



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART III **E+W**

#### CONTROL OVER DEVELOPMENT

##### *Other controls over development*

#### **[106** <sup>F1</sup>**Planning obligations.** **E+W**

- (1) Any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation (referred to in this section and sections 106A [<sup>F2</sup>to 106C][<sup>F3</sup>, Schedule 7A] as “ a planning obligation ”), enforceable to the extent mentioned in subsection (3)—
- (a) restricting the development or use of the land in any specified way;
  - (b) requiring specified operations or activities to be carried out in, on, under or over the land;
  - (c) requiring the land to be used in any specified way; or
  - (d) requiring a sum or sums to be paid to the authority [<sup>F4</sup>(or, in a case where section 2E applies, to the Greater London Authority)] on a specified date or dates or periodically.

[ In the case of a development consent obligation, the reference to development in <sup>F5</sup>(1A) subsection (1)(a) includes anything that constitutes development for the purposes of the Planning Act 2008.]

- (2) A planning obligation may—
- (a) be unconditional or subject to conditions;
  - (b) impose any restriction or requirement mentioned in subsection (1)(a) to (c) either indefinitely or for such period or periods as may be specified; and
  - (c) if it requires a sum or sums to be paid, require the payment of a specified amount or an amount determined in accordance with the instrument by which the obligation is entered into and, if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period.

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- (3) Subject to subsection (4) a planning obligation is enforceable by the authority identified in accordance with subsection (9)(d)—
- (a) against the person entering into the obligation; and
  - (b) against any person deriving title from that person.
- (4) The instrument by which a planning obligation is entered into may provide that a person shall not be bound by the obligation in respect of any period during which he no longer has an interest in the land.
- (5) A restriction or requirement imposed under a planning obligation is enforceable by injunction.
- (6) Without prejudice to subsection (5), if there is a breach of a requirement in a planning obligation to carry out any operations in, on, under or over the land to which the obligation relates, the authority by whom the obligation is enforceable may—
- (a) enter the land and carry out the operations; and
  - (b) recover from the person or persons against whom the obligation is enforceable any expenses reasonably incurred by them in doing so.
- (7) Before an authority exercise their power under subsection (6)(a) they shall give not less than twenty-one days' notice of their intention to do so to any person against whom the planning obligation is enforceable.
- (8) Any person who wilfully obstructs a person acting in the exercise of a power under subsection (6)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) A planning obligation may not be entered into except by an instrument executed as a deed which—
- (a) states that the obligation is a planning obligation for the purposes of this section;
    - [ if the obligation is a development consent obligation, contains a statement to
    - <sup>F6</sup>(aa) that effect;]
  - (b) identifies the land in which the person entering into the obligation is interested;
  - (c) identifies the person entering into the obligation and states what his interest in the land is; and
  - (d) identifies the local planning authority by whom the obligation is enforceable. [<sup>F7</sup>and, in a case where section 2E applies, identifies the Mayor of London as an authority by whom the obligation is also enforceable]
- (10) A copy of any such instrument shall be given to the [<sup>F8</sup>authority so identified ] [<sup>F8</sup>local planning authority so identified and, in a case where section 2E applies, to the Mayor of London] .
- (11) A planning obligation shall be a local land charge and for the purposes of the <sup>M1</sup>Local Land Charges Act 1975 the authority by whom the obligation is enforceable shall be treated as the originating authority as respects such a charge.
- (12) Regulations may provide for the charging on the land of—
- (a) any sum or sums required to be paid under a planning obligation; and
  - (b) any expenses recoverable by a local planning authority [<sup>F9</sup>or the Mayor of London] under subsection (6)(b),

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and this section and sections 106A [<sup>F10</sup>to 106BC] shall have effect subject to any such regulations.

- (13) In this section “ specified ” means specified in the instrument by which the planning obligation is entered into and in this section and section 106A “ land ” has the same meaning as in the <sup>M2</sup> Local Land Charges Act 1975.

[ In this section and section 106A “ development consent obligation ” means a planning <sup>F11</sup>(14) obligation entered into in connection with an application (or a proposed application) for an order granting development consent. ]]

