ELIZABETH II

Local Government and Planning (Amendment) Act 1981

1981 CHAPTER 41

An Act to provide for control over listed buildings and for the enforcement of planning control and of control of listed buildings. [27th July 1981]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Amendments relating to enforcement etc.
1971 c. 78.
1972 c. 70.

1. The amendments of the Town and Country Planning Act 1971 and Schedule 16 to the Local Government Act 1972 contained in the Schedule to this Act shall have effect.

Citation, commencement and extent.

2.—(1) This Act may be cited as the Local Government and Planning (Amendment) Act 1981.

(2) Paragraph 6 of the Schedule to this Act shall come into operation on the date on which there expires the period of four months beginning with the day on which this Act is passed.

(3) Subject to subsection (2) above, this Act shall come into operation on the date on which there expires the period of one month beginning with the day on which it is passed.

(4) This Act extends to England and Wales only.

Section 1.

SCHEDULE

AMENDMENTS RELATING TO ENFORCEMENT OF CONTROL

Development requiring planning permission

1. The following sections shall be substituted for sections 87 and 88 of the Town and Country Planning Act 1971 (1971 c. 78.):—

"Power to issue enforcement notice.

87.—(1) Where it appears to the local planning authority that there has been a breach of planning control after the end of 1963, then, subject to the following provisions of this section, the authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may issue a notice requiring the breach to be remedied and serve copies of the notice in accordance with subsection (5) of this section.

(2) A notice under this section is referred to in this Act as an "enforcement notice".

(3) There is a breach of planning control—

(*a*) if development has been carried out, whether before or after the commencement of this Act, without the grant of the planning permission required in that behalf in accordance with Part III of the Act of 1962 or Part III of this Act; or

(*b*) if any conditions or limitations subject to which planning permission was granted have not been complied with.

(4) An enforcement notice which relates to a breach of planning control consisting in—

(*a*) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land; or

(*b*) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land; or

(*c*) the making without planning permission of a change of use of any building to use as a single dwelling-house; or

(*d*) the failure to comply with a condition which prohibits or has the effect of preventing a change of use of a building to use as a single dwelling-house,

may be issued only within the period of four years from the date of the breach.

(5) A copy of an enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect— SCH.

(*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 that land, being an interest which in the opinion of the authority is materially affected by the notice.

(6) An enforcement notice shall specify the matters alleged to constitute a breach of planning control.

(7) An enforcement notice shall also specify—

(*a*) any steps which are required by the authority to be taken in order to remedy the breach ;

(*b*) any such steps as are referred to in subsection (10) of this section and are required by the authority to be taken.

(8) An enforcement notice shall specify the period within which any such step as is mentioned in subsection (7) of this section is to be taken and may specify different periods for the taking of different steps.

(9) In this section " steps to be taken in order to remedy the breach " means (according to the particular circumstances of the breach) steps for the purpose—

(*a*) of restoring the land to its condition before the development took place ; or

(*b*) of securing compliance with the conditions or limitations subject to which planning permission was granted,

including—

(i) the demolition or alteration of any buildings or works ;

(ii) the discontinuance of any use of land ; and

(iii) the carrying out on land of any building or other operations.

(10) The steps mentioned in subsection (7)(*b*) of this section are steps for the purpose—

(*a*) of making the development comply with the terms of any planning permission which has been granted in respect of the land ; or

(*b*) of removing or alleviating any injury to amenity which has been caused by the development.

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(11) Where the matters which an enforcement notice alleges to constitute a breach of planning control include development which has involved the making of a deposit of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified by altering the gradient or gradients of its sides in such manner as may be specified in the notice.

(12) The Secretary of State may by regulations direct—

(*a*) that enforcement notices shall specify matters additional to those which they are required to specify by this section; and

(*b*) that every copy of an enforcement notice served under this section shall be accompanied by an explanatory note giving such information as may be specified in the regulations with regard to the right of appeal conferred by section 88 of this Act.

(13) Subject to section 88 of this Act, an enforcement notice shall take effect on a date specified in it.

(14) The local planning authority may withdraw an enforcement notice (without prejudice to their power to issue another) at any time before it takes effect.

(15) If they do so, they shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.

(16) Where—

(*a*) an enforcement notice has been issued in respect of development consisting of the erection of a building or the carrying out of works without the grant of planning permission; and

(*b*) the notice has required the taking of steps for a purpose mentioned in subsection (10)(*b*) of this section; and

(*c*) the steps have been taken,

for the purposes of this Act planning permission for the retention of the building or works as they are as a result of compliance with the notice shall be deemed to have been granted on an application for such permission made to the local planning authority.

