
WELSH STATUTORY INSTRUMENTS

2018 No. 1182

The Sustainable Drainage (Enforcement) (Wales) Order 2018

PART 3

Notices

Temporary stop notices

6.—(1) An approving body may give a notice (“a temporary stop notice”) to a developer if the approving body has reason to believe that—

- (a) the developer has breached the requirement for approval, and
- (b) it is expedient that the construction work stop immediately.

(2) A temporary stop notice must be in writing and must—

- (a) specify the activity that is believed to be a breach,
- (b) give reasons for that view,
- (c) prohibit the developer from continuing with the activity, and
- (d) specify the consequences of non-compliance with the notice.

(3) An approving body may at any time withdraw a temporary stop notice by giving written notice to a developer setting out reasons for the decision to withdraw it.

(4) A temporary stop notice has effect from the time it is given and, unless it is earlier withdrawn, ceases to have effect at the end of—

- (a) the period of 4 weeks beginning with the day it is given, or
- (b) any shorter period specified in the notice, beginning with the day it is given.

(5) A second or subsequent temporary stop notice must not be given in respect of the same activity unless the approving body has first taken some other enforcement action in relation to the breach.

Compensation for loss resulting from temporary stop notice

7.—(1) A developer who suffers loss as a result of being given a temporary stop notice is entitled to compensation if the approving body—

- (a) withdraws the notice, or
- (b) does not take any further enforcement action.

(2) Any claim for compensation must be made to the approving body within 12 months after the notice is withdrawn or ceases to have effect, whichever is the earlier.

(3) Disputes about compensation are to be determined by the Upper Tribunal.

Enforcement notices

8.—(1) If a developer breaches the requirement for approval, the approving body may give a notice to the developer requiring the developer to take steps to remedy the breach (“an enforcement notice”).

(2) An enforcement notice may be given at any time before a drainage system for the construction work is adopted but not later than 4 years after the breach occurs.

(3) An enforcement notice must be in writing and must specify—

- (a) the construction area to which the notice relates,
- (b) details of the breach,
- (c) the steps which the developer must take to remedy the breach,
- (d) the date by which the steps must be taken,
- (e) rights of appeal, including the time limit for making an appeal, and
- (f) the consequences of non-compliance with the notice.

(4) An enforcement notice must not require the developer to take any steps until at least 4 weeks after the date on which the notice is given.

(5) An approving body may at any time by written notice to a developer—

- (a) withdraw an enforcement notice, giving reasons, or
- (b) vary an enforcement notice by—
 - (i) reducing the amount of work necessary to comply with the notice, or
 - (ii) extending the time for taking any step specified in the notice.

Steps required by an enforcement notice

9.—(1) For construction work commenced without approval, the enforcement notice must require the developer—

- (a) to apply for approval (the application to be made as if construction work had not commenced), or
- (b) to restore the construction area to the condition it was in before the construction work began.

(2) For a breach of a condition of approval, the enforcement notice must require the developer—

- (a) to carry out work to ensure the drainage system complies with the conditions of approval, or
- (b) to restore the construction area to the condition it was in before the construction work began.

(3) For construction work that does not conform to the approved proposals, the enforcement notice must require the developer—

- (a) to carry out work to ensure the drainage system complies with the approved proposals, or
- (b) to restore the construction area to the condition it was in before the construction work began.

(4) If a developer fails to comply with an enforcement notice, the approving body—

- (a) may take the steps specified in the enforcement notice or authorise another person to take the steps, and
- (b) may require the developer to pay expenses incurred under sub-paragraph (a), such expenses to be recoverable as a debt.

(5) The approving body or a person authorised under paragraph (4)(a) may at any reasonable time enter a construction area to take the steps specified in the enforcement notice.

Stop notices

10.—(1) An approving body may give a notice (“a stop notice”) to a developer if—

- (a) the developer has appealed against an enforcement notice, and
- (b) the approving body thinks it is expedient that construction work on the land to which the enforcement notice relates should stop immediately.

(2) A stop notice may prohibit a developer from continuing with the construction work specified in the notice until—

- (a) the appeal against the enforcement notice is determined or withdrawn, or
- (b) the approving body—
 - (i) withdraws the stop notice, or
 - (ii) takes further enforcement action.

(3) A stop notice must be in writing and must specify—

- (a) the date on which it takes effect,
- (b) the grounds on which it was served,
- (c) the consequences of not complying with it, and
- (d) the enforcement notice to which it relates.

(4) A copy of the enforcement notice must be annexed to the stop notice.

(5) An approving body may at any time withdraw a stop notice by giving written notice to a developer setting out reasons for the decision to withdraw it.

Register of notices

11.—(1) An approving body must keep a register containing information relating to all temporary stop notices, enforcement notices and stop notices it gives.

(2) The register must contain the information prescribed for the purpose of section 188(1)(1) of the 1990 Act and by article 30 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(2) but with the modifications described in paragraph (3).

(3) The modifications are—

- (a) any reference to the authority is to be read as a reference to the approving body;
- (b) any reference to service of the notice or copies of the notice is to be read as a reference to the giving of the notice;
- (c) any reference to a breach of planning control is to be read as a reference to a breach of the requirement for approval;
- (d) any reference to a breach of condition notice is to be read as a reference to a stop notice or temporary stop notice.

(4) The information must be entered on the register as soon as is practicable but not more than 2 weeks after a notice is given.

(1) Section 188(1) was amended by paragraph 30(a) of Schedule 7 and Part 1 of Schedule 19 to, the Planning and Compensation Act 1991 (c. 34) and by paragraph 24(5) of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19). There are other amendments not relevant to this Order.

(2) S.I. 2012/801 (W. 110).

(5) An entry relating to a notice must be removed from the register if the notice is withdrawn or ceases to have effect.