



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART VI

#### ENFORCEMENT

##### *Enforcement notices*

#### **136 Offence where enforcement notice not complied with.**

- (1) Where, at any time after the end of the compliance period in respect of 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 the 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—

**Changes to legislation:** *Town and Country Planning (Scotland) Act 1997, Section 136 is up to date with all changes known to be in force on or before 18 June 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) View outstanding changes*

- (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 147,
- it shall be a defence for him to show that he was not aware of the existence of the notice.
- (8) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding [<sup>F1</sup>£50,000,] 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

- F1** Sum in s. 136(8)(a) substituted (20.12.2019) by [Planning \(Scotland\) Act 2019 \(asp 13\)](#), **ss. 42(3), 63(2)**; [S.S.I. 2019/377](#), **reg. 2** (with **regs. 5-10**) (as amended by [S.S.I. 2019/411](#), **regs. 1, 2**)

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

- C1** S. 136: power to modify conferred (27.5.1997) by [1997 c. 10](#), **ss. 23(1)(c), 31** (with **ss. 9(3), 10(5), 38(6)**)
- C2** Ss. 123-149 functions made exercisable concurrently (7.1.2003) by [The Cairngorms National Park Designation, Transitional and Consequential Provisions \(Scotland\) Order 2003 \(S.S.I. 2003/1\)](#), **arts. 1, 7(1)(b)**
- C3** S. 136 modified (1.6.2015) by [The Town and Country Planning \(Hazardous Substances\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/181\)](#), **regs. 1, 50**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)