

These notes relate to the Lords Amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011.

LOCALISM BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

INTRODUCTION

1. These explanatory notes relate to the Lords amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011. They have been prepared by the Department of Communities and Local Government in order to assist the reader of the Bill and the Lords amendments and to help inform debate on the Lords amendments. They do not form part of the Bill and have not been endorsed by Parliament.
2. These notes, like the Lords amendments themselves, refer to HL Bill 71, the Bill as first printed for the Lords.
3. These notes need to be read in conjunction with the Lords amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the effect of the Lords amendments.
4. All the Lords amendments were in the name of the Minister except for Amendments 96 to 112 (removal of local referendums) and 155 (Plans and Strategies).

COMMENTARY ON LORDS AMENDMENTS

Lords Amendments 1 and 2

5. These amendments would change the procedure to be followed to expand the extent of an order made under clause 9 sections 5C(3) (power to make provision supplemental to section 5A) for England or Wales. Such an expansion would be subject to the affirmative procedure.

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Lords Amendment 3

6. This amendment would change clause 10 section 18B (limits on charging under section 18A(1)) so that fire and rescue authorities (in England and Wales) would not be able to charge for most of the activities covered by section 6 of the Fire and Rescue Services Act 2004 (2004 Act), which includes community fire safety and fire safety work. As under the existing 2004 Act, and regulations made under it, charging (up to full cost recovery i.e. not for profit) for the giving of advice to persons in relation to premises where a trade, business or other undertaking is undertaken would be allowed, except for advice, provided on request, on how to prevent fires and securing the means of escape from buildings.

Lords Amendments 4, 5, 6 and 7

7. The new clauses under the new Chapter 2A would enable Integrated Transport Authorities and their executive bodies, Passenger Transport Executives, to properly undertake activities that benefit or contribute to their purposes. The enabling power replaces their existing incidental powers and extends beyond their geographic boundaries. These bodies are not local authorities and will not therefore have the benefit of the general power of competence that is already contained in the Bill.

Lords Amendment 4: Integrated Transport Authorities (ITAs)

8. This amendment would insert into Part 5 of the Local Transport Act 2008 (integrated transport authorities etc) a new Chapter 4 comprising new sections 102B, 102C and 102D.

Section 102B(1) contains the new broader general powers for Integrated Transport Authorities; specifically it gives further powers to an Integrated Transport Authority to do (a) anything it considers appropriate to its functions, (b) including anything incidental, (c) anything indirectly incidental via any number of removes and (d) anything it considers to be connected with (a), (b) or (c). It also confirms in (e) that anything that it now has the power to do for a non-commercial purpose, it may also do for a commercial purpose. Section 102B(2) states that the new powers are not limited by geography. Section 102B(3) states that the new broader general power is in addition to and is not limited by the other powers of Integrated Transport Authorities. Sections 102B(4) and (5) reiterate that the Integrated Transport Authorities function is to set policy (and a Passenger Transport Executive's function is to put those policies into effect) and that this situation persists.

9. Section 102C sets the boundaries to the new powers contained in section 102B. Section 102C(1) states that the new powers are subject to pre-existing limitations on Integrated Transport Authorities' powers as well as express post-commencement limitations. Subsection 102C(2) states that to the extent that pre-existing powers are subject to limitations, so too are the new powers granted by section 102B(1). Section 102C(3) states that the new broader general power does not authorise Integrated Transport Authorities to borrow money. Section

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102C(4) states that this amendment does not create any new power to charge (other than for a commercial purpose). The Integrated Transport Authorities' powers to charge are already set out in section 93 of the Local Government Act 2003. Section 102C(5) states that the Integrated Transport Authority cannot start charging for things that it is obliged by statute to do without charge. Subsection 102C(6) requires that the Integrated Transport Authority must conduct certain commercial activities through a company or a co-operative. Section 102C(7) defines "post-commencement limitation", "pre-commencement limitation", "pre-commencement power" and "statutory provision".

