STATUTORY INSTRUMENTS

1990 No. 1510 (N.I. 14)

The Planning and Building Regulations (Amendment) (Northern Ireland) Order 1990

- - - - - - *24th July 1990*

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Planning and Building Regulations (Amendment) (Northern Ireland) Order 1990.

(2) Except as provided by paragraph (3), this Order shall come into operation on the expiration of 2 months from the day on which it is made.

(3) The following provisions of this Order shall come into operation on such day or days as the Head of the Department of the Environment may by order appoint[F1], namely—

(a) Articles 8, 14 and 18;

(b) Article 30(2), so far as it relates to paragraph 4 of Schedule 2;

(c) Part III;

(d) Part II of Schedule 1;

(e) paragraph 4 of Schedule 2;

(f) Part II of Schedule 3.

(4) Any order under paragraph (3) bringing any provision of this Order into operation may make such transitional provision in connection with the coming into operation of that provision as the Head of the Department considers appropriate.

F1 partly exercised by SR 1991/162

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F2] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In Part II "the Planning Order" means the Planning (Northern Ireland) Order 1972[F3] and any expression used in Part II and in the Planning Order has the same meaning in that Part as in that Order.

(3) In Part III "the principal Order" means the Building Regulations (Northern Ireland) Order 1979[F4] and any expression used in Part III and in the principal Order has the same meaning in that Part as in that Order.

F2 1954 c. 33 (N.I.)
F3 1972 NI 17
F4 1979 NI 16

PART II

PLANNING

Amendments to the Planning (Northern Ireland) Order 1972

Arts. 3—20 rep. by 1991 NI 11

Compensation in respect of orders under Article 29A or 37G(3) of the Planning Order

[F5]**21.** . . . . . .

F5 Art. 21 repealed (1.4.2015) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 7** (with s. 211); S.R. 2015/49, art. 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Arts. 22—26 rep. by 1991 NI 11

Art. 27 rep. by 1993 NI 15

Art. 28 rep. by 1991 NI 11

Application of certain planning enactments to Crown land

29.—(1) After Article 15 of the Planning Blight (Compensation) (Northern Ireland) Order 1981[F6] there shall be inserted the following Article—

"**Application to Crown land**

15A.—(1) The rights conferred by this Order shall be exercisable by a person who is an owner-occupier of a hereditament or agricultural unit which is Crown land, or is a resident owner-occupier of a hereditament which is Crown land, in the same way as they are exercisable in respect of a hereditament or agricultural unit which is not Crown land, and this Order shall apply accordingly.

(2) In paragraph (1) "Crown land" has the same meaning as in Part XIVA of the Order of 1972.".

(2) Where there is a Crown estate in any land, the provisions of the Act of 1965 and of **[**[F7]sections 181 to 183 of the Planning Act (Northern Ireland) 2011**]** shall have effect in relation to any private estate as if the Crown estate were a private estate.

(3) In paragraph (2) "Crown estate" and "private estate" have the same meanings as in **[**[F8]Part 11 of the Planning Act (Northern Ireland) 2011 **]** .

F6 1981 NI 16

F7 Words in art. 29(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 54(a)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F8 Words in art. 29(3) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 54(b)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Art. 30 rep. by 1991 NI 11

PART III

BUILDING REGULATIONS

Notification by district council of passing or rejection of plans

31. In Article 13 of the principal Order—

(a) for paragraph (3) there shall be substituted the following paragraph—

"(3) A district council with which plans are deposited in accordance with building regulations shall notify the person by or on behalf of whom the plans were deposited whether the council has passed or rejected the plans." ;

(b) after paragraph (4) there shall be added the following paragraph—

"(5) Building regulations may provide that the council shall comply with paragraph (3) within the prescribed period from the deposit of the plans or within such extended period as may, before the expiration of the prescribed period, be agreed in writing between the person by or on behalf of whom the plans were deposited and the council." .

Relaxation of building regulations for existing works

32. After Article 15 of the principal Order there shall be inserted the following Article—

"**Relaxation of building regulations for existing work**

15A.—(1) This Article applies to a direction under Article 15(1)(a) that will affect the application of building regulations to work that has been carried out before the giving of the direction.

(2) Neither the Department nor a district council shall give a direction to which this Article applies if, when the application is made, there is in force an injunction or other direction given by a court that requires the work to be pulled down, removed or altered.

(3) Subject to paragraph (8), after the making of an application for a direction to which this Article applies, and until the application is withdrawn or finally disposed of, no contravention notice shall be served as regards the work to which the application relates on the ground that it contravenes the requirement to which the application relates.