Appeal against enforcement notice.

88.—(1) A person having an interest in the land to which an enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

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(2) An appeal may be brought on any of the following grounds—

(*a*) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged ;

(*b*) that the matters alleged in the notice do not constitute a breach of planning control ;

(*c*) that the breach of planning control alleged in the notice has not taken place ;

(*d*) in the case of a notice which, by virtue of section 87(4) of this Act, may be issued only within the period of four years from the date of the breach of planning control to which the notice relates, that that period had elapsed at the date when the notice was issued ;

(*e*) in the case of a notice not falling within paragraph (*d*) of this subsection, that the breach of planning control alleged by the notice occurred before the beginning of 1964 ;

(*f*) that copies of the enforcement notice were not served as required by section 87(5) of this Act ;

(*g*) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 87(10) of this Act ;

(*h*) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.

(3) An appeal under this section shall be made by notice in writing to the Secretary of State.

(4) A person who gives notice under subsection (3) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed by regulations under subsection (5) of this section, a statement in writing—

(*a*) specifying the grounds on which he is appealing against the enforcement notice ; and

(*b*) giving such further information as the regulations may prescribe.

(5) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection—

(*a*) may prescribe the time within which an appellant is to submit a statement under subsection

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(4) of this section and the matters on which information is to be given in such a statement;

(*b*) may 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;

(*c*) may specify the matters to be included in such a statement;

(*d*) may require the authority or the appellant to give such notice of an appeal under this section as may be prescribed, being notice which 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;

(*e*) may 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.

(6) The Secretary of State—

(*a*) may dismiss an appeal if the appellant fails to comply with subsection (4) of this section within the time prescribed by regulations under subsection (5); and

(*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 (*b*), (*c*) or (*e*) of subsection (5) of this section within the period prescribed by the regulations.

(7) Subject to subsection (8) below, the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(8) The Secretary of State shall not be required to afford such an opportunity if he proposes to dismiss an appeal under paragraph (*a*) of subsection (6) of this section or to allow an appeal and quash the enforcement notice under paragraph (*b*) of that subsection.

(9) If—

(*a*) a statement under subsection (4) of this section specifies more than one ground on which the appellant is appealing against an enforcement notice; but

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(*b*) the appellant does not give information required under paragraph (*b*) of that subsection in relation to each of the specified grounds within the time prescribed by regulations under subsection (5) of this section,

the Secretary of State may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.

(10) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(11) Schedule 9 to this Act applies to appeals under this section, including appeals under this section as applied by regulations under any other provision of this Act.

Appeals against enforcement notices—general supplementary provisions.

88A.—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.

(2) On such an appeal the Secretary of State may correct any informality, defect or error in the enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the local planning authority.

(3) Where it would otherwise be a ground for determining such an appeal 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.

Appeals against enforcement notices—supplementary provisions relating to planning permission.

88B.—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State may—

(*a*) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;

(*b*) discharge any condition or limitation subject to which planning permission was granted;

(*c*) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard

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to any past use of it and to any planning permission relating to it.

(2) In considering whether to grant planning permission under subsection (1) of this section, 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; and any planning permission granted by him under that subsection may—

(*a*) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;

(*b*) be granted subject to such conditions as the Secretary of State thinks fit;

and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(3) Where an appeal against an enforcement notice is brought under section 88 of this Act, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Secretary of State of his powers under subsection (1) of this section—

(*a*) any planning permission granted under that subsection shall be treated as granted on that application;

(*b*) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and

(*c*) for the purposes of section 34 of this Act, the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the local planning authority.

(4) On an appeal under section 88 of this Act against an enforcement notice relating to anything done in contravention of a condition to which section 71 of this Act applies, the Secretary of State shall not be required to entertain the appeal in so far as the appellant claims that planning permission free from that condition ought to be granted.".

2.—(1) In section 89(1) of that Act (penalties for non-compliance with enforcement notice) for the words from "where" to "it" there shall be substituted the words "where a copy of an enforcement notice has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the notice".

(2) In section 89(4) and (5) of that Act for the words "£50" there shall be substituted the words "£100".

