



Local Government (Miscellaneous Provisions) Act 1982

1982 CHAPTER 30

PART XII

MISCELLANEOUS

33 Enforceability by local authorities of certain covenants relating to land.

- (1) The provisions of this section shall apply if a principal council (in the exercise of their powers under section 111 of the ^{M1}Local Government Act 1972 or otherwise) and any other person are parties to an instrument under seal which—
- [^{F1}(a) is executed for the purpose of securing the carrying out of works on land in the council's area in which the other person has an interest, or
 - (b) is executed for the purpose of regulating the use of or is otherwise connected with land in or outside the council's area in which the other person has an interest,

and which is neither executed for the purpose of facilitating nor connected with the development of the land in question.]

- (2) If, in a case where this section applies,—
- (a) the instrument contains a covenant on the part of any person having an interest in land, being a covenant to carry out any works or do any other thing on or in relation to that land, and
 - (b) the instrument defines the land to which the covenant relates, being land in which that person has an interest at the time the instrument is executed, and
 - (c) the covenant is expressed to be one to which this section or section 126 of the ^{M2}Housing Act 1974 (which is superseded by this section) applies,

the covenant shall be enforceable (without any limit of time) against any person deriving title from the original covenantor in respect of his interest in any of the land defined as mentioned in paragraph (b) above and any person deriving title under him

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in respect of any lesser interest in that land as if that person had also been an original covenanting party in respect of the interest for the time being held by him.

- (3) Without prejudice to any other method of enforcement of a covenant falling within subsection (2) above, if there is a breach of the covenant in relation to any of the land to which the covenant relates, then, subject to subsection (4) below, the principal council who are a party to the instrument in which the covenant is contained may—
- (a) enter on the land concerned and carry out the works or do anything which the covenant requires to be carried out or done or remedy anything which has been done and which the covenant required not to be done; and
 - (b) recover from any person against whom the covenant is enforceable (whether by virtue of subsection (2) above or otherwise) any expenses incurred by the council in exercise of their powers under this subsection.
- (4) Before a principal council exercise their powers under subsection (3)(a) above they shall give not less than 21 days notice of their intention to do so to any person—
- (a) who has for the time being an interest in the land on or in relation to which the works are to be carried out or other thing is to be done; and
 - (b) against whom the covenant is enforceable (whether by virtue of subsection (2) above or otherwise).
- (5) If a person against whom a covenant is enforceable by virtue of subsection (2) above requests the principal council to supply him with a copy of the covenant, it shall be their duty to do so free of charge.
- (6) The ^{M3}Public Health Act 1936 shall have effect as if any reference to that Act in—
- (a) section 283 of that Act (notices to be in writing; forms of notices, etc.),
 - (b) section 288 of that Act (penalty for obstructing execution of Act), and
 - (c) section 291 of that Act (certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments),
- included a reference to subsections (1) to (4) above and as if any reference in those sections of that Act—
- (i) to a local authority were a reference to a principal council; and
 - (ii) to the owner of the premises were a reference to the holder of an interest in land.
- (7) Section 16 of the ^{M4}Local Government (Miscellaneous Provisions) Act 1976 shall have effect as if references to a local authority and to functions conferred on a local authority by any enactment included respectively references to such a board as is mentioned in subsection (9) below and to functions of such a board under this section.
- (8) In its application to a notice or other document authorised to be given or served under subsection (4) above or by virtue of any provision of the ^{M5}Public Health Act 1936 specified in subsection (6) above, section 233 of the ^{M6}Local Government Act 1972 (service of notices by local authorities) shall have effect as if any reference in that section to a local authority included a reference to the Common Council of the City of London and such a board as is mentioned in the following subsection.
- (9) In this section—
- (a) “principal council” means the council of a county, district or London borough [^{F2}the Broads Authority], a board constituted in pursuance of [^{F3}section 2 of the ^{M7}Town and Country Planning Act 1990]^{F4}..., the Common Council of the City of London [^{F5}, the London Residuary Body,]^{F6}a fire and rescue authority

