



2011 CHAPTER 25

PART 3

PLANNING CONTROL

Duration of planning permission

Modification and discharge of planning agreements

77.—(1) A planning agreement may not be modified or discharged except—

- (a) by agreement between the relevant authority and the person or persons against whom the agreement is enforceable; or
- (b) in accordance with this section and section 78.

(2) Before entering into an agreement falling within subsection (1)(a), the Department must consult with the appropriate council.

(3) An agreement falling within subsection (1)(a) shall be contained in an instrument under seal.

(4) A person against whom a planning agreement is enforceable may, at any time after the expiry of the relevant period, apply to the relevant authority for the agreement—

- (a) to have effect subject to such modifications as may be specified in the application; or
- (b) to be discharged.

(5) In subsection (4) “the relevant period” means—

- (a) such period as may be prescribed; or

- (b) if no period is prescribed, the period of 5 years beginning with the date on which the agreement is entered into.
- (6) An application under subsection (4) for the modification of a planning agreement may not specify a modification imposing an obligation on any other person against whom the agreement is enforceable.
- (7) Where an application is made to the relevant authority under subsection (4), the authority may determine—
- (a) that the planning agreement shall continue to have effect without modification;
 - (b) if the agreement no longer serves a useful purpose, that it shall be discharged; or
 - (c) if the agreement continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.
- (8) The relevant authority must give notice of its determination to the applicant within such period as may be prescribed.
- (9) Where the relevant authority determines that a planning agreement shall have effect subject to modifications specified in the application, the agreement as modified shall be enforceable as if it had been entered into on the date on which notice of the determination was given to the applicant.
- (10) Regulations may make provision with respect to—
- (a) the form and content of applications under subsection (4);
 - (b) the publication of notices of such applications;
 - (c) the procedures for considering any representations made with respect to such applications; and
 - (d) the notices to be given to applicants of determinations under subsection (7).
- (11) Article 5 of the [Property \(Northern Ireland\) Order 1978 \(NI 4\)](#) (power of Lands Tribunal to modify or extinguish impediments) shall not apply to a planning agreement.