(4) If an application for a direction to which this Article applies is made before the expiration of 18 months from the date of completion of the work to which the application relates, Article 18(5) shall not prevent the service of a contravention notice as regards that work at any time within a period of 3 months from the date on which the application is withdrawn or finally disposed of.

(5) Subject to paragraph (8), if an application for a direction to which this Article applies is made after a contravention notice has been served on the ground that the work to which

the application relates contravenes the requirement to which the application relates (not being an application prohibited by paragraph (2)), Article 18(4) shall have effect in relation to that work as if for the reference to the period there mentioned there were substituted a reference to a period expiring 28 days after the application is withdrawn or finally disposed of.

(6) Subject to paragraph (8), if an application for a direction to which this Article applies is made after any person has, in consequence of the carrying out of the work to which the application relates in contravention of building regulations, become liable to a fine continuing from day to day, the daily fine shall not be recoverable in respect of any day after the making of the application and before it is withdrawn or finally disposed of.

(7) In a case where an application is withdrawn or is finally disposed of without any direction being given, the Department or, as the case may be, the district council may order that the daily fine shall not be recoverable in respect of any day during such further period not exceeding 28 days as may be specified in the order.

(8) Paragraphs (3), (5) and (6) do not apply to an application that is a repetition, or substantially a repetition, of a previous application under Article 15(1)(a).

(9) The giving of a direction to which this Article applies shall not affect the liability of a person for an offence committed before the giving of the direction, except so far as that liability depends on the continuation of the offence after the giving of the direction.

(10) If, before the giving of a direction to which this Article applies, a contravention notice has been served, and the contravention of building regulations by virtue of which the notice was served comes to an end when the direction is given, the district council shall not, after the giving of the direction, be entitled to proceed under Article 18(4) by virtue of that notice.".

Contravention notices in respect of work contravening building regulations

33. For Article 18 of the principal Order there shall be substituted the following Article—

"**Contravention notices in respect of work contravening building regulations**

18.—(1) If any work to which building regulations apply contravenes any of those regulations, the district council of the district in which that work is being or has been done may by notice served on the owner require him—

(a) to pull down or remove the work; or

(b) if he so elects and the council so agrees, to effect such alterations or additions therein as may be necessary to make the work comply with the requirements of building regulations.

(2) A notice under this Article is in this Order referred to as "a contravention notice".

(3) Where a district council has power to serve a contravention notice on the owner of any work, it may in addition or instead serve such a notice on one or more of the following persons, namely—

(a) the occupier;

(b) the person executing the work;

(c) the person causing the work to be executed;

(d) any other person appearing to the council to have control over the work.

(4) If any person on whom a contravention notice is served fails to comply with the notice before the expiration of 28 days from the date on which the notice is served, the district council may pull down or remove the work in question or effect such alterations or additions therein as

it deems necessary to make the work conform with building regulations and the council may recover from that person the expenses reasonably incurred by the council in so doing.

(5) A contravention notice shall not be served after the expiration of 18 months from the date of completion of the work in question.

(6) Where—

(a) plans of any proposed work have, in accordance with building regulations, been deposited with, and passed by, a district council; and

(b) work has been executed in accordance with the plans and any requirement made by the district council as a condition of passing the plans,

it shall not be open to the district council to serve a contravention notice on the ground that that work contravenes any building regulations; but nothing in this paragraph shall be taken to prevent such a notice from being served (before the expiration of 18 months from the completion of the work) in respect of anything of which particulars were not required to be shown in the plans.

(7) A district council may at any time withdraw a contravention notice without prejudice to its power to serve another; and if a council withdraws a contravention notice—

(a) it shall forthwith give notice of the withdrawal to the person on whom the contravention notice was served; and

(b) the council shall not after the withdrawal be entitled to proceed under paragraph (4) by virtue of the contravention notice.

(8) This Article does not affect the right of a district council, the Attorney General or any other person to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any building regulations but if—

(a) the work is one in respect of which plans were deposited;

(b) the plans were passed by the district council; and

(c) the work has been executed in accordance with the plans,

the court on granting an injunction has power to order the district council to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall in accordance with rules of court cause the council, if not a party to the proceedings, to be joined as a party to them.".

Obtaining of report where contravention notice served

34. After Article 18 of the principal Order there shall be inserted the following Article—

"**Obtaining of report where contravention notice served**

18A.—(1) In a case where—

(a) before the expiry of the period of 28 days referred to in Article 18(4), a person on whom a contravention notice has been served gives to the district council by which the notice was served notice of his intention to obtain from a suitably qualified person a written report concerning work to which the contravention notice relates; and

(b) such a report is obtained and submitted to the council before the expiry of the period of 56 days from the date on which the contravention notice was served; and

(c) as a result of its consideration of the report the council withdraws the contravention notice,