67E;”.