



Town and Country Planning Act 1990

1990 CHAPTER 8

PART VII

ENFORCEMENT

Enforcement notices

[^{F1}172 Issue of enforcement notice.

- (1) The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them—
 - (a) that there has been a breach of planning control; and
 - (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
- (2) A copy of an enforcement notice shall be served—
 - (a) on the owner and on the occupier of the land to which it relates; and
 - (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- (3) The service of the notice shall take place—
 - (a) not more than twenty-eight days after its date of issue; and
 - (b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.]

Textual Amendments

- F1** Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art.3 (subject to art. 5)

Modifications etc. (not altering text)

- C1** S. 172: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

Status: Point in time view as at 27/07/1992.

Changes to legislation: Town and Country Planning Act 1990, Cross Heading: Enforcement notices is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

C2 S. 172: functions of local authority not to be responsibility of an executive of the authority (E.)
(16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#)

173 ^{F2}Contents and effect of notice.

- (1) An enforcement notice shall state—
 - (a) the matters which appear to the local planning authority to constitute the breach of planning control; and
 - (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.
- (2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.
- (3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
- (4) Those purposes are—
 - (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - (b) remedying any injury to amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require—
 - (a) the alteration or removal of any buildings or works;
 - (b) the carrying out of any building or other operations;
 - (c) any activity on the land not to be carried on except to the extent specified in the notice; or
 - (d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.
- (6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7), is as similar as possible to the demolished building.
- (7) A replacement building—
 - (a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;
 - (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
 - (c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.
- (9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods

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apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,

then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

Textual Amendments

F2 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art.3 (subject to art. 5)

Modifications etc. (not altering text)

C3 S. 173: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

C4 S. 173(10) applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, Sch.

173A ^{F3}Variation and withdrawal of enforcement notices.

(1) The local planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

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- (4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

Textual Amendments

F3 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art. 3 (subject to art. 5)

Modifications etc. (not altering text)

C5 S. 173A applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, Sch.
S. 173A: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3

174 Appeal against enforcement notice.

- (1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

[^{F4}(2) An appeal may be brought on any of the following grounds—

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

^{F4}(3) An appeal under this section shall be made either—

- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
- (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date.]

- (4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—
- (a) specifying the grounds on which he is appealing against the enforcement notice; and
 - (b) giving such further information as may be prescribed.

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- (5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.
- (6) In this section “relevant occupier” means a person who—
- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence [^{F5}. . .]; and
 - (b) continues so to occupy the land when the appeal is brought.

Textual Amendments

- F4** S. 174(2)(3) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 6\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))
- F5** Words in s. 174(6) omitted (2.1.1992) by virtue of [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, Sch. 7 para. 22 (with s. 84(5)); [S.I. 1991/2905](#), [art.3](#), [Sch. 1](#) (subject to [art. 5](#))

Modifications etc. (not altering text)

- C6** S. 174: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [s. 25\(1\)\(b\)](#); [S.I. 1992/725](#), [arts. 2, 3](#)
- C7** S. 174 applied (with modifications) (1.6.1992) by [S.I. 1992/656](#), reg. 18(1), [Sch. 4 Pt. I](#)
S. 174: power to apply conferred (10.11.1993) by [1993 c. 28](#), [s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

175 Appeals: supplementary provisions.

- (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—
- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
 - (b) specify the matters to be included in such a statement;
 - (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
 - (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.
- (3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

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- (4) Where an appeal is brought under section 174 the enforcement notice shall [^{F6}subject to any order under section 289(4A)] be of no effect pending the final determination or the withdrawal of the appeal.
- (5) Where any person has appealed to the Secretary of State against an enforcement notice, no person 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.
- (6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.
- [^{F7}(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.]

