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# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART VII

#### ENFORCEMENT

#### *<sup>F1</sup> Certificate of lawful use or development*

##### Textual Amendments

- F1** Ss. 191 - 194 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 10\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2728, art.2](#); [S.I. 1992/1630, art. 2](#) (with [art. 3\(1\)\(2\)](#))

#### <sup>F2</sup>191 **Certificate of lawfulness of existing use or development.**

- (1) If any person wishes to ascertain whether—
- (a) any existing use of buildings or other land is lawful;
  - (b) any operations which have been carried out in, on, over or under land are lawful; or
  - (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,
- he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.
- (2) For the purposes of this Act uses and operations are lawful at any time if—
- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
  - (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

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- (3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—
- (a) the time for taking enforcement action in respect of the failure has then expired; and
  - (b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.
- (4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
- (5) A certificate under this section shall—
- (a) specify the land to which it relates;
  - (b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
  - (c) give the reasons for determining the use, operations or other matter to be lawful; and
  - (d) specify the date of the application for the certificate.
- (6) The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.
- (7) A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission—
- (a) section 3(3) of the <sup>M1</sup>Caravan Sites and Control of Development Act 1960;
  - (b) section 5(2) of the <sup>M2</sup>Control of Pollution Act 1974; and
  - (c) section 36(2)(a) of the <sup>M3</sup>Environmental Protection Act 1990.

#### Textual Amendments

- F2** S. 191 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **s. 10(1)** (with s. 84(5)); [S.I. 1991/2728](#), **art.2**; [S.I. 1992/1630](#), **art. 2** (with art. 3(1)(2))

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

- C1** S. 191: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), **art. 3**
- C2** S. 191 modified (1.8.2000) by [S.I. 2000/1973](#), **reg. 10(3)** (with reg. 10(14))
- C3** S. 191(4): 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**

#### Marginal Citations

- M1** 1960 c. 62.
- M2** 1974 c. 40.
- M3** 1990 c. 43.

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### **F<sup>3</sup>192 Certificate of lawfulness of proposed use or development.**

- (1) If any person wishes to ascertain whether—
  - (a) any proposed use of buildings or other land; or
  - (b) any operations proposed to be carried out in, on, over or under land,would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.
- (2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
- (3) A certificate under this section shall—
  - (a) specify the land to which it relates;
  - (b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
  - (c) give the reasons for determining the use or operations to be lawful; and
  - (d) specify the date of the application for the certificate.
- (4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

#### **Textual Amendments**

**F3** S. 192 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 10\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2728](#), [art.2](#); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)\(2\)](#))

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

**C4** S. 192: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)  
**C5** S. 192 modified (1.8.2000) by [S.I. 2000/1973](#), [reg. 10\(5\)](#) (with [reg. 10\(14\)](#))  
**C6** S. 192(2): 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](#)

### **F<sup>4</sup>193 Certificates under sections 191 and 192: supplementary provisions.**

- (1) An application for a certificate under section 191 or 192 shall be made in such manner as may be prescribed by a development order and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any directions given under such an order or by the local planning authority.
- (2) Provision may be made by a development order for regulating the manner in which applications for certificates under those sections are to be dealt with by local planning authorities.
- (3) In particular, such an order may provide for requiring the authority—

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- (a) to give to any applicant within such time as may be prescribed by the order such notice as may be so prescribed as to the manner in which his application has been dealt with; and
  - (b) to give to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to such applications made to the authority, including information as to the manner in which any application has been dealt with.
- (4) A certificate under either of those sections may be issued—
- (a) for the whole or part of the land specified in the application; and
  - (b) where the application specifies two or more uses, operations or other matters, for all of them or some one or more of them;
- and shall be in such form as may be prescribed by a development order.
- (5) A certificate under section 191 or 192 shall not affect any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted unless that matter is described in the certificate.
- (6) In section 69 references to applications for planning permission shall include references to applications for certificates under section 191 or 192.
- (7) A local planning authority may revoke a certificate under either of those sections if, on the application for the certificate—
- (a) a statement was made or document used which was false in a material particular; or
  - (b) any material information was withheld.
- (8) Provision may be made by a development order for regulating the manner in which certificates may be revoked and the notice to be given of such revocation.

#### Textual Amendments

**F4** S. 193 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), [s. 10\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1991/2728](#), [art.2](#); [S.I. 1992/1630](#), [art. 2](#) (with [art. 3\(1\)\(2\)](#))

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

**C7** S. 193: power to apply conferred (10.11.1993) by [1993 c. 28](#), [s. 171\(4\)\(a\)](#); [S.I. 1993/2762](#), [art. 3](#)

### <sup>F5</sup>194 Offences.

- (1) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for the issue of a certificate under section 191 or 192—
- (a) knowingly or recklessly makes a statement which is false or misleading in a material particular;
  - (b) with intent to deceive, uses any document which is false or misleading in a material particular; or
  - (c) with intent to deceive, withholds any material information,
- he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or

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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.
- (3) Notwithstanding section 127 of the <sup>M4</sup>Magistrates' Courts Act 1980, a magistrates' court may try an information in respect of an offence under subsection (1) whenever laid.]

