



Environment Act 2021

2021 CHAPTER 30

PART 7

CONSERVATION COVENANTS

Discharge and modification

127 Discharge of obligation of landowner by agreement

- (1) The responsible body under a conservation covenant and a person who holds the qualifying estate in respect of any of the land to which an obligation of the landowner under the covenant relates may, by agreement, discharge from the obligation any of the land in respect of which the person holds that estate.
- (2) Subsection (3) applies to—
 - (a) the responsible body under a conservation covenant, and
 - (b) a person who is a successor of the landowner under the covenant by virtue of holding an estate in land which—
 - (i) is an estate in respect of any of the land to which an obligation of the landowner under the covenant relates, and
 - (ii) is derived (whether immediately or otherwise) from the qualifying estate.
- (3) Those persons may, by agreement, discharge the estate in land mentioned in subsection (2)(b) from the obligation in respect of any of the land to which the obligation relates.
- (4) Any power under this section is exercisable by agreement executed as a deed by the parties which specifies—
 - (a) the obligation to which the discharge relates,
 - (b) the land to which the discharge relates, and
 - (c) the estate in land by virtue of which the power is exercisable.

Status: This is the original version (as it was originally enacted).

128 Discharge of obligation of responsible body by agreement

- (1) A person to whom an obligation of the responsible body under a conservation covenant is owed by virtue of the person holding an estate in land may, by agreement with the responsible body, discharge the obligation, so far as owed in relation to that estate, in respect of any of the land in respect of which the person is entitled to the benefit of the obligation.
- (2) The power under this section is exercisable by agreement executed as a deed by the parties which specifies—
 - (a) the obligation to which the discharge relates,
 - (b) the land to which the discharge relates, and
 - (c) the estate in land by virtue of which the power is exercisable.

129 Modification of obligation by agreement

- (1) A person bound by, or entitled to the benefit of, an obligation under a conservation covenant may, by agreement with the responsible body under the covenant, modify the obligation in its application to any of the land in respect of which the person is bound by, or entitled to the benefit of, it.
- (2) The power under subsection (1) does not include power to make a change which, had it been included in the original agreement, would have prevented the provision of the agreement that gave rise to the obligation being provision in relation to which the conditions in section 117(1) were met.
- (3) The power under this section is exercisable by agreement executed as a deed by the parties which specifies—
 - (a) the obligation to which the modification relates,
 - (b) the land to which the modification relates, and
 - (c) the estate in land by virtue of which the power is exercisable.
- (4) If an obligation under a conservation covenant is modified by an agreement under this section, the modification binds—
 - (a) the parties to the agreement, and
 - (b) any person who, as respects any of the land to which the modification relates, becomes a successor of a person bound by the modification.
- (5) In subsection (4)(b) “successor of a person bound by the modification”, means a person who holds, in respect of any of the land to which the modification relates—
 - (a) the estate held by the person bound by the modification when the modification was agreed, or
 - (b) an estate in land derived (whether immediately or otherwise) from that estate after the modification is agreed.

130 Discharge or modification of obligation by Upper Tribunal

- (1) Schedule 18 makes provision about the discharge or modification of an obligation under a conservation covenant on application to the Upper Tribunal.
- (2) Where any proceedings by action or otherwise are taken to enforce an obligation under a conservation covenant, any person against whom the proceedings are taken may in such proceedings apply to the High Court or the county court for an order giving leave

to apply to the Upper Tribunal under Schedule 18 and staying the proceedings in the meantime.

- (3) No application under section 84(1) of the Law of Property Act 1925 (which enables the Upper Tribunal on application to discharge or modify a restriction arising under covenant or otherwise) may be made in relation to an obligation under a conservation covenant.