

Status: This version of this provision is prospective.

Changes to legislation: *Housing and Planning Act 2016, Section 159 is up to date with all changes known to be in force on or before 23 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*



Housing and Planning Act 2016

2016 CHAPTER 22

PART 6

PLANNING IN ENGLAND

Planning obligations

PROSPECTIVE

159 Planning obligations and affordable housing

- (1) After section 106ZA of the Town and Country Planning Act 1990 (inserted by section 158 above) insert—

“106ZB Enforceability of planning obligations regarding affordable housing

- (1) Regulations made by the Secretary of State may impose restrictions or conditions on the enforceability of planning obligations entered into with regard to the provision of—
- affordable housing, or
 - prescribed descriptions of affordable housing.
- (2) Regulations under this section—
- may make consequential, supplementary, incidental, transitional or saving provision;
 - may impose different restrictions or conditions (or none) depending on the size, scale or nature of the site or the proposed development to which any planning obligations would relate.

Paragraph (b) is without prejudice to the generality of section 333(2A).

- (3) This section does not apply in relation to a planning obligation if—

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- (a) planning permission for the development was granted wholly or partly on the basis of a policy for the provision of housing on rural exception sites, or
 - (b) the obligation relates to development in a National Park or in an area designated under section 82 of the Countryside and Rights of Way Act 2000 as an area of outstanding natural beauty.
- (4) In this section “affordable housing” means new dwellings in England that—
- (a) are to be made available for people whose needs are not adequately served by the commercial housing market, or
 - (b) are starter homes within the meaning of Chapter 1 of Part 1 of the Housing and Planning Act 2016 (see section 2 of that Act).
- (5) “New dwelling” here means a building or part of a building that—
- (a) has been constructed for use as a dwelling and has not previously been occupied, or
 - (b) has been adapted for use as a dwelling and has not been occupied since its adaptation.
- (6) The Secretary of State may by regulations amend this section so as to modify the definition of “affordable housing”.
- (2) In section 333 of that Act (regulations and orders), after subsection (3ZA) (inserted by section 150(4) above) insert—
- “(3ZB) No regulations may be made under section 106ZB unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

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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. 95(1)(ia) inserted by [2023 c. 36 Sch. 1 para. 2](#)
- s. 100(7)(aa) inserted by [2023 c. 36 Sch. 1 para. 3](#)
- 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\(8\)\(a\)\(ii\)](#)