10. Section 102D gives the Secretary of State the power to make orders (by statutory instrument) in order to prevent Integrated Transport Authorities from doing something under the new section 102B powers. This is a precautionary measure in order to guard against unforeseen abuse or misuse of the new broader general power. These provisions replicate similar provisions found elsewhere in the Bill. Section 102D(1) gives the Secretary of State the power to make an order preventing Integrated Transport Authorities from doing things specified in the order. Section 102(2) gives the Secretary of State the power to make an order setting conditions to the exercise of the new powers by Integrated Transport Authorities.. Subsection 102D(3) states that the order-making powers of the Secretary of State may be exercised in relation to all Integrated Transport Authorities, particular Integrated Transport Authorities or particular types of Integrated Transport Authority. Section 102D(4) sets out the consultation requirements that the Secretary of State must comply with prior to making an order under section 102D. Subsection 102D(5) states that the Secretary of State need not consult under section 102D(4) if the order in question is simply in order to extend or disapply provisions contained in an existing order. Section 102D(6) states that the power to make orders includes the power to make different provision for different cases, circumstances or areas and the power to make incidental, supplementary, consequential, transitional or transitory provisions or savings. Sections 102D(7) and (8) state that an order made under section 102D(1) and (2) must follow the "affirmative" parliamentary procedure (except orders made in order to disapply provisions contained in existing orders or orders made only in order to impose conditions on doing things for a commercial purpose). Section 102D(9) states that all other orders must follow the "negative" parliamentary procedure.

Lords Amendment 5: Passenger Transport Executives

11. This amendment would insert in Part 2 of the Transport Act 1968 (TA 1968) new sections 10A, 10B and 10C.
Section 10A(1) contains the new broader general powers for Passenger Transport Executives; specifically it gives further powers to a Passenger Transport Executive to do (a) anything it considers appropriate to carry out the Passenger Transport Executive's functions, (b) including anything incidental, (c)

anything indirectly incidental via any number of removes and (d) anything that it considers to be connected with (a), (b) or (c). It also confirms in (e) that anything that it now has the power to do for a non-commercial purpose, it may also do for a commercial purpose. Section 10(2) states that the new powers are not limited by geography. Section 10(3) states that the new broader general power is in addition to and is not limited by the other powers of Passenger Transport Executive.

12. Section 10B sets boundaries limiting the further powers given to Passenger Transport Executives. Subsection 10B (1) states that the new powers are subject to pre-existing limitations on Passenger Transport Executives' powers as well as express post-commencement limitations. Section 10B (2) states that to the extent that pre-existing powers are subject to limitations, so too are the new powers granted by section 10A(1). Section 10B(3) states that the new broader general power does not authorise Passenger Transport Executives to borrow money. Section 10B(4) states that this amendment does not create any new power to charge (other than for a commercial purpose). The Passenger Transport Executives' existing powers to charge are unaffected by this amendment. Section 10B(5) states that the Passenger Transport Executive can not start charging for things that it is obliged by statute to do without charge. Section 10B(6) says that if a Passenger Transport Executive does certain things for a commercial purpose they must be done through a company or a registered co-operative. Sub-section 10B(7) defines "post-commencement limitation", "pre-commencement limitation", "pre-commencement power" and "statutory provision".
13. Section 10C gives the Secretary of State the power to make orders (by statutory instrument) in order to prevent Passenger Transport Executives from doing something under their new broader general powers. This is a precautionary measure in order to guard against unforeseen abuse or misuse of the new broader general power. These provisions replicate similar provisions found elsewhere in the Bill.
14. Section 10C(1) gives the Secretary of State the power to make an order preventing Passenger Transport Executive(s) from doing things specified in the order. Section 10C(2) gives the Secretary of State the power to make an order setting conditions to the exercise of the new powers by Passenger Transport Executive(s). Subsection 10C(3) states that the order-making powers of the Secretary of State may be exercised in relation to all Passenger Transport Executives, particular Passenger Transport Executives or particular types of Passenger Transport Executives. Subsection 10C(4) sets out the consultation requirements that the Secretary of State must comply with prior to making an order under section 10C. Section 10C(5) states that the Secretary of State need not consult under section 10C(4) if the order in question is simply in order to extend or disapply provisions contained in an existing order. Subsection 10C(6) states that the power to make orders includes the power to make different provision for different cases, circumstances or areas and the power

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to make incidental, supplementary, consequential, transitional or transitory provisions or savings. Sections 10C(7) and (8) state that an order made under section 10C(1) and (2) must follow the “affirmative” parliamentary procedure (except orders made in order to disapply provisions contained in existing orders or orders made only in order to impose conditions on doing things for a commercial purpose). Section 10C(9) states that all other orders must follow the “negative” parliamentary procedure.

