Housing and Planning Act 2016 c. 22
s. 203 Power to override easements and other rights

Law In Force

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Subjects
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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

(i) a restriction as to the user of land arising by virtue of a contract, or

(ii) an obligation under a conservation covenant.

][1]

(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 [the relevant day][2] —

(i) become vested in or acquired by a specified authority [or a specified company acting on behalf of a specified authority][3] , 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—

(a) there is planning consent for the building or maintenance work,

(b) the work is carried out on other qualifying land,

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(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

(i) a restriction as to the user of land arising by virtue of a contract, or

(ii) an obligation under a conservation covenant.

][4]

(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 [the relevant day][5] —

(i) become vested in or acquired by a specified authority [or a specified company acting on behalf of a specified authority][6] , 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—

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(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, [...] [7]

(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, or

] [8]

[

(c) a breach of an obligation under a conservation covenant owed to the National Trust.

] [8]

(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.

Notes

1 Existing text renumbered as s.203(1)(b)(i), word inserted and s.203(1)(b)(ii) inserted by Environment Act 2021 c. 30 Sch.20 para.5(2) (September 30, 2022)
2 Words substituted by Neighbourhood Planning Act 2017 c. 20 Pt 2 c.2 s.37(2)(a) (July 19, 2017)
3 Words inserted by Neighbourhood Planning Act 2017 c. 20 Pt 2 c.2 s.37(2)(b) (July 19, 2017)
4 Existing text renumbered as s.203(4)(b)(i), word inserted and s.203(4)(b)(ii) inserted by Environment Act 2021 c. 30 Sch.20 para.5(2) (September 30, 2022)
5 Words substituted by Neighbourhood Planning Act 2017 c. 20 Pt 2 c.2 s.37(2)(c) (July 19, 2017)
6 Words inserted by Neighbourhood Planning Act 2017 c. 20 Pt 2 c.2 s.37(2)(d) (July 19, 2017)
7 Word repealed by Environment Act 2021 c. 30 Sch.20 para.5(3)(a) (September 30, 2022)
8 Added by Environment Act 2021 c. 30 Sch.20 para.5(3)(b) (September 30, 2022)

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