



2011 CHAPTER 25

Part 3

Planning control

Duration of planning permission

Planning agreements

76.—(1) Any person who has an estate in land may enter into an agreement with the relevant authority (referred to in this section and sections 77 and 78 as “a planning agreement”), enforceable to the extent mentioned in subsection (4)—

- (a) facilitating or restricting the development or use of the land in any specified way;
- (b) requiring specified operations or activities to be carried out in, on, under or over the land;
- (c) requiring the land to be used in any specified way;
- (d) requiring a sum or sums to be paid to the authority on a specified date or dates or periodically; or
- (e) requiring a sum or sums to be paid to a Northern Ireland department on a specified date or dates or periodically.

(2) A planning agreement may—

- (a) be unconditional or subject to conditions;
- (b) impose any restriction or requirement mentioned in subsection (1)(a) to (c) either indefinitely or for such period or periods as may be specified; and
- (c) if it requires a sum or sums to be paid, require the payment of a specified amount or an amount determined in accordance with the instrument by

which the agreement is entered into and, if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period.

(3) Before entering into a planning agreement, the Department must consult with the appropriate council.

(4) Subject to subsection (5) a planning agreement is enforceable by the relevant authority—

- (a) against the person entering into the agreement; and
- (b) against any person deriving title from that person.

(5) The instrument by which a planning agreement is entered into may provide that a person shall not be bound by the agreement in respect of any period during which that person no longer has an estate in the land.

(6) A restriction or requirement imposed under a planning agreement is enforceable by injunction.

(7) Without prejudice to subsection (6), if there is a breach of a requirement in a planning agreement to carry out any operations in, on, under or over the land to which the agreement relates, the relevant authority may—

- (a) enter the land and carry out the operations; and
- (b) recover from the person or persons against whom the agreement is enforceable any expenses reasonably incurred by it in doing so and those expenses shall be a civil debt recoverable summarily.

(8) Before the relevant authority exercises its power under subsection (7)(a) it must give not less than 21 days' notice of its intention to do so to any person against whom the planning agreement is enforceable.

(9) Any person who wilfully obstructs a person acting in the exercise of a power under subsection (7)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) A planning agreement may not be entered into except by an instrument under seal which—

- (a) states that the agreement is a planning agreement for the purposes of this section;
- (b) identifies the land in which the person entering into the agreement has an estate; and
- (c) identifies the person entering into the agreement and states what that person's estate in the land is.

(11) If a person against whom an agreement is enforceable requests the relevant authority to supply that person with a copy of the agreement, it is the duty of the authority to do so free of charge.

Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 76. (See end of Document for details)

(12) Any sum or sums required to be paid under a planning agreement and any expenses recoverable by the relevant authority under subsection (7)(b) shall, until recovered, be deemed to be charged on and payable out of the estate in the land in relation to which they have been incurred, of the person against whom the planning agreement is enforceable.

(13) The charge created by subsection (12) shall be enforceable in all respects as if it were a valid mortgage by deed created in favour of the relevant authority by the person on whose estate the charge has been created (with, where necessary, any authorisation or consent required by law) and the authority may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 (c. 41) on mortgagees by deed accordingly.

(14) In this section “specified” means specified in the instrument by which the planning agreement is entered into.

(15) In this section, and in sections 77 and 78, “relevant authority”, in relation to a planning agreement proposed to be made in connection with an application for planning permission, means—

- (a) where the application has been made to a council, and the council has an estate in the land to which the proposed agreement relates, the Department;
- (b) where the application has been made to the Department, the Department;
- (c) in any other case, the council in whose district the land to which the application relates is situated.

Modifications etc. (not altering text)

- C1** Pt. 3 applied with modification(s) (1.4.2015) by [The Planning General Regulations \(Northern Ireland\) 2015 \(S.R. 2015/39\)](#), regs. 1(1), **2** (with regs. 3-10)
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Commencement Information

- I1** S. 76 in operation at 1.2.2015 for specified purposes by [S.R. 2015/25](#), **art. 2**
- I2** S. 76 in operation at 1.4.2015 in so far as not already in operation by [S.R. 2015/25](#), **art. 3**

Changes to legislation:

There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Section 76.