



Housing Act 1974

1974 CHAPTER 44

PART IX

MISCELLANEOUS

126 Enforceability of certain covenants in agreements relating to development land

- (1) The provisions of this section shall apply if a principal council (in the exercise of their powers under section 111 of the Local Government Act 1972 or otherwise) and a person having an interest in land in their area become parties to an instrument under seal executed for the purpose of securing the carrying out of works on that land or of facilitating the development of that land or of other land in which that person has an interest and the instrument is registered in the register of local land charges—
- (a) by the proper officer, for the purposes of section 15 of the Land Charges Act 1925, of the local authority in whose area the land is situated, and
 - (b) in such manner as may be prescribed by rules under section 19 of that Act, and in this subsection "local authority" means a district council, a London borough council or the Common Council of the City of London.
- (2) If, in a case where this section applies,—
- (a) the instrument contains a covenant on the part of any person having an interest in land, being a covenant to carry out any works or do any other thing on or in relation to that land, and
 - (b) the instrument defines the land to which the covenant relates, being land in which that person has an interest at the time the instrument is executed, and
 - (c) the covenant is expressed to be one to which this section applies,
- the covenant shall be enforceable (without any limit of time) against any person deriving title from the original covenantor in respect of his interest in any of the land defined as mentioned in paragraph (b) above and any person deriving title under him in respect of any lesser interest in that land as if that person had also been an original covenanting party in respect of the interest for the time being held by him.

Status: Prospective version(s) available.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) Without prejudice to any other method of enforcement of a covenant falling within subsection (2) above, if there is a breach of the covenant as a result of a failure to carry out any works or to do any other thing on or in relation to any of the land to which the covenant relates, then, subject to subsection (4) below, the principal council who are a party to the instrument in which the covenant is contained may—
- (a) enter on the land concerned and carry out the works or do any other thing which the covenant requires to be carried out or done ; and
 - (b) recover from any person against whom the covenant is enforceable (whether by virtue of subsection (2) above or otherwise) any expenses incurred by the council in exercise of their powers under this subsection.
- (4) Before a principal council exercise their powers under subsection (3)(a) above they shall give not less than 21 days notice of their intention to do so to any person—
- (a) who has for the time being an interest in the land on or in relation to which the works are to be carried out or other thing is to be done ; and
 - (b) against whom the covenant is enforceable (whether by virtue of subsection (2) above or otherwise).
- (5) The Public Health Act 1936 shall have effect as if any reference to that Act in—
- (a) section 277 thereof (power of councils to require information as to ownership of premises),
 - (b) section 283 thereof (notices to be in writing; forms of notices, etc.),
 - (c) section 288 thereof (penalty for obstructing execution of Act), and
 - (d) section 291 thereof (certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments),
- included a reference to subsections (1) to (4) above and as if any reference in those sections of that Act—
- (i) to a local authority were a reference to a principal council; and
 - (ii) to the owner of premises were a reference to the holder of an interest in land.
- (6) In its application to a notice or other document authorised to be given or served under subsection (4) above or by virtue of any provision of the Public Health Act 1936 specified in subsection (5) above, section 233 of the Local Government Act 1972 (service of notices by local authorities) shall have effect as if any reference in that section to a local authority included a reference to the Common Council of the City of London.
- (7) In this section " principal council" means the council of a county, district or London borough, the Common Council of the City of London or the Greater London Council, and, subject to subsection (8) below, in relation to the Isles of Scilly, the Council of those Isles.
- (8) The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order direct that the provisions of subsections (1) to (6) of this section shall apply to the Isles of Scilly subject to such exceptions, adaptations and modifications, if any, as may be specified in the order.