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3. In section 90 of that Act (power to stop further development pending proceedings on enforcement notice)—

(*a*) in subsection (1)—

(i) in paragraph (*a*), after the word "served" there shall be inserted the words "a copy of"; and

(ii) the word "further" shall be omitted;

(*b*) in subsection (7), for the words "£50" there shall be substituted the words "£100"; and

(*c*) in subsection (9)—

(i) after the word "that", in the first place where it occurs, there shall be inserted the words "a copy of"; and

(ii) for the words "87(4)" there shall be substituted the words "87(5)".

4. In section 91 of that Act (execution and cost of works required by enforcement notice)—

(*a*) in subsection (1), after the word "steps", in the first place where it occurs, there shall be inserted the words "which by virtue of section 87(7)(*a*) of this Act are"; and

(*b*) in subsection (2)—

(i) after the word "notice", in the first place where it occurs, there shall be inserted the words "a copy of which has been"; and

(ii) for the words "87(2)" there shall be substituted the words "87(3)".

5. In section 92(1) of that Act (effect of planning permission on enforcement notice) after the words "service of" there shall be inserted the words "a copy of".

6. (1) The following section shall be inserted after that section:—

"Register of enforcement and stop notices.

92A.—(1) Every district planning authority and every council of a London borough shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect—

(*a*) to enforcement notices; and

(*b*) to stop notices,

which relate to land in their area and to which this section applies.

(2) This section applies to enforcement notices issued and stop notices served after the date on which there expired the period of four months beginning with the date on which the Local Government and Planning (Amendment) Act 1981 was passed.

(3) A development order may make provision—

(*a*) for the entry relating to any enforcement notice or stop notice, and everything relating to any such notice, to be removed from the register in such circumstances as may be specified in the order;

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(*b*) for requiring a county planning authority to supply to a district planning authority such information as may be so specified with regard to enforcement notices issued and stop notices served by the county planning authority ; and

(*c*) for requiring the Greater London Council to supply to the council of a London borough such information as may be so specified with regard to enforcement notices issued and stop notices served by the Greater London Council.

(4) Every register kept under this section shall be available for inspection by the public at all reasonable hours.".

7.—(1) In section 93(1)(*a*) of that Act (by virtue of which compliance with an enforcement notice in respect of the demolition or alteration of any buildings or works does not discharge the notice) after the word " the " there shall be inserted the word " completion,".

(2) In section 93(5) of that Act (penalty for reinstating or restoring buildings or works demolished or altered in compliance with an enforcement notice) for the words " £400 " there shall be substituted the words " £1,000 ".

8. In section 94(7) of that Act (established use certificates)—

(*a*) after the word " notice ", in the first place where it occurs, there shall be inserted the words " a copy of which has been " ; and

(*b*) after the word " where " there shall be inserted the words " the copy of ".

Listed buildings

9. The following sections shall be substituted for sections 96 and 97 of that Act:—

" Power to issue listed building enforcement notice.

96.—(1) Where it appears to the local planning authority that any works have been or are being executed to a listed building in their area and are such as to involve a contravention of section 55(1) or (4) of this Act, they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a notice—

(*a*) specifying the alleged contravention ; and

(*b*) requiring such steps as may be specified in the notice to be taken within such period as may be so specified—

(i) for restoring the building to its former state ; or

(ii) where the authority consider that such restoration would not be reasonably practicable, or would be undesirable, for executing such further works specified in the notice as they consider necessary to alleviate the effect of the works which were carried out without listed building consent ; or

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(iii) for bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with.

(2) A notice under this section is referred to in this Act as a " listed building enforcement notice ".

(3) A copy of a listed building enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect—

(*a*) on the owner and on the occupier of the building to which it relates ; and

(*b*) on any other person having an interest in that building, being an interest which in the opinion of the authority is materially affected by the notice.

(4) Subject to section 97 of this Act, a listed building enforcement notice shall take effect on a date specified in it.

(5) The local planning authority may withdraw a listed building enforcement notice (without prejudice to their power to issue another) at any time before it takes effect.

(6) If they do so, they shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.

(7) Where a listed building enforcement notice imposes any such requirement as is mentioned in subsection (1)(*b*)(ii) of this section, listed building consent shall be deemed to be granted for any works of demolition, alteration or extension of the building executed as a result of compliance with the notice.

Appeal against listed building enforcement notice.