### Textual Amendments

- F1** Ss. 106-106B substituted for s. 106 (25.10.1991 so far as substituting the new s. 106, 25.11.1991 for certain purposes and otherwise 9.11.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), **s. 12(1)** (with s. 84(5)); S.I. 1991/2272, **art. 3(1)(a)**; S.I. 1991/2728, **art. 2**; S.I. 1992/2831, **art. 2**
- F2** Words in s. 106(1) substituted (25.4.2013) by Growth and Infrastructure Act 2013 (c. 27), s. 35(2), **Sch. 2 para. 3(2)**
- F3** Words in s. 106(1) inserted (12.2.2024) by Environment Act 2021 (c. 30), s. 147(3), **Sch. 14 para. 3(13)** (with s. 144); S.I. 2024/44, reg. 2(1)(e) (with reg. 4)
- F4** Words in s. 106(1)(d) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 33(2)**, 59; S.I. 2008/582, **art. 2(a)**
- F5** S. 106(1A) inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 174(2)(a)**, 241 (with s. 226); S.I. 2010/101, **art. 3(k)** (with art. 6)
- F6** S. 106(9)(aa) inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 174(2)(b)**, 241 (with s. 226); S.I. 2010/101, **art. 3(k)** (with art. 6)
- F7** Words in s. 106(9)(d) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 33(3)**, 59; S.I. 2008/582, **art. 2(a)**
- F8** Words in s. 106(10) substituted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 33(4)**, 59; S.I. 2008/582, **art. 2(a)**
- F9** Words in s. 106(12)(b) inserted (6.4.2008) by Greater London Authority Act 2007 (c. 24), **ss. 33(5)**, 59; S.I. 2008/582, **art. 2(a)**
- F10** Words in s. 106(12) substituted (25.4.2013) by Growth and Infrastructure Act 2013 (c. 27), s. 35(2), **Sch. 2 para. 3(3)**
- F11** S. 106(14) inserted (1.3.2010) by Planning Act 2008 (c. 29), **ss. 174(2)(c)**, 241 (with s. 226); S.I. 2010/101, **art. 3(k)** (with art. 6)

### Modifications etc. (not altering text)

- C1** S. 106 modified (1.4.1996) by 1994 c. 19, s. 66(7), **Sch. 17 para. 15(2)(b)** (with ss. 54(5)(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 6(3), **Sch. 5**
- C2** S. 106: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**
- C3** S. 106 applied (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), arts. 1, **43(1)** (with arts. 51, 53)
- C4** S. 106 applied (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), arts. 1, **43(2)** (with arts. 51, 53)
- C5** S. 106(1) modified (24.9.2014) by The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014/2384), art. 1, **Sch. 19 Pt. 1 para. 9(3)**
- C6** S. 106(3) excluded (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), arts. 1, **44(1)** (with arts. 51, 53)
- C7** S. 106(9)(d) excluded (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), arts. 1, **44(1)** (with arts. 51, 53)

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#### **Marginal Citations**

**M1** 1975 c. 76.

**M2** 1975 c. 76.

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**Changes and effects yet to be applied to :**

- s. 106-106B repealed by 2004 c. 5 Sch. 6 para. 5Sch. 9 (This amendment not applied to legislation.gov.uk. Sch. 6 para. 5 repealed (26.1.2009) by Planning Act 2008 (c. 29), ss. 225(1)(b), 241(6), Schs. 13 (with s. 226))
- s. 106(1) words substituted by 2016 c. 22 s. 158(3)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by 2023 asc 3 s. 79(2)
- Act applied by 2023 asc 3 s. 83(4)
- Act excluded by 2023 asc 3 s. 140(4)(b)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 7(3) inserted by 2023 c. 55 Sch. 17 para. 2(2)
- s. 7A(6) inserted by 2023 c. 55 Sch. 17 para. 2(4)
- s. 7ZA inserted by 2023 c. 55 Sch. 17 para. 2(3)
- s. 58B and cross-heading inserted by 2023 c. 55 s. 102(1)
- s. 59A(3)(ba) inserted by 2023 c. 55 Sch. 8 para. 4(b)
- s. 62B(5)(ca) inserted by 2023 c. 55 Sch. 17 para. 2(5)
- s. 70(2)(azb) inserted by 2023 c. 55 Sch. 6 para. 3(a)
- s. 70(3)(ca) inserted in earlier affecting provision 2016 c. 22, s. 5(8) by 2023 asc 3 Sch. 13 para. 194
- s. 70(3A) inserted by 2017 c. 20 Sch. 3 para. 2
- s. 70A(5A) inserted by 2023 c. 55 Sch. 6 para. 4(a)
- s. 70A(10)(11) inserted by 2023 c. 55 s. 110(4)(b)
- s. 70B(5A)(5B) inserted by 2023 c. 55 s. 110(5)(b)
- s. 73B inserted by 2023 c. 55 s. 110(2)
- s. 74(1C)(aa) inserted by 2023 c. 55 Sch. 6 para. 5(b)
- s. 75ZA and cross-heading inserted by 2016 c. 22 s. 155
- s. 83(1A)-(1C) amendment to earlier affecting provision 2004 c. 5, s. 45(2) by 2011 c. 20 Sch. 8 para. 14(4)(5)Sch. 25 Pt. 16
- s. 83(1A)-(1C) inserted by 2004 c. 5 s. 45(2)
- s. 83(2)-(2B) amendment to earlier affecting provision 2004 c. 5, s. 45(3) by 2011 c. 20 Sch. 8 para. 14(4)(5)Sch. 25 Pt. 16
- s. 83(2)-(2B) substituted for s. 83(2) by 2004 c. 5 s. 45(3)
- s. 83(4) inserted by 2004 c. 5 s. 45(4)
- s. 85(1A) inserted by 2004 c. 5 s. 45(6)
- s. 93(5)(6) inserted by 2017 c. 20 Sch. 3 para. 6
- s. 94(1)(e) and word inserted by 2023 c. 55 Sch. 9 para. 1(15)
- s. 102(1A) inserted by 2023 c. 55 Sch. 6 para. 9(b)
- s. 106A(9A) inserted by 2023 c. 55 s. 125
- s. 106ZA inserted by 2016 c. 22 s. 158(1)
- s. 106ZB inserted by 2016 c. 22 s. 159(1)
- s. 106ZB(2)(a) omitted by 2023 c. 55 s. 130(3)(b)
- s. 108(1A)(1B) inserted by 2015 c. 7 Sch. 4 para. 15(4)
- s. 108(3A) inserted by 2004 c. 5 Sch. 6 para. 6
- s. 108(3B)(ba) inserted by 2015 c. 7 Sch. 4 para. 15(6)
- s. 108(3B)(ba) word omitted by 2023 c. 55 Sch. 9 para. 1(16)(d)(i)
- s. 108(3B)(bb) inserted by 2023 c. 55 Sch. 9 para. 1(16)(d)(ii)
- s. 108(3DA) inserted by 2015 c. 7 Sch. 4 para. 15(7)

