



Town and Country Planning Act 1990

1990 CHAPTER 8

PART VII

ENFORCEMENT

[^{F1} Certificate of lawful use or development]

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

- (1) Where an application is made to a local planning authority for [^{F1}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.

[^{F2}(1B) A notice of appeal under this section must be—

- (a) served within such time and in such manner as may be prescribed by a development order;
- (b) accompanied by such information as may be prescribed by such an order.

(1C) The time prescribed for the service of a notice of appeal under this section must not be less than—

- (a) 28 days from the date of notification of the decision on the application; or
- (b) in the case of an appeal under subsection (1)(b), 28 days from—
 - (i) the end of the period prescribed as mentioned in subsection (1)(b), or
 - (ii) as the case may be, the extended period mentioned in subsection (1)(b).

(1D) The power to make a development order under subsection (1B) is exercisable by—

- (a) the Secretary of State, in relation to England;

Status: Point in time view as at 06/04/2009. This version of this provision has been superseded.

Changes to legislation: Town and Country Planning Act 1990, Section 195 is up to date with all changes known to be in force on or before 27 July 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)

- (b) the Welsh Ministers, in relation to Wales.
- (1E) Section 333(5) does not apply in relation to a development order under subsection (1B) made by the Welsh Ministers.
- (1F) A development order under subsection (1B) made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]
- (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 [^{F3}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.
- [^{F4}(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.

Textual Amendments

- F1** 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))
- F2** S. 195(1B)-(1F) inserted (6.4.2009 for E., 30.4.2012 for W.) by Planning Act 2008 (c. 29), s. 241(3)(4), **Sch. 11 para. 3** (with s. 226); S.I. 2009/400, art. 5(d); S.I. 2012/802, art. 2(b)
- F3** 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))
- F4** 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)

- C1** S. 195: 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 06/04/2009. This version of this provision has been superseded.

Changes to legislation:

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