97.—(1) A person having an interest in the building to which a listed building enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Secretary of State against the notice on any of the following grounds—

(*a*) that the building is not of special architectural or historic interest ;

(*b*) that the matters alleged to constitute a contravention of section 55 of this Act do not involve such a contravention ;

(*c*) that the contravention of that section alleged in the notice has not taken place ;

(*d*) that the works were urgently necessary in the interests of safety or health or for the preservation of the building ;

(*e*) that listed building consent ought to be granted for the works, or that any relevant condition

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of such consent which has been granted ought to be discharged, or different conditions substituted ;

(*f*) that copies of the notice were not served as required by section 96(3) of this Act ;

(*g*) except in relation to such a requirement as is mentioned in section 96(1)(*b*)(ii) or (iii) of this Act, the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out ;

(*h*) that the period specified in the notice as the period within which any step required thereby is to be taken falls short of what should reasonably be allowed ;

(*i*) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose ;

(*j*) that steps required to be taken by virtue of section 96(1)(*b*)(ii) of this Act exceed what is necessary to alleviate the effect of the works executed to the building ;

(*k*) that steps required to be taken by virtue of section 96(1)(*b*)(iii) of this Act exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.

(2) An appeal under this section shall be made by notice in writing to the Secretary of State.

(3) A person who gives notice under subsection (2) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed under subsection (4) of this section, a statement in writing—

(*a*) specifying the grounds on which he is appealing against the listed building enforcement notice ; and

(*b*) giving such further information as the regulations may prescribe.

(4) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection, may make any such provision in relation to appeals under this section as may be made in relation to appeals under section 88 of this Act by regulations under subsection (5) of that section.

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(5) The Secretary of State—

(*a*) may dismiss an appeal if the appellant fails to comply with subsection (3) of this section within the time prescribed by regulations under subsection (4); and

(*b*) may allow an appeal and quash the listed building enforcement notice if the local planning authority fail to comply with any requirement of regulations under this section corresponding to regulations made by virtue of subsection (5)(*b*), (*c*) or (*e*) of section 88 of this Act within the period prescribed by the regulations.

(6) Subject to subsection (7) of this section, the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(7) The Secretary of State shall not be required to afford such an opportunity if he proposes to dismiss an appeal under paragraph (*a*) of subsection (5) of this section or to allow an appeal and quash the listed building enforcement notice under paragraph (*b*) of that subsection.

(8) If—

(*a*) a statement under subsection (3) of this section specifies more than one ground on which the appellant is appealing against a listed building enforcement notice; but

(*b*) the appellant does not give information required under paragraph (*b*) of that subsection in relation to each of the specified grounds within the time prescribed by regulations under subsection (4) of this section,

the Secretary of State may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.

(9) Where an appeal is brought under this section, the listed building enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(10) Schedule 9 to this Act applies to appeals under this section.

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Appeals against listed building enforcement notices—supplementary.

97A.—(1) On the determination of an appeal under section 97 of this Act, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the listed building enforcement notice or for varying its terms.

(2) On such an appeal the Secretary of State may correct any informality, defect or error in the listed building enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the local planning authority.

(3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the listed building 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.

(4) On the determination of such an appeal the Secretary of State may—

(*a*) grant listed building consent for the works to which the listed building enforcement notice relates or for part only of those works ;

(*b*) discharge any condition or limitation subject to which listed building consent was granted and substitute any other condition, whether more or less onerous ;

(*c*) if he thinks fit, exercise—

(i) his power under section 54 of this Act to amend any list compiled or approved under that section by removing from it the building to which the appeal relates ; or

(ii) his power under subsection (10) of that section to direct that that subsection shall no longer apply to the building.

(5) Any listed building consent granted by the Secretary of State under subsection (4) of this section shall be treated as granted on an application for the like consent under Part I of Schedule 11 to this Act, and the Secretary of State's decision in relation to the grant shall be final.".

10. In section 98(4) of that Act (penalty for failure to secure compliance with listed building enforcement notice) for the words " £50 " there shall be substituted the words " £100 ".

11. The following section shall be substituted for section 100 of that Act:—

" Enforcement by the Secretary of State.

100.—(1) If it appears to the Secretary of State, after consultation with the local planning authority (and, in Greater London, also with the Greater London Council), to be expedient that a listed building enforcement notice should be issued in respect of any land, he may issue such a notice ; and any notice so issued by the Secretary

of State shall have the like effect as a notice issued by the local planning authority. SCH.

(2) In relation to a listed building enforcement notice issued by the Secretary of State, the provisions of section 99 of this Act shall apply as if for any reference in that section to the local planning authority there were substituted a reference to the Secretary of State.".

Trees

12.—(1) In section 103 of that Act (enforcement of duties as to replacement of trees which are the subject of tree preservation orders) in subsection (3) (appeals to the Secretary of State) the words from " and the provisions " to the end of the subsection shall cease to have effect.