15. Subsection (2) of the clause that would be inserted by allowing this amendment would amend section 10(1) of the Transport Act 1968 (powers of a Passenger Transport Executive) allowing Passenger Transport Executives to invest ‘their money’ rather than the existing wording that limits Passenger Transport Executives’ power to invest only sums not immediately needed.
16. Subsection (3) of the clause would amend section 22 of the Transport Act 1968 by inserting a new section 22(2A) that disapplies the existing procedural rules in favour of the new procedural rules.
17. Subsection (4) of the clause would amend section 93(9) of the Local Government Act 2003 by inserting a new paragraph (ab) relating to a Passenger Transport Executive’s power to charge for discretionary services, but only where they relate to the further powers being proposed for the Passenger Transport Executives under Section 10A (1) above.
18. Subsection (5) of the new clause would amend the definition of “relevant authority” in section 95(7) of the Local Government Act 2003, to include Passenger Transport Executives in a new paragraph (ab) thereby including them in a list of bodies that can be given (where they do not already have it) power to ‘do for commercial purposes things that they can do for non-commercial purposes’.

Lords Amendment 6: Economic prosperity boards and combined authorities

19. Economic prosperity boards and combined authorities are statutory bodies that may be established by order under Part 6 of the Local Democracy, Economic Development and Construction Act 2009. This amendment would introduce a new clause to insert new sections 113A, 113B, 113C into the 2009 Act to provide these bodies with general powers in line with those provided for Integrated Transport Authorities and Passenger Transport Executives by amendments 4 and 5, and associated powers for the Secretary of State..

Lords Amendment 7: Further amendments relating to Amendments 4 - 6

20. This amendment would make various amendments to the Local Government Act 1972 and the Local Government Act 2003. These amendments disapply

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the existing incidental powers and clarify the position regarding charging prohibitions for both Integrated Transport Authorities, Combined Authorities and Economic Prosperity Boards.

21. Subection (1) of the clause that would be inserted by this amendment would amend section 146A of the Local Government Act 1972 in order to remove existing incidental powers from Integrated Transport Authorities , Combined Authorities and Economic Prosperity Boards (these are to be replaced the new broader general powers).
22. Subsection (2) of the clause would amend section 93(7) of the Local Government Act 2003 to make it clear that the provisions limiting the new powers given to these bodies under the Bill do not constitute prohibitions on charging for the purposes of section 93(2)(b) of that Act.

Lords Amendments 8, 9, 10, 11, 12, 13, 295, 323 and 327

23. These amendments would insert a new Chapter 2B in Part 1 of the Bill. Lords amendment 8 would allow the Secretary of State to make provision by an order for the transfer of a local public function to a permitted authority. Subsections (2), (3) and (4) would allow for such an order to modify enactments for the purpose of making the transfer of a local public function. Under sub-clause (5) the Secretary of State could only make an order if he or she considered that it is likely to promote economic development or wealth creation or increase local accountability in relation to each local public function transferred. Also, the Secretary of State could only make an order if he or she considered that the relevant local public function could be appropriately exercised by the permitted authority and the permitted authority had consented to the transfer. The Secretary of State would also need to consult such persons as he or she considered appropriate before making an order.
24. Lords amendment 9 would allow a Minister of the Crown to delegate to a permitted authority any of his or her eligible functions, subject to such conditions that the Minister thought fit. A function would be eligible for these purposes as long as it did not consist of the power to make regulations or other instruments of a legislative character or a power to fix fees or charges and the Minister had considered that it could be appropriately exercised by the permitted authority. No delegation to a permitted authority, or variation of a delegation, could be made without the agreement of the permitted authority. Before delegating a function the Minister would need to consult such persons as he or she considered appropriate. A delegation could be revoked at any time by a Minister of the Crown.
25. Lords amendment 10 would allow the Secretary of State to make a scheme for the transfer of property, rights or liabilities to a permitted authority from a body or person from whom a relevant local public function had been transferred through an order under Lords amendment 8. It would also allow a Minister to make a scheme for the transfer from the Crown to a permitted authority of property, rights or liabilities as a consequence of a delegation, or variation of a

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delegation, to a permitted authority under Lords amendment 9. A Minister of the Crown may also make a scheme for the transfer of property, rights or liabilities from a permitted authority to the Crown as a consequence of variation or revocation of a delegation under amendment 9.

