

SCHEDULES

SCHEDULE 2

Section 7

MODIFICATION OR DISCHARGE OF AFFORDABLE HOUSING REQUIREMENTS: RELATED AMENDMENTS

- 1 The Town and Country Planning Act 1990 is amended as follows.
- 2 In section 5(3) (provisions for the purposes of which the Broads Authority is the sole district planning authority for the Broads) for “106B” substitute “106BC”.
- 3 (1) Section 106 (planning obligations) is amended as follows.
 - (2) In subsection (1) (which defines “planning obligation” for the purposes of that section and sections 106A and 106B) for “and 106B” substitute “to 106C”.
 - (3) In subsection (12) (sections 106 to 106B to be subject to regulations for charging on land of sums payable in connection with planning obligations) for “and 106B” substitute “to 106BC”.
- 4 (1) Section 106A (modification and discharge of planning obligations) is amended as follows.
 - (2) In subsection (1) (planning obligation to be modified or discharged by agreement or in accordance with sections 106A and 106B)—
 - (a) after “in accordance with” insert “—(i)”, and
 - (b) after “section 106B” insert “, or
(ii) sections 106BA and 106BC.”
 - (3) In subsection (8) (effect of determination that planning obligation is to have effect subject to modifications), after “determine” insert “under this section”.
- 5 (1) Section 106B (appeals in relation to applications under section 106A) is amended as follows.
 - (2) In the heading, after “Appeals” insert “in relation to applications under section 106A”.
 - (3) In subsection (1)(b) (application of section) after “determine” insert “under section 106A”.
- 6 (1) Section 106C (legal challenges relating to development consent obligations) is amended as follows.
 - (2) In subsection (1) (challenges to Secretary of State’s failure to give notice under section 106A(7)), after “106A(7)” in both places insert “or 106BA(9)”.
 - (3) After subsection (1) insert—
 - “(1A) If no period is prescribed under section 106BA(9), the period of 6 weeks referred to in subsection (1)(b) that applies in relation to proceedings for failure to give notice as mentioned in subsection (9) of section 106BA begins

with the expiry of the period mentioned in that subsection that applies in the applicant’s case.”

- (4) In subsection (2) (challenges to Secretary of State’s determination that planning obligation is to continue to have effect without modification), in paragraph (b), after “106A(7)” insert “or 106BA(9)”.
- (5) After subsection (2) insert—
- “(3) A court may entertain proceedings for questioning a determination by the Secretary of State on an application under section 106BA that a planning obligation shall be modified otherwise than in accordance with the application only if—
- (a) the proceedings are brought by a claim for judicial review, and
- (b) the claim form is filed during the period of 6 weeks beginning with the day on which notice of the determination is given under section 106BA(9).”
- 7 In section 319A (determination by Secretary of State of procedure by which certain types of proceedings are to be considered), in subsection (7) (proceedings to which the section applies), after paragraph (b) insert—
- “(ba) an appeal under section 106BC (appeals in relation to applications for modification or discharge of affordable housing requirements);”.
- 8 (1) Section 333 (regulations and orders) is amended as follows.
- (2) In subsection (4) (power to make orders under Act exercisable by statutory instrument), after “87,” insert “106BA(14).”.
- (3) After subsection (5) insert—
- “(5ZA) No order may be made under section 106BA(14) unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.”
- 9 (1) Schedule 6 (determination of certain appeals by person appointed by Secretary of State) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (1) (power of Secretary of State to prescribe classes of appeals under specified provisions to be determined by person appointed), after “106B,” insert “106BC,” and
- (b) after sub-paragraph (2) insert—
- “(2A) If no classes of appeals under section 106BC are prescribed by regulations under sub-paragraph (1), all appeals under that section are to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.”
- (3) In paragraph 2(1)(aa) (person appointed in relation to appeals under section 106B to have the same powers and duties as Secretary of State under that section), after “106B” insert “or 106BC”.
- 10 In Part 1 of Schedule 16 (provisions of the Planning Acts to which sections 314 to 319 apply), in the entry for Sections 106 to 106B, for “106B” substitute “106BC”.