(2) The following subsections shall be inserted after that subsection:—

" (3A) An appeal under this section shall be made by notice in writing to the Secretary of State.

(3B) The notice shall indicate the grounds of the appeal and state the facts on which it is based.

(3C) On any such appeal the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(3D) Where an appeal is brought under this section, the notice under subsection (1) of this section shall be of no effect pending the final determination or the withdrawal of the appeal.

(3E) On the determination of an appeal under this section, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the notice under subsection (1) of this section or for varying its terms.

(3F) On such an appeal the Secretary of State may correct any informality, defect or error in the notice under subsection (1) of this section, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or the local planning authority.".

(3) In subsection (5) of that section, after the words " enforcement notice ", in the second place where they occur, there shall be inserted the words " a copy of which has been ".

Waste land

13. The following section shall be substituted for section 104 of that Act:—

"Penalties for non-compliance with notice as to waste land.

104.—(1) The provisions of this section shall have effect where a notice has been served under section 65 of this Act.

(2) Subject to the following provisions of this section, if any owner or occupier of the land on whom the notice

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was served fails to take any steps required by the notice within the period specified in it for compliance with it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(3) If a person against whom proceedings are brought under subsection (2) of this section as the owner of the land has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner brought before the court in the proceedings.

(4) If a person against whom proceedings are brought under subsection (2) of this section as the occupier of the land has, at some time before the end of the period allowed for compliance with the notice, ceased to be the occupier, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have any person who then became the occupier brought before the court in the proceedings.

(5) If—

(*a*) a person against whom proceedings are brought under subsection (2) of this section as the occupier of the land has, at some time before the end of the period allowed for compliance with the notice, ceased to be the occupier; and

(*b*) nobody then became the occupier,

he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who is the owner at the date of the notice brought before the court in the proceedings.

(6) If, after it has been proved that any steps required by the notice under section 65 of this Act have not been taken within the period allowed for compliance with that notice, the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of a person specified in a notice under this section—

(*a*) that person may be convicted of the offence; and

(*b*) the original defendant shall be acquitted of the offence if he further proves that he took all reasonable steps to ensure compliance with the notice.

(7) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure

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compliance with the notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £20 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.

(8) Any reference in this section to the period allowed for compliance with a notice is a reference to the period specified in the notice for compliance with it or to such extended period as the local planning authority who served the notice may allow for compliance with it.".

14. The words "who served the notice in question under section 65 of this Act" shall be added at the end of section 106 of that Act (appeal to Crown Court).

15. In section 107 of that Act (execution and cost of works required by notice as to waste land) the words "who served the notice" shall be inserted after the words "the local planning authority"—

(*a*) in both places where they occur in subsection (1); and

(*b*) in subsection (2).

Advertisements

16. In section 109(2) of that Act (penalties for contravention of advertisement control regulations)—

(*a*) for the words "£100" there shall be substituted the words "£200"; and

(*b*) for the words "£5" there shall be substituted the words "£20".

Consequential amendments

17. In subsection (1)(*c*) of section 225 of that Act (applications for planning permission by statutory undertakers) for the words "(7) of section 88" there shall be substituted the words "(3) of section 88B".

18.—(1) In section 243(1) of that Act (which limits the right to question the validity of enforcement notices, listed building enforcement notices and notices under section 65 which are served on owners and occupiers of waste land) the words "on which such an appeal may be brought" shall be substituted—

(*a*) in paragraph (*a*), for the words "specified in section 88(1)(*b*) to (*e*) of this Act"; and

(*b*) in paragraph (*b*), for the words "specified in section 97(1)(*b*) or (*e*) of this Act".

(2) The following subsections shall be substituted for subsection (2) of that section:—

"(2) Subsection (1)(*a*) of this section shall not apply to proceedings brought under section 89(5) of this Act against a person who—

(*a*) has held an interest in the land since before the enforcement notice was issued under Part V of this Act; and

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(*b*) did not have a copy of the enforcement notice served on him under that Part of this Act; and

(*c*) satisfies the court—

(i) that he did not know and could not reasonably have been expected to know that the enforcement notice had been issued; and

(ii) that his interests have been substantially prejudiced by the failure to serve him with a copy of it.