Textual Amendments

- F6** Words in s. 175(4) inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 6\(2\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))
- F7** S. 175(7) inserted (temp.) by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), [s. 6](#), [Sch. 4 paras. 1, 3](#) (which temp. insertion falls (2.1.1992 and 6.4.2009) for specified purposes only by virtue of [S.I. 1991/2698](#), [art. 3](#) and [S.I. 2009/849](#), [art. 2](#) (with [art. 3](#)))

Modifications etc. (not altering text)

- C8** S. 175: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)
- C9** S. 175(1)–(4)(6): power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [s. 25\(1\)\(b\)](#); [S.I. 1992/725](#), [arts. 2, 3](#)
- C10** S. 175(3)(6) applied (with modifications) (1.6.1992) by [S.I. 1992/656](#), [reg. 18\(1\)](#), [Sch. 4 Pt. I](#)
- C11** S. 175(5)(7) applied (27.7.1992) by [S.I. 1992/1562](#), [reg. 2](#), [Sch.](#)

176 General provisions relating to determination of appeals.

- [^{F8}(1) On an appeal under section 174 the Secretary of State may—
- (a) correct any defect, error or misdescription in the enforcement notice; or
 - (b) vary the terms of the enforcement notice,
- if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
- (2) Where the Secretary of State determines to allow the appeal, he may quash the notice.
- (2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.]
- (3) The Secretary of State—
- (a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

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- (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.
- (4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).
- (5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Textual Amendments

F8 S. 176(1)(2)(2A) substituted (2.1.1992) for s. 176(1)(2) by [Planning and Compensation Act 1991](#) (c. 34, SIF 123:1), s. 32, [Sch. 7 para.23](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch. 1](#) (subject to art. 5)

Modifications etc. (not altering text)

C12 Ss. 176, 177: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by [Planning \(Hazardous Substances\) Act 1990](#) (c. 10, SIF 123:1), [s. 25\(1\)\(b\)](#); S.I. 1992/725, [arts. 2, 3](#)

C13 S. 176 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 18(1), [Sch. 4 Pt. I](#)
S. 176: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)

177 Grant or modification of planning permission on appeals against enforcement notices.

- (1) On the determination of an appeal under section 174, the Secretary of State may—
 - [^{F9}(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;]
 - (b) discharge any condition or limitation subject to which planning permission was granted;
 - [^{F10}(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.
- (1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—
 - (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
 - (b) references to the local planning authority were references to the Secretary of State.

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- (1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194]
- (2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.
- [^{F11}(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.]
- (4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.
- (5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission [^{F12}in respect of the matters stated in the enforcement notice as constituting a breach of planning control].
- [^{F13}(5A) Where—
- (a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;
 - (b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and
 - (c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,
- then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.]
- (6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.
- (7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.
- (8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Textual Amendments

- F9** S. 177(1)(a) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 24\(1\)\(a\)](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch. 1](#) (subject to art. 5)
- F10** S. 177(1)(c)(1A)(1B) substituted (27.7.1992) for s. 177(1)(c) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 24\(1\)\(b\)](#) (with s. 84(5)); S.I. 1992/1630, art. 2, [Sch. 1](#) (with art. 3(1))
- F11** S. 177(3) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 24\(2\)](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch. 1](#) (subject to art. 5)
- F12** Words in s. 177(5) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 32, [Sch. 7 para. 24 \(3\)](#) (with s. 84(5)); S.I. 1991/2905, art. 3, [Sch. 1](#) (subject to art. 5)
- F13** S. 177(5A) inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 6(3), (with s. 84(5)); S.I. 1991/2905, [art. 3](#) (subject to art. 5)

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Modifications etc. (not altering text)

- C14** Ss. 176, 177: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [s. 25\(1\)\(b\)](#); [S.I. 1992/725](#), [arts. 2, 3](#)
- C15** S. 177 applied (with modifications) (1.6.1992) by [S.I. 1992/656](#), [reg. 18\(1\)](#), [Sch. 4 Pt. I](#)
S. 177: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

178 Execution and cost of works required by enforcement notice.

- [^{F14}(1) Where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice, the local planning authority may—
- (a) enter the land and take the steps; and
 - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.]
- (2) Where a copy of an enforcement notice has been served in respect of any breach of planning control ^{F15}. . .—
- (a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and
 - (b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken,
- shall be deemed to be incurred or paid for the use and at the request of the person by whom the breach of planning control was committed.
- (3) Regulations made under this Act may provide that—
- (a) section 276 of the ^{M1}Public Health Act 1936, (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);
 - (b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); and
 - (c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),
- shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by an enforcement notice.
- (4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.
- (5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local planning authority under subsection (1).
- [^{F16}(6) Any person who wilfully obstructs a person acting in the exercise of powers 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.]