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created by an order under section 4A of the Fire and Rescue Services Act 2004,] [F7 the London Fire Commissioner,] a [F8 police and crime commissioner, the Mayor's Office for Policing and Crime,] F9 ... [F10 the Residuary Body for Wales (Corff Gweddilliol Cymru)] F11 ... [F12, a joint authority established by Part 4 of the Local Government Act 1985 [F13, an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009] F14, a combined authority established under section 103 of that Act or a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023] F15 ... ; and

- (b) “area” in relation to such a board means the district for which the board is constituted F4 ... [F16 in relation to the London Residuary Body means Greater London] F17 in relation to the Residuary Body for Wales (Corff Gweddilliol Cymru) means Wales] F18, F19 ... and in relation to such a joint authority [F20, economic prosperity board] F21, combined authority or combined county authority] means the area for which the authority was established].

- (10) Section 126 of the M8 Housing Act 1974 (which is superseded by this section) shall cease to have effect; but in relation to a covenant falling within subsection (2) of that section, section 1(1)(d) of the M9 Local Land Charges Act 1975 shall continue to have effect as if the reference to the commencement of that Act had been a reference to the coming into operation of the said section 126.

Textual Amendments

- F1 S. 33(1) substituted (25.10.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 32, Sch. 7 para. 6; S.I. 1991/2272, art. 3.
- F2 Words inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 21, 23(2), 27(2), Sch. 6 para. 23
- F3 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, Sch. 2 para. 56(1)
- F4 Words in s. 33(9)(a)(b) repealed (1.4.1997) by 1995 c. 25, s. 120(3), Sch. 24 (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, Sch.
- F5 Words inserted by S.I. 1990/1765, art. 4(6)(a)
- F6 Words in s. 33(9)(a) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 1 para. 45; S.I. 2017/399, reg. 2, Sch. para. 38
- F7 Words in s. 33(9)(a) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 2 para. 66; S.I. 2018/227, reg. 4(c)
- F8 Words in s. 33(9)(a) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), Sch. 16 para. 156; S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 44)
- F9 Words in s. 33(9)(a) repealed (1.4.2002) by Criminal Justice and Police Act 2001 (c. 16), s. 138, Sch. 7 Pt. 5, S.I. 2002/344, art. 3 (with art. 4)
- F10 Words in s. 33(9)(a) inserted (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), Sch. 13 para. 29(a) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- F11 Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), Sch. 13 Pt. 1
- F12 Words in s. 33(9)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), Sch. 13 para. 38(2)(a); S.I. 2008/917, art. 2(1)(p)
- F13 Words in s. 33(9)(a) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), Sch. 6 para. 56(2)(a); S.I. 2009/3318, art. 2(c)
- F14 Words in s. 33(9)(a) substituted (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), Sch. 4 para. 71(a) (with s. 247)
- F15 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, Sch. 17

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- F16** Words inserted by S.I. 1990/1765, **art. 4(6)(b)**
- F17** Words in s. 33(9)(b) inserted (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 29(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- F18** Words inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 para. 61(a)(ii)**
- F19** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F20** Words in s. 33(9)(b) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 56(2)(b)**; S.I. 2009/3318, **art. 2(c)**
- F21** Words in s. 33(9)(b) substituted (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 71(b)** (with s. 247)

Modifications etc. (not altering text)

- C1** S. 33: Power to apply conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4 para. (e)(i)**; S.I. 1997/1930, **art. 3(1)(m)**
- C2** S. 33 extended (with modifications) (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 1(3)(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C3** S. 33 applied (with modifications)(16.3.1992) by Avon Weir Act 1992 (c. v), **s. 59** (with s. 61)
- C4** S. 33 modified (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **26**
- C5** S. 33 modified (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **26**
- C6** S. 33 excluded (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 2 para. 6**
- C7** S. 33(9)(a) amended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(u)**
- C8** S. 33(9)(b) amended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(u)**

Marginal Citations

- M1** 1972 c. 70.
- M2** 1974 c. 44.
- M3** 1936 c. 49.
- M4** 1976 c. 57.
- M5** 1936 c. 49.
- M6** 1972 c. 70.
- M7** 1990 c.11 (**123:1**).
- M8** 1974 c. 44.
- M9** 1975 c. 76.

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