



Town and Country Planning Act 1990

1990 CHAPTER 8

PART III **E+W**

CONTROL OVER DEVELOPMENT

Other controls over development

[^{F1}106A Modification and discharge of planning obligations. **E+W**

- (1) A planning obligation may not be modified or discharged except—
 - (a) by agreement between [^{F2}the authority by whom the obligation is enforceable][^{F2}the appropriate authority (see subsection (11))] and the person or persons against whom the obligation is enforceable; or
 - (b) in accordance with [^{F3}—
 - (i) this section and section 106B [^{F4}, or
 - (ii) sections 106BA and 106BC.]
- (2) An agreement falling within subsection (1)(a) shall not be entered into except by an instrument executed as a deed.
- (3) A person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to [^{F5}the local planning authority by whom the obligation is enforceable][^{F5}the appropriate authority] for the obligation—
 - (a) to have effect subject to such modifications as may be specified in the application; or
 - (b) to be discharged.
- (4) In subsection (3) “ the relevant period ” means—
 - (a) such period as may be prescribed; or
 - (b) if no period is prescribed, the period of five years beginning with the date on which the obligation is entered into.

Changes to legislation: Town and Country Planning Act 1990, Section 106A is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) An application under subsection (3) for the modification of a planning obligation may not specify a modification imposing an obligation on any other person against whom the obligation is enforceable.
- (6) Where an application is made to an authority under subsection (3), the authority may determine—
- (a) that the planning obligation shall continue to have effect without modification;
 - (b) if the obligation no longer serves a useful purpose, that it shall be discharged; or
 - (c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.
- [Except in such cases as may be prescribed, the authority may not under subsection (6)
- ^{F6}(6A) discharge or modify the planning obligation if the authority considers that doing so would—
- (a) prevent the biodiversity gain objective referred to in paragraph 2 of Schedule 7A from being met in relation to any development, or
 - (b) give rise to a significant risk of that objective not being met in relation to any development.]
- (7) The authority shall give notice of their determination to the applicant within such period as may be prescribed.
- (8) Where an authority determine [^{F7}under this section] that a planning obligation shall have effect subject to modifications specified in the application, the obligation as modified shall be enforceable as if it had been entered into on the date on which notice of the determination was given to the applicant.
- (9) Regulations may make provision with respect to—
- (a) the form and content of applications under subsection (3);
 - (b) the publication of notices of such applications;
 - (c) the procedures for considering any representations made with respect to such applications; and
 - (d) the notices to be given to applicants of determinations under subsection (6).
- (10) Section 84 of the ^{M1}Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land) does not apply to a planning obligation.
- [In this section “ the appropriate authority ” means—
- ^{F8}(11) (a) the Mayor of London, in the case of any planning obligation enforceable by him;
- [the Secretary of State, in the case of any development consent obligation ^{F10}...;
- ^{F9}(aa)
- ^{F11}(ab)]
- (b) in the case of any other planning obligation, the local planning authority by whom it is enforceable.
- (12) The Mayor of London must consult the local planning authority before exercising any function under this section.]]

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Textual Amendments

- F1** S. 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\(1\)](#); [S.I. 1991/2272, art. 3\(1\)\(a\)](#); [S.I. 1991/2728, art. 2](#); [S.I. 1992/2831, art. 2](#)
- F2** Words in s. 106A(1)(a) substituted (6.4.2008) by [Greater London Authority Act 2007 \(c. 24\)](#), [ss. 34\(2\)](#), [59](#); [S.I. 2008/582, art. 2\(a\)](#)
- F3** Word in s. 106A(1) inserted (25.4.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), s. 35(2), [Sch. 2 para. 4\(2\)\(a\)](#)
- F4** Words in s. 106A(1) inserted (25.4.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), s. 35(2), [Sch. 2 para. 4\(2\)\(b\)](#)
- F5** Words in s. 106A(3) substituted (6.4.2008) by [Greater London Authority Act 2007 \(c. 24\)](#), [ss. 34\(3\)](#), [59](#); [S.I. 2008/582, art. 2\(a\)](#)
- F6** [S. 106A\(6A\)](#) inserted (12.2.2024) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), [Sch. 14 para. 3\(14\)](#) (with s. 144); [S.I. 2024/44, reg. 2\(1\)\(e\)](#) (with reg. 4)
- F7** Words in s. 106A(8) inserted (25.4.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), s. 35(2), [Sch. 2 para. 4\(3\)](#)
- F8** [S. 106\(11\)\(12\)](#) inserted (6.4.2008) by [Greater London Authority Act 2007 \(c. 24\)](#), [ss. 34\(4\)](#), [59](#); [S.I. 2008/582, art. 2\(a\)](#)
- F9** [S. 106A\(11\)\(aa\)\(ab\)](#) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), [ss. 174\(3\)](#), [241](#) (with s. 226); [S.I. 2010/101, art. 3\(k\)](#) (with art. 6)
- F10** Words in s. 106A(11)(aa) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 77\(2\)\(a\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628, art. 7](#)
- F11** Words in s. 106A(11) repealed (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 13 para. 77\(2\)\(b\)](#), [Sch. 25 Pt. 20](#); [S.I. 2012/628, art. 7](#)

Marginal Citations

- M1** 1925 c. 20.

Changes to legislation:

Town and Country Planning Act 1990, Section 106A is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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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))

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)