



# Housing and Planning Act 2016

## 2016 CHAPTER 22

### PART 7

#### COMPULSORY PURCHASE ETC

##### *Power to override easements and other rights*

#### **203 Power to override easements and other rights**

- (1) A person may carry out building or maintenance work to which this subsection applies even if it involves—
- (a) interfering with a relevant right or interest, or
  - (b) breaching
    - [<sup>F1</sup>(i)] a restriction as to the user of land arising by virtue of a contract [<sup>F2</sup>, or
    - (ii) an obligation under a conservation covenant.]
- (2) Subsection (1) applies to building or maintenance work where—
- (a) there is planning consent for the building or maintenance work,
  - (b) the work is carried out on land that has at any time on or after [<sup>F3</sup>the relevant day] —
    - (i) become vested in or acquired by a specified authority [<sup>F4</sup>or a specified company acting on behalf of a specified authority], or
    - (ii) been appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990,
  - (c) the authority could acquire the land compulsorily for the purposes of the building or maintenance work, and
  - (d) the building or maintenance work is for purposes related to the purposes for which the land was vested, acquired or appropriated as mentioned in paragraph (b).
- (3) Subsection (1) also applies to building or maintenance work where—

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- (a) there is planning consent for the building or maintenance work,
  - (b) the work is carried out on other qualifying land,
  - (c) the qualifying authority in relation to the land could acquire the land compulsorily for the purposes of the building or maintenance work, and
  - (d) the building or maintenance work is for purposes related to the purposes for which the land was vested in, or acquired or appropriated by, the qualifying authority in relation to the land.
- (4) A person may use land in a case to which this subsection applies even if the use involves—
  - (a) interfering with a relevant right or interest, or
  - (b) breaching
    - [<sup>F5</sup>(i)] a restriction as to the user of land arising by virtue of a contract [<sup>F6</sup>, or
    - (ii) an obligation under a conservation covenant.]
- (5) Subsection (4) applies to the use of land in a case where—
  - (a) there is planning consent for that use of the land,
  - (b) the land has at any time on or after [<sup>F7</sup>the relevant day] —
    - (i) become vested in or acquired by a specified authority [<sup>F8</sup>or a specified company acting on behalf of a specified authority] , or
    - (ii) been appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990,
  - (c) the authority could acquire the land compulsorily for the purposes of erecting or constructing any building, or carrying out any works, for that use, and
  - (d) the use is for purposes related to the purposes for which the land was vested, acquired or appropriated as mentioned in paragraph (b).
- (6) Subsection (4) also applies to the use of land in a case where—
  - (a) there is planning consent for that use of the land,
  - (b) the land is other qualifying land, and
  - (c) the qualifying authority in relation to the land could acquire the land compulsorily for the purposes of erecting or constructing any building, or carrying out any works, for that use, and
  - (d) the use is for purposes related to the purposes for which the land was vested in, or acquired or appropriated by, the qualifying authority in relation to the land.
- (7) Land currently owned by a specified authority is to be treated for the purposes of subsection (2)(c) or (5)(c) as if it were not currently owned by the authority.
- (8) Land currently owned by a qualifying authority is to be treated for the purposes of subsection (3)(c) or (6)(c) as if it were not currently owned by the authority.
- (9) Nothing in this section authorises an interference with—
  - (a) a right of way on, under or over land that is a protected right, or
  - (b) a right of laying down, erecting, continuing or maintaining apparatus on, under or over land if it is a protected right.
- (10) Nothing in this section authorises—
  - (a) an interference with a relevant right or interest annexed to land belonging to the National Trust which is held by the National Trust inalienably, <sup>F9</sup> ...

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- (b) a breach of a restriction as to the user of land which does not belong to the National Trust—
    - (i) arising by virtue of a contract to which the National Trust is a party, or
    - (ii) benefiting land which does belong to the National Trust <sup>F10</sup>, or
  - (c) a breach of an obligation under a conservation covenant owed to the National Trust.]
- (11) For the purposes of subsection (10)—
- (a) “National Trust” means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907, and
  - (b) land is held by the National Trust “inalienably” if it is inalienable under section 21 of the National Trust Act 1907 or section 8 of the National Trust Act 1939.