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Textual Amendments

- F14** S. 178(1) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 7\(1\)](#) (with [s. 84\(5\)](#)); S.I. 1991/2905, [art.3](#) (subject to [art. 5](#))
- F15** Words in s. 178(2) repealed (2.1.1992) by [Planning and Compensation Act 1991 \(c.34, SIF 123:1\), ss. 32, 84\(6\), Sch. 7 para. 25, Sch. 19 Pt.I](#) (with [s. 84\(5\)](#)); S.I. 1991/2905, [art. 3, Sch.2](#) (subject to [art. 5](#))
- F16** 178(6) substituted (2.1.1992) for s. 178(6)(7) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 7\(2\)](#) (with [s. 84\(5\)](#)); S.I. 1991/2905, [art.3](#) (subject to [art. 5](#))

Modifications etc. (not altering text)

- C16** S. 178 applied (with modifications) (1.6.1992) by [S.I. 1992/656, reg. 20\(1\), Sch. 4 Pt. 2](#)
S. 178: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)
- C17** S. 178: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\), s. 25\(1\)\(c\)](#) (as amended (2.1.1992) by [1991 c. 34, s. 84, Sch. 19](#); S.I. 1991/2905, [art. 3, Sch. 2](#)); S.I. 1992/725, [arts. 2, 3](#)

Marginal Citations

- M1** 1936 c. 49.

[^{F17}179 Offence where enforcement notice not complied with.

- (1) Where, at any time after the end of the period for compliance with an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner of the land is in breach of the notice.
- (2) Where the owner of the land is in breach of an enforcement notice he shall be guilty of an offence.
- (3) In proceedings against any person for an offence under subsection (2), it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.
- (4) A person who has control of or an interest in the land to which an enforcement notice relates (other than the owner) must not carry on any activity which is required by the notice to cease or cause or permit such an activity to be carried on.
- (5) A person who, at any time after the end of the period for compliance with the notice, contravenes subsection (4) shall be guilty of an offence.
- (6) An offence under subsection (2) or (5) 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 the subsection in question by reference to any period of time following the preceding conviction for such an offence.
- (7) Where—
 - (a) a person charged with an offence under this section has not been served with a copy of the enforcement notice; and
 - (b) the notice is not contained in the appropriate register kept under section 188,
 it shall be a defence for him to show that he was not aware of the existence of the notice.

Status: Point in time view as at 27/07/1992.

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- (8) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding £20,000; and
 - (b) on conviction on indictment, to a fine.
- (9) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.]

Textual Amendments

F17 S. 179 substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s.8](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#))

Modifications etc. (not altering text)

C18 S. 179: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), [s. 25\(1\)\(c\)](#); [S.I. 1992/725](#), [arts. 2, 3](#)

S. 179 applied (with modifications) (1.6.1992) by [S.I. 1992/656](#), [reg. 20\(1\)](#), [Sch. 4 Pt. 2](#)

S. 179 applied (with modifications) (27.7.1992) by [S.I. 1992/1562](#), [reg. 2](#), [Sch.](#)

S. 179: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

S. 179 restricted (E.) (13.4.2001) by [S.I. 2001/1478](#), [reg. 3\(a\)](#)

[^{F18}180 Effect of planning permission, etc., on enforcement or breach of condition notice.

- (1) Where, after the service of—
- (a) a copy of an enforcement notice; or
 - (b) a breach of condition notice,
- planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
- (2) Where after a breach of condition notice has been served any condition to which the notice relates is discharged, the notice shall cease to have effect so far as it requires any person to secure compliance with the condition in question.
- (3) The fact that an enforcement notice or breach of condition notice has wholly or partly ceased to have effect by virtue of this section shall not affect the liability of any person for an offence in respect of a previous failure to comply, or secure compliance, with the notice.]

