



# High Speed Rail (London - West Midlands) Act 2017

## 2017 CHAPTER 7

### *Reinstatement and environmental works*

#### **51 Enforcement of environmental covenants**

(1) This section applies where—

- (a) a covenant relating to land is made between a person interested in the land (the “promisor”) and the Secretary of State,
- (b) the covenant imposes on the promisor—
  - (i) an obligation (which may be an obligation to make payments) relating to the carrying out, maintenance, protection or enhancement of relevant environmental works in respect of the land, or
  - (ii) a prohibition of or restriction on the use of the land, for the purposes of the maintenance, protection or enhancement of relevant environmental works which have been carried out in respect of the land, and
- (c) the covenant is made by an agreement (whether entered into before or after the day on which this Act is passed) which satisfies the requirements mentioned in subsection (6).

(2) In this section—

a covenant to which this section applies is referred to as an “environmental covenant”;

an obligation, prohibition or restriction of a kind mentioned in subsection (1)(b) is referred to as a “qualifying provision” of an environmental covenant;

“relevant environmental works” means—

- (a) landscaping or other works to mitigate any adverse effects of the construction, maintenance or operation of any of the works authorised by this Act, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) works for the restoration of land affected by any of the works authorised by this Act,  
and may include works involving the planting of trees and shrubs and the provision of replacement habitat for wild animals.
- (3) The Secretary of State or an authorised person may enforce—
- (a) a qualifying provision of an environmental covenant, and
  - (b) any ancillary obligation, prohibition or restriction imposed by the covenant on the promisor,
- against the promisor or persons deriving title from or under the promisor in respect of land (including Crown land) to which the covenant relates.
- (4) In subsection (3), “authorised person” means a person authorised by the Secretary of State (whether generally or in specified circumstances) to exercise the power under that subsection.
- (5) The reference in subsection (3)(b) to an ancillary obligation, prohibition or restriction imposed by an environmental covenant is a reference to an obligation, prohibition or restriction (other than one within subsection (1)(b)) which—
- (a) relates to land or relevant environmental works to which the covenant relates, and
  - (b) is imposed—
    - (i) to enable works authorised by this Act or relevant environmental works to be maintained, or
    - (ii) for reasons of safety in connection with such works or the operation of Phase One of High Speed 2.
- (6) The agreement by which an environmental covenant is made must—
- (a) describe the qualifying provision or provisions of the covenant and the relevant environmental works to which the covenant relates,
  - (b) identify the land to which the covenant relates, and
  - (c) be entered into by an instrument executed as a deed.
- (7) Where, in the case of an environmental covenant, the Secretary of State authorises a person for the purposes of subsection (3), the Secretary of State must give notice of that to the person or persons against whom a qualifying provision of the covenant is enforceable at the time of the authorisation.
- (8) An environmental covenant is a local land charge.
- (9) Subsection (10) applies in the case of a breach of a qualifying provision of an environmental covenant by a person against whom the provision is enforceable.
- (10) A court may award exemplary damages against the person if the court thinks it appropriate to do so in the circumstances.
- (11) Exemplary damages may be awarded under subsection (10) whether or not another remedy is granted.