- s. 108(3DB) inserted by 2023 c. 55 Sch. 9 para. 1(16)(e)
- s. 141(6) inserted by 2017 c. 20 Sch. 3 para. 7
- s. 169(1)(a) words renumbered as s. 169(1)(a) by 2017 c. 20 s. 26(5)(a)
- s. 169(1)(b) inserted by 2017 c. 20 s. 26(5)(b)
- s. 170(8BA) inserted by 2017 c. 20 s. 26(6)
- s. 174(2AA)(b) words substituted by 2023 c. 55 s. 113(6)
- s. 208(5A) inserted by 2008 c. 29 Sch. 10 para. 9(2)
- s. 303(1ZZA) inserted by 2023 asc 3 Sch. 13 para. 87
- s. 303(10A) inserted by 2015 c. 7 Sch. 4 para. 19(3)
- s. 303(12) inserted by 2015 c. 7 Sch. 4 para. 19(4)
- s. 303A(1A)(za) inserted by 2023 c. 55 Sch. 8 para. 7(2)(a)
- s. 303A(9B) inserted by 2023 c. 55 Sch. 8 para. 7(4)
- s. 303A(10)(za) inserted by 2023 c. 55 Sch. 8 para. 7(5)
- s. 303A(12) inserted by 2023 c. 55 Sch. 8 para. 7(6)
- s. 303ZB inserted by 2023 c. 55 s. 134
- s. 314A inserted by 2023 asc 3 Sch. 13 para. 90
- s. 324(1A)(a) words in s. 324(1A) renumbered as s. 324(1A)(a) by 2023 c. 55 Sch. 9 para. 1(20)(a)
- s. 324(1A)(b) and word inserted by 2023 c. 55 Sch. 9 para. 1(20)(b)
- s. 333(3ZZAA) inserted by 2023 c. 55 Sch. 9 para. 1(21)(b)
- s. 333(3ZB) inserted by 2016 c. 22 s. 159(2)
- s. 333(3ZZA) inserted by 2023 c. 55 Sch. 9 para. 1(21)(a)
- Sch. 1 para. 5(4) inserted by 2023 c. 55 Sch. 17 para. 2(7)(c)
- Sch. 1 para. 7(10)(10A) substituted for Sch. 1 para. 7(10) by 2023 c. 55 Sch. 8 para. 11(2)
- Sch. 4B para. 11(3)-(5) inserted by 2017 c. 20 s. 7
- Sch. 4B para. 8(2)(fa) inserted by 2023 c. 55 s. 99(1)(b)
- Sch. 4B para. 8(2)(ca) inserted by 2023 c. 55 s. 102(2)(a)(ii)
- Sch. 4B para. 8(4A)(4B) inserted by 2023 c. 55 s. 102(2)(b)
- Sch. 4B para. 5(5)(za) inserted by 2023 c. 55 Sch. 6 para. 12(a)
- Sch. 4B para. 8(2)(da) inserted by 2023 c. 55 Sch. 6 para. 12(b)
- Sch. 4B para. 8(2)(ea) substituted for Sch. 4B para. 8(2)(e) by 2023 c. 55 s. 99(1)(a)
- Sch. 7 para. 12(1)-(1C) amendment to earlier affecting provision 2004 c. 5 s. 45(9) by 2011 c. 20 Sch. 8 para. 14(7)
- Sch. 7 para. 12(1)-(1C) substituted for Sch. 7 para. 12(1) by 2004 c. 5 s. 45(9)
- Sch. 9 para. 1(1A) inserted by 2023 c. 55 Sch. 6 para. 13(b)
- Sch. 9A inserted by 2016 c. 22 Sch. 13
- Sch. 13 para. 24A inserted by 2017 c. 20 s. 26(7)