#### Textual Amendments

- F1** Words in s. 203(1)(b) renumbered as s. 203(1)(b)(i) (30.9.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 20 para. 5(2)(a)** (with s. 144); S.I. 2022/48, **reg. 5(d)**
- F2** S. 203(1)(b)(ii) and word inserted (30.9.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 20 para. 5(2)(b)** (with s. 144); S.I. 2022/48, **reg. 5(d)**
- F3** Words in s. 203(2)(b) substituted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 37(2)(a)**, 46(1); S.I. 2017/767, **reg. 2(i)**
- F4** Words in s. 203(2)(b)(i) inserted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 37(2)(b)**, 46(1); S.I. 2017/767, **reg. 2(i)**
- F5** Words in s. 203(4)(b) renumbered as s. 203(4)(b)(i) (30.9.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 20 para. 5(2)(a)** (with s. 144); S.I. 2022/48, **reg. 5(d)**
- F6** S. 203(4)(b)(ii) and word inserted (30.9.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 20 para. 5(2)(b)** (with s. 144); S.I. 2022/48, **reg. 5(d)**
- F7** Words in s. 203(5)(b) substituted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 37(2)(c)**, 46(1); S.I. 2017/767, **reg. 2(i)**
- F8** Words in s. 203(5)(b)(i) inserted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 37(2)(d)**, 46(1); S.I. 2017/767, **reg. 2(i)**
- F9** Word in s. 203(10)(a) omitted (30.9.2022) by virtue of [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 20 para. 5(3)(a)** (with s. 144); S.I. 2022/48, **reg. 5(d)**
- F10** S. 203(10)(c) and word inserted (30.9.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 20 para. 5(3)(b)** (with s. 144); S.I. 2022/48, **reg. 5(d)**

#### Modifications etc. (not altering text)

- C1** S. 203 restricted (23.9.2016) by The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016 (S.I. 2016/863), art. 1, **Sch. 9 para. 23(1)**
- C2** S. 203 restricted (9.2.2021) by The A1 Birtley to Coal House Development Consent Order 2021 (S.I. 2021/74), art. 1, **Sch. 11 para. 21(1)** (with art. 5, Sch. 27 paras. 23(3), 36)
- C3** S. 203 restricted (4.11.2022) by The A47/A11 Thickthorn Junction Development Consent Order 2022 (S.I. 2022/1070), art. 1, **Sch. 9 para. 67(1)** (with arts. 4, 52, Sch. 9 para. 82)
- C4** S. 203 restricted (18.7.2023) by The Longfield Solar Farm Order 2023 (S.I. 2023/734), art. 1, **Sch. 15 para. 71(1)** (with art. 19)

#### Commencement Information

- I1** S. 203 in force at 13.7.2016 by S.I. 2016/733, **reg. 3(m)**

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## 204 Compensation for overridden easements etc

- (1) A person is liable to pay compensation for any interference with a relevant right or interest or breach of a restriction that is authorised by section 203 <sup>[F11]</sup>(1)(a) or (b)(i) or (4)(a) or (b)(i).

<sup>[F12]</sup>(1A) But a person is not liable to pay compensation under this section for breaching an obligation under a conservation covenant.]

- (2) The compensation is to be calculated on the same basis as compensation payable under sections 7 and 10 of the Compulsory Purchase Act 1965.

- (3) Where a person other than a specified or qualifying authority is liable to pay compensation under this section but has not paid—

- (a) the liability is enforceable against the authority, but
- (b) the authority may recover from that person any amount it pays out.

<sup>[F13]</sup>(4) The authority against which a liability is enforceable by virtue of subsection (3)(a) is—

- (a) where the land to which the compensation relates was vested in or acquired by a company through which the Greater London Authority exercises or has exercised functions in relation to housing or regeneration, the Greater London Authority,
- (b) where the land was vested in or acquired by a company through which Transport for London exercises or has exercised any of its functions, Transport for London, or
- (c) in all other cases, the specified or qualifying authority in which the land was vested, or by which the land was acquired or appropriated.]

- (5) Any dispute about compensation payable under this section may be referred to and determined by the Upper Tribunal.

### Textual Amendments

**F11** Words in s. 204(1) inserted (30.9.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 20 para. 6(2)** (with s. 144); [S.I. 2022/48](#), reg. 5(d)

**F12** S. 204(1A) inserted (30.9.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), **Sch. 20 para. 6(3)** (with s. 144); [S.I. 2022/48](#), reg. 5(d)

**F13** S. 204(4) substituted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), **ss. 37(3)**, 46(1); [S.I. 2017/767](#), reg. 2(i)

### Commencement Information

**I2** S. 204 in force at 13.7.2016 by [S.I. 2016/733](#), **reg. 3(m)**

## 205 Interpretation of sections 203 and 204

- (1) In sections 203 and 204—

“building or maintenance work” means the erection, construction, carrying out or maintenance of any building or work;

<sup>[F14]</sup>“obligation under a conservation covenant” has the same meaning as in Part 7 of the Environment Act 2021;]

“other qualifying land” means land in England and Wales that has at any time before <sup>[F15]</sup>13 July 2016] been—

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- (a) acquired by the National Assembly for Wales or the Welsh Ministers under section 21A of the Welsh Development Agency Act 1975;
- (b) vested in or acquired by an urban development corporation or a local highway authority for the purposes of Part 16 of the Local Government, Planning and Land Act 1980;
- (c) acquired by a development corporation or a local highway authority for the purposes of the New Towns Act 1981;
- (d) vested in or acquired by a housing action trust for the purposes of Part 3 of the Housing Act 1988;
- (e) acquired or appropriated by a local authority for planning purposes as defined by section 246(1) of the Town and Country Planning Act 1990;
- (f) vested in or acquired by the Homes and Communities Agency, apart from land the freehold interest in which was disposed of by the Agency before 12 April 2015;
- (g) vested in or acquired by the Greater London Authority for the purposes of housing or regeneration, <sup>[F16]</sup>or vested in or acquired by a company or body through which the Greater London Authority exercises functions in relation to housing or regeneration,] apart from land the freehold interest in which was disposed of before 12 April 2015—
  - (i) by the Authority, other than to a company or body through which it exercises functions in relation to housing or regeneration, or
  - (ii) by such a company or body;
- (h) vested in or acquired by a Mayoral development corporation (established under section 198(2) of the Localism Act 2011), apart from land the freehold interest in which was disposed of by the corporation before 12 April 2015;