(2A) Where the enforcement notice was served before the passing of the Local Government and Planning (Amendment) Act 1981, subsection (2) of this section shall have effect as if—

(*a*) in paragraph (*a*), the word "served" were substituted for the word "issued";

(*b*) the following paragraph were substituted for paragraph (*b*):—

"(*b*) did not have the enforcement notice or a copy of it served on him under that Part of this Act; and"

(*c*) in paragraph (*c*)—

(i) in sub-paragraph (i) the word "served" were substituted for the word "issued"; and

(ii) the words "with a copy of it" were omitted from sub-paragraph (ii).".

19. The following subsections shall be substituted for subsection (1) of section 246 of that Act (appeals to High Court relating to enforcement notices and similar notices):—

"(1) Where the Secretary of State gives a decision in proceedings on an appeal under Part V of this Act against—

(*a*) an enforcement notice; or

(*b*) a listed building enforcement notice,

the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.

(1A) Where the Secretary of State gives a decision in proceedings on an appeal under Part V of this Act against a notice under section 103 of this Act, the appellant or the local planning authority or any person (other than the appellant) on whom the notice was served may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.".

20. In section 266 of that Act (exercise of powers in relation to Crown land)—

(*a*) in subsection (2)(*a*), after the word "made" there shall be inserted the word ", issued"; and

(*b*) in subsections (3) and (4), for the word " served " there shall be substituted the word " issued ". SCH.

21. In subsection (2)(*b*) of section 270 of that Act (application to local planning authorities of provisions as to planning control and enforcement) after the word " made ", in both places where it occurs, there shall be inserted the word ", issued ".

22. In section 271 of that Act (application to local planning authority of provisions as to listed buildings) for the words " the service " there shall be substituted the words " the issue or service ".

23. In section 274(1) of that Act (ecclesiastical property)—

(*a*) after the word " notice ", in the first place where it occurs, there shall be inserted the words " or copy of a notice " ; and

(*b*) after that word, in the second place where it occurs, there shall be inserted the words " or copy ".

24. The following subsections shall be substituted for subsection (5) of section 276 of that Act (default powers of Secretary of State) : —

" (5) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that a completion notice under section 44 of this Act or a stop notice should be served in respect of any land, he may himself serve such a notice ; and any notice so served shall have the like effect as a notice served by the local planning authority.

(5A) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that—

(*a*) an enforcement notice ; or

(*b*) a listed building enforcement notice,

should be issued in respect of any land, he may himself issue such a notice ; and any notice so issued shall have the like effect as a notice issued by the local planning authority.

(5B) In relation to an enforcement notice or a listed building enforcement notice issued by the Secretary of State sections 89 and 91 to 93, or, as the case may be, sections 98 and 99 of this Act shall apply as if for any reference to the local planning authority there were substituted a reference to the Secretary of State.".

25. In subsection (1)(c) of section 280 of that Act (rights of entry) after the word " make " there shall be inserted the word ", issue ".

26. In subsection (1) of section 284 of that Act (power to require information as to interests in land)—

(*a*) after the word " or ", in the second place where it occurs, there shall be inserted the words " issue or " ; and

(*b*) after the word " make ", in the second place where it occurs, there shall be inserted the word " , issue ".

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27. In Schedule 9 to that Act (determination of certain appeals by person appointed by Secretary of State) in paragraph 2 (which relates to the powers and duties of the person determining an appeal)—

(*a*) in sub-paragraph (1)—

(i) in paragraph (*b*), for the words "subsections (4) to (6) of that section" there shall be substituted the words "section 88A and section 88B(1) and (2) of this Act";

(ii) in paragraph (*d*), for the words "subsections (4) and (5) of that section" there shall be substituted the words "section 97A(1) to (4) of this Act"; and

(iii) in paragraph (*e*), for the words "sections 88(4) and (5) of this Act" there shall be substituted the words "subsections (3E) and (3F) of that section"; and

(*b*) in sub-paragraph (2)—

(i) for the words "88(2)" there shall be substituted the words "88(7)"; and

(ii) for the words "97(2)" there shall be substituted the words "97(6), 103(3C)".

1972 c. 70.

28. In Schedule 16 to the Local Government Act 1972 (functions under, and amendments and modifications of, enactments relating to town and country planning)—

(*a*) the following paragraph shall be substituted for paragraph 24(1)(*b*):—

"(*b*) issuing enforcement notices under section 87 or serving stop notices under section 90;

(*b*) in paragraph 29, for the word "served", in both places where it occurs, there shall be substituted the word "issued";

(*c*) paragraph 30 is repealed; and

(*d*) in paragraph 51(2)—

(i) after the word "made", in each place where it occurs, there shall be inserted the word ", issued"; and

(ii) after the word "make" there shall be inserted the word ", issue".

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