Textual Amendments

F18 S. 180 substituted (2.1.1992 for certain purposes, otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 32](#), [Sch. 7 para.26](#) (with [s. 84\(5\)](#)); [S.I. 1991/2905](#), [art.3](#) (subject to [art. 5](#)); [S.I. 1992/1630](#), [art. 2](#), [Sch. 1](#) (with [art. 3\(1\)](#))

Modifications etc. (not altering text)

C19 S. 180: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such

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power or duty, 1.6.1992 so far as not already in force) by Planning (Hazardous Substances) Act 1990 (C.10,SIF 123:1),s. 25(1)(c); [S.I. 1992/725](#), [arts. 2,3](#)

S. 180 applied (with modifications) (1.6.1992) by [S.I. 1992/656](#), [reg. 20\(1\)](#), [Sch. 4](#)

S. 180: power to apply conferred (10.11.1993) by [1993 c.28](#), [s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

C20 S. 180(1)(3) applied (with modifications) (27.7.1992) by [S.I. 1992/1562](#), [reg. 2](#), [Sch.](#)

181 Enforcement notice to have effect against subsequent development.

- (1) Compliance with an enforcement notice, whether in respect of—
 - (a) the completion, [^{F19}removal] or alteration of any buildings or works;
 - (b) the discontinuance of any use of land; or
 - (c) any other requirements contained in the notice,
 shall not discharge the notice.
- (2) Without prejudice to subsection (1), any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.
- (3) Without prejudice to subsection (1), if any development is carried out on land by way of reinstating or restoring buildings or works which have been [^{F20}removed] or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were [^{F20}removed] or altered; and, subject to subsection (4), the provisions of section 178(1) and (2) shall apply accordingly.
- (4) Where, at any time after an enforcement notice takes effect—
 - (a) any development is carried out on land by way of reinstating or restoring buildings or works which have been [^{F20}removed] or altered in compliance with the notice; and
 - (b) the local planning authority propose, under section 178(1), to take any steps required by the enforcement notice for the [^{F19}removal] or alteration of the buildings or works in consequence of the reinstatement or restoration,
 the local planning authority shall, not less than 28 days before taking any such steps, serve on the owner and occupier of the land a notice of their intention to do so.
- (5) Where without planning permission a person carries out any development on land by way of reinstating or restoring buildings or works which have been [^{F20}removed] or altered in compliance with an enforcement notice—
 - (a) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, and
 - (b) no person shall be liable under [^{F21}section 179(2)] for failure to take any steps required to be taken by an enforcement notice by way of [^{F19}removal] or alteration of what has been so reinstated or restored.

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Textual Amendments

- F19** Word in s. 181(1)(a)(4)(b)(5)(b) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1, s. 32, Sch. 7 para. 27\(a\)](#) (with s. 84(5)); S.I. 1991/2905, art.3, [Sch. 1](#) (subject to art. 5)
- F20** Word in s. 181(3)(4)(5) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1, s. 32, Sch. 7 para. 27\(b\)](#) (with s. 84(5)); S.I. 1991/2905, art.3, [Sch. 1](#) (subject to art. 5)
- F21** Words in s. 181(5)(b) substituted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1, s. 32, Sch. 7 para. 27\(c\)](#) (with s. 84(5)); S.I. 1991/2905, art.3, [Sch. 1](#) (subject to art. 5)

Modifications etc. (not altering text)

- C21** S. 181: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1, s. 25\(1\)\(c\)](#); S.I. 1992/725, [arts. 2, 3](#)
- C22** S. 181 applied (with modifications) (1.6.1992) by S.I. 1992/656, [reg. 20\(1\)](#), [Sch. 4 Pt. 2](#)
S. 181 applied (with modifications) (27.7.1992) by S.I. 1992/1562, [reg. 2](#), [Sch.](#)
S. 181: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)

182 Enforcement by the Secretary of State.

- (1) If it appears to the Secretary of State to be expedient that an enforcement notice should be issued in respect of any land, he may issue such a notice.
- (2) The Secretary of State shall not issue such a notice without consulting the local planning authority.
- (3) An enforcement notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority.
- (4) In relation to an enforcement notice issued by the Secretary of State, sections 178 and 181 shall apply as if for any reference in those sections to the local planning authority there were substituted a reference to the Secretary of State.

Modifications etc. (not altering text)

- C23** S. 182: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)

Status:

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Changes to legislation:

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