“planning consent” means—

- (a) permission under Part 3 of the Town and Country Planning Act 1990 or section 293A of that Act, or
- (b) development consent under the Planning Act 2008;

“protected right” means—

- (a) a right vested in, or belonging to, a statutory undertaker for the purpose of carrying on its statutory undertaking, or
- (b) a right conferred by, or in accordance with, the electronic communications code on the operator of an electronic communications code network (and expressions used in this paragraph have the meaning given by paragraph 1(1) of Schedule 17 to the Communications Act 2003);

“qualifying authority” in relation to other qualifying land means the <sup>[F17]</sup>person in whom the land was vested, or who] acquired or appropriated the land, as mentioned in the definition of “other qualifying land” <sup>[F18]</sup>(but, for the purposes of section 203(3)(c) and (6)(c), where that person is a company or body through which the Greater London Authority exercises functions in relation to housing or regeneration, the qualifying authority is the Greater London Authority)];

<sup>[F19]</sup>“relevant day” means—

- (a) in relation to a specified company which is a company or body through which Transport for London exercises any of its functions, 19th July 2017, and

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(b) in all other cases, 13 July 2016.]

“relevant right or interest” means any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land (including any natural right to support);

“specified authority” means—

- (a) a Minister of the Crown or the Welsh Ministers or a government department,
- (b) a local authority as defined by section 7 of the Acquisition of Land Act 1981,
- (c) a body established by or under an Act,
- (d) a body established by or under an Act or Measure of the National Assembly for Wales, or
- (e) a statutory undertaker;

[<sup>F20</sup>“specified company” means—

- (a) a company or body through which the Greater London Authority exercises functions in relation to housing or regeneration, or
- (b) a company or body through which Transport for London exercises any of its functions;]

“statutory undertaker” means—

- (a) a person who is, or who is deemed to be, a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990, or
- (b) a person in relation to whom the electronic communications code is applied by a direction under section 106(3)(a) of the Communications Act 2003;

“statutory undertaking” is to be read in accordance with section 262 of the Town and Country Planning Act 1990 (meaning of “statutory undertakers”).

- (2) The Secretary of State may by regulations amend the definition of “specified authority” in subsection (1).

#### Textual Amendments

- F14** Words in s. 205(1) inserted (30.9.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(3), [Sch. 20 para. 7](#) (with s. 144); [S.I. 2022/48](#), [reg. 5\(d\)](#)
- F15** Words in s. 205(1) substituted (13.7.2016) by [The Housing and Planning Act 2016 \(Commencement No.2, Transitional Provisions and Savings\) Regulations 2016 \(S.I. 2016/733\)](#), [reg. 12\(4\)](#)
- F16** Words in s. 205 inserted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), [ss. 37\(4\)\(a\)](#), 46(1); [S.I. 2017/767](#), [reg. 2\(i\)](#)
- F17** Words in s. 205 substituted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), [ss. 37\(4\)\(b\)\(i\)](#), 46(1); [S.I. 2017/767](#), [reg. 2\(i\)](#)
- F18** Words in s. 205 inserted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), [ss. 37\(4\)\(b\)\(ii\)](#), 46(1); [S.I. 2017/767](#), [reg. 2\(i\)](#)
- F19** Words in s. 205 inserted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), [ss. 37\(4\)\(c\)](#), 46(1); [S.I. 2017/767](#), [reg. 2\(i\)](#) (as amended (19.7.2017) by [The Neighbourhood Planning Act 2017 \(Commencement No. 1\) Regulations 2017 \(S.I. 2017/767\)](#), [reg. 3](#))
- F20** Words in s. 205 inserted (19.7.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), [ss. 37\(4\)\(d\)](#), 46(1); [S.I. 2017/767](#), [reg. 2\(i\)](#)

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**Commencement Information**

**I3** S. 205 in force at 13.7.2016 by [S.I. 2016/733](#), [reg. 3\(m\)](#)

**206 Amendments to do with sections 203 and 204**

Schedule 19 gets rid of legislation replaced by sections 203 and 204.

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**Commencement Information**

**I4** [S. 206](#) in force at 13.7.2016 by [S.I. 2016/733](#), [reg. 3\(m\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 172(1)(a) words renumbered as s. 172(1)(a) by [2017 c. 20 s. 26\(8\)\(a\)\(i\)](#)
- s. 172(1)(b) inserted by [2017 c. 20 s. 26\(8\)\(a\)\(ii\)](#)