



# Planning Act 2008

## 2008 CHAPTER 29

### PART 9

#### CHANGES TO EXISTING PLANNING REGIMES

#### CHAPTER 1

##### CHANGES RELATED TO DEVELOPMENT CONSENT REGIME

##### *Planning obligations*

#### **174 Planning obligations**

- (1) TCPA 1990 is amended as follows.
- (2) In section 106 (planning obligations)—
  - (a) after subsection (1) insert—

“(1A) In the case of a development consent obligation, the reference to development in subsection (1)(a) includes anything that constitutes development for the purposes of the Planning Act 2008.”;
  - (b) in subsection (9) after paragraph (a) insert—

“(aa) if the obligation is a development consent obligation, contains a statement to that effect.”;
  - (c) after subsection (13) insert—

“(14) In this section and section 106A “development consent obligation” means a planning obligation entered into in connection with an application (or a proposed application) for an order granting development consent.”
- (3) In section 106A(11) (modification and discharge of planning obligations: meaning of “the appropriate authority”) after paragraph (a) insert—

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**Changes to legislation:** *Planning Act 2008, Section 174 is up to date with all changes known to be in force on or before 25 April 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*

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- “(aa) the Secretary of State, in the case of any development consent obligation where the application in connection with which the obligation was entered into was (or is to be) decided by the Secretary of State;
  - (ab) the Infrastructure Planning Commission, in the case of any other development consent obligation;”.
- (4) In section 106B(1) (appeals) after “an authority” insert “ (other than the Secretary of State or the Infrastructure Planning Commission) ”.
- (5) After section 106B insert—

**“106C Legal challenges relating to development consent obligations**

- (1) A court may entertain proceedings for questioning a failure by the Secretary of State or the Infrastructure Planning Commission to give notice as mentioned in section 106A(7) only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed during the period of 6 weeks beginning with the day on which the period prescribed under section 106A(7) ends.
- (2) A court may entertain proceedings for questioning a determination by the Secretary of State or the Infrastructure Planning Commission that a planning obligation shall continue to have effect without modification only if—
  - (a) the proceedings are brought by a claim for judicial review, and
  - (b) the claim form is filed during the period of 6 weeks beginning with the day on which notice of the determination is given under section 106A(7).”

**Commencement Information**

**II** S. 174 in force at 1.3.2010 by [S.I. 2010/101](#), [art. 3\(k\)](#) (with [art. 6](#))

**Changes to legislation:**

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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):

- Pt. 10A inserted by [2023 c. 55 Sch. 12 para. 1](#)
- s. 37(3A) inserted by [2021 c. 30 Sch. 15 para. 7](#)
- s. 37(3A) inserted by [2021 c. 30 Sch. 15 para. 7](#)
- s. 103(1A) inserted by [2021 c. 30 Sch. 15 para. 2](#)
- s. 103(1A) inserted by [2021 c. 30 Sch. 15 para. 2](#)
- s. 104(3)-(3B) substituted for s. 104(3) by [2021 c. 30 Sch. 15 para. 3\(2\)](#)
- s. 104(3)-(3B) substituted for s. 104(3) by [2021 c. 30 Sch. 15 para. 3\(2\)](#)
- s. 105(3)(4) inserted by [2021 c. 30 Sch. 15 para. 4\(1\)](#)
- s. 105(3)(4) inserted by [2021 c. 30 Sch. 15 para. 4\(1\)](#)
- s. 120(2)(c) inserted by [2021 c. 30 Sch. 15 para. 8](#)
- s. 120(2)(c) inserted by [2021 c. 30 Sch. 15 para. 8](#)
- s. 223(1)(za) inserted by [2023 c. 55 s. 139\(6\)](#)
- s. 232(5)(f) inserted by [2021 c. 30 Sch. 15 para. 9\(2\)](#)
- s. 232(5)(f) inserted by [2021 c. 30 Sch. 15 para. 9\(2\)](#)
- Sch. 2A inserted by [2021 c. 30 Sch. 15 para. 5](#)
- Sch. 2A inserted by [2021 c. 30 Sch. 15 para. 5](#)