#### Textual Amendments

**F5** S. 194 substituted (25.11.1991 for certain purposes and otherwise 27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **s. 10(1)** (with [s. 84\(5\)](#)); [S.I. 1991/2728](#), **art.2**; [S.I. 1992/1630](#), **art. 2** (with [art. 3\(1\)\(2\)](#))

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

**C8** S. 194: power to apply conferred (10.11.1993) by [1993 c. 28](#), **s. 171(4)(a)**; [S.I. 1993/2762](#), **art. 3**

#### Marginal Citations

**M4** [1980 c. 43](#).

### 195 Appeals against refusal or failure to give decision on application.

- (1) Where an application is made to a local planning authority for [<sup>F6</sup>a certificate under section 191 or 192] and—
- (a) the application is refused or is refused in part, or
- (b) the authority do not give notice to the applicant of their decision on the application within such period as may be prescribed by a development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority,
- the applicant may by notice appeal to the Secretary of State.
- (2) On any such appeal, if and so far as the Secretary of State is satisfied—
- (a) in the case of an appeal under subsection (1)(a), that the authority's refusal is not well-founded, or
- (b) in the case of an appeal under subsection (1)(b), that if the authority had refused the application their refusal would not have been well-founded,
- he shall grant the appellant [<sup>F7</sup>a certificate under section 191 or, as the case may be, 192] accordingly or, in the case of a refusal in part, modify the certificate granted by the authority on the application.
- (3) If and so far as the Secretary of State is satisfied that the authority's refusal is or, as the case may be, would have been well-founded, he shall dismiss the appeal.
- [<sup>F8</sup>(4) References in this section to a refusal of an application in part include a modification or substitution of the description in the application of the use, operations or other matter in question.]
- (5) For the purposes of the application of section 288(10)(b) in relation to an appeal in a case within subsection (1)(b) it shall be assumed that the authority decided to refuse the application in question.
- (6) Schedule 6 applies to appeals under this section.

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**Textual Amendments**

- F6** Words in s. 195(1) substituted (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 32, Sch. 7 para. 32\(a\)](#) (with s. 84(5)); S.I. 1992/1630, art. 2, [Sch. 1](#) (with art. 3(1))
- F7** Words in s. 195(2) substituted (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 32, Sch.7 para. 32\(b\)](#) (with s. 84(5)); S.I. 1992/1630, art. 2, [Sch. 1](#) (with art. 3(1))
- F8** S. 195(4) substituted (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 32, Sch. 7 para. 32\(c\)](#) (with s. 84(5)); S.I. 1992/1630, art. 2, [Sch. 1](#) (with art. 3(1))

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

- C9** S. 195: power to apply conferred (10.11.1993) by [1993 c. 28, s. 171\(4\)\(a\)](#); S.I. 1993/2762, [art. 3](#)

**196 Further provisions as to references and appeals to the Secretary of State.**

- (1) Before determining <sup>F9</sup> . . . an appeal to him under section 195(1), the Secretary of State shall, if either the [<sup>F10</sup>appellant] or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (2) Where the Secretary of State grants [<sup>F11</sup>a certificate under section 191 or 192 on] such a reference or such an appeal, he shall give notice to the local planning authority of that fact.
- (3) The decision of the Secretary of State on such <sup>F12</sup> . . . appeal shall be final.
- (4) The information which may be prescribed as being required to be contained in a register kept under section 69 shall include information with respect to [<sup>F13</sup>certificates under section 191 or 192] granted by the Secretary of State.

<sup>F14</sup>(5) . . . . .

<sup>F14</sup>(6) . . . . .

<sup>F14</sup>(7) . . . . .

[<sup>F15</sup>(8) 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 195 as if those proceedings were an inquiry held by the Secretary of State under section 250.]

**Textual Amendments**

- F9** Words in s. 196(1) repealed (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), ss. 32, 84\(6\), Sch. 7 para. 33\(a\), Sch. 19 Pt. I](#) (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, 2 (with art. 3(1))
- F10** Word in s. 196(1) substituted (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 32, Sch. 7 para. 33\(a\)](#) (with s. 84(5)); S.I. 1992/1630, art. 2, [Sch. 1](#) (with art. 3(1))
- F11** Words in s. 196(2) substituted (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 32, Sch. 7 para. 33\(b\)](#) (with s. 84(5)); S.I. 1992/1630, art. 2, [Sch. 1](#) (with art. 3(1))
- F12** Words in s. 196(3) repealed (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), ss. 32, 84\(6\), Sch. 7 para. 33\(c\), Sch. 19 Pt. I](#) (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, 2 (with art. 3(1))

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- F13** Words in s. 196(4) substituted (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, **Sch. 7 para. 33(d)** (with s. 84(5)); S.I. 1992/1630, art. 2, **Sch. 1** (with art. 3(1))
- F14** S. 196(5)-(7) repealed (27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), ss. 32, 84(6), **Sch. 7 para. 33(e)**, **Sch. 19 Pt. 1** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, 2 (with art. 3(1))
- F15** S. 196(8) inserted (temp.) by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 6, **Sch. 4 paras. 1, 4** (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))

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

- C10** S. 196: power to apply conferred (10.11.1993) by 1993 c. 28, **s. 171(4)(a)**; S.I. 1993/2762, **art. 3**

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