

# Planning Act (Northern Ireland) 2011 – Amendment to Enforcement Time Periods

November 2011



Legislation has been enacted which brings into operation Section 248 of the Planning Act (Northern Ireland) 2011 (the 2011 Act) on 1 December 2011. Section 248 amends certain time periods in relation to enforcement under the Planning (Northern Ireland) Order 1991 (the 1991 Order).

In essence, the time periods in reference to enforcement by the Department of the Environment (DoE) to be applied from 1 December 2011 will be five years in relation to notices requiring planning application, enforcement action for a breach of planning control, temporary stop notices and enforcement of duties as to replacement of trees.

This marks a significant change in relation to the time periods in respect of enforcement action or applying for Lawful Development Certificate (LDC) in relation to a material change of use, a reduction from ten years to five years. On the other hand, those people who wish to avoid enforcement action and/or apply for a LDC in relation to building, engineering, mining or use as a single dwelling house will have to prove five years rather than four years.

There have also been regulations made in relation to transitional provisions regarding the coming into operation of Section 248 of the 2011 Act. These transitional provisions state that Section 248 of the 2011 Act does not apply where a Notice has been issued or any enforcement action has been taken on or before 30 November 2011. They also state that where an application for a LDC is made before 1 December 2011, then the uses or operations to which the LDC application relates are lawful if no enforcement action may be taken in respect of them based on the “original” time limits (i.e. four years being the relevant time limit in this regard); and provided the uses or operations do not constitute a contravention of any of the requirements of any enforcement action in place.

This development will signal a welcome change for those in breach of planning control in relation to material change of use otherwise than for a single dwelling house as the time period for which no enforcement action can be taken will be halved from ten years to five years as of 1 December 2011, provided the DoE does not issue a Notice or take any enforcement action before that date. However, where an applicant is confident that they can satisfy the “four year rule” for substantial completion of development before 1 December 2011, then they might want to give serious consideration to ensuring they have a robust and valid application for a LDC which has been accepted by the Department on or before 30 November.

*If you require any further information or assistance in reference to the issues outlined in this article please contact Claire McNally.*

*Please note: The content of this article is for information purposes only and further advice should be sought from a professional advisor before any action is taken.*