26. Lords amendment 11 would place a duty on the Secretary of State to consider a proposal from a permitted authority for the transfer of local public functions and the transfer of property, rights or liabilities under Lords amendments 8 and 10 respectively. The Secretary of State would be required to notify the permitted authority of what, if any, action he or she intended to take in relation to the proposal. Subsection (2) would allow the Secretary of State to set out in regulations the criteria to which he or she should have regard in considering any relevant proposal. Before making such regulations the Secretary of State would need to consult such persons as he or she considered appropriate.
27. Lords amendment 12 would establish a super affirmative procedure for Parliamentary consideration of any order under Lords amendment 8 for the transfer of local public functions to a permitted authority. Following appropriate consultation, the order would need to be laid in draft for 60 days, during which time formal representations may be made, and either House, or a committee charged with consideration of the order, can effectively block it. After this the order would need to be approved by a resolution of each House before it could be made.
28. Lords amendment 13 would insert an interpretation clause, applying to the new Chapter 2B. It would define a “permitted authority” as either a county council in England, a district council, an economic prosperity board (established under section 88 of the Local Democracy, Economic Development and Construction Act 2009) or a combined authority (established under section 103 of the same Act). It also gives a definition of a “local public function”, in relation to a permitted authority, as a function of a public authority in so far as it relates to the permitted authority’s area or persons living, working or carrying on activities in that area which does not consist of a power to make regulations or other instruments of a legislative character.
29. Lords amendment 295 is consequential upon the above amendments, and would delete from Schedule 2 new section 9HF which provided the Secretary of State with the power, by order, to transfer local public service functions to an elected mayor or require a local authority with an elected mayor to confer a local public service function on its mayor. The amendment also deletes section 9HG which made provision in relation to proposals for the Secretary of State to use the power at section 9HF. Amendments 323 and 327 are both consequential on amendment 295.

Lords Amendment 14 and 405

30. Lords amendment 14 would insert a new clause into the Bill which

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amends provision in the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) and the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) in relation to local election schemes.

31. This amendment would amend the 2007 Act to provide that a district council in England may resolve at any time to change its scheme of elections, rather than being restricted to a permitted resolution period. Where a district council resolves to move to a scheme of whole council elections, it must also specify in its resolution the year in which it will hold its first whole-council election. The only restriction is that district councils in two tier areas are prevented from specifying a year in which the county council in their area holds an election (i.e. a fallow year). Once the district council has held its first whole-council election it will then hold whole-council elections in every fourth year afterwards. Provision is also made to provide that after a district council has passed a resolution it will continue to hold elections under its previous electoral scheme until the date it specifies as its first year of whole-council elections.
32. The amendment provides that once a district council has passed a resolution to change its scheme of elections it may not pass another such resolution for a period of five years. It also amends section 57 of the 2009 Act to clarify that on passing a resolution to move to whole-council elections it is open to the council to request that the Local Government Boundary Commission for England undertakes a review of its electoral arrangements.
33. Lords amendment 405 would make consequential amendments in the Bill’s Repeals Schedule.

Lords Amendments 15, 20, 21, 22, 23, 24, 25, 26, 27, 261, 332, 333 and 383

34. Amendments 15 and 20 provide that a relevant authority must adopt a code of conduct and that the code must be consistent with the seven ‘Nolan’ principles of standards in public life and must set out the registration and disclosure that the authority requires in respect of pecuniary and non-pecuniary interests.
35. Amendments 21, 22, 25, 26 and 27 are consequential upon the requirement for a relevant authority to have a mandatory, rather than voluntary, code of conduct in place, removing their ability to withdraw their code of conduct entirely.
36. Amendment 23 would make provision for local authorities to put in place arrangements under which they can investigate, and take decisions on, allegations that a member has not complied with a relevant authority’s code of conduct.
37. The amendment would also introduce the role of the ‘Independent Person’ in the arrangements, in that a relevant authority, after investigating an allegation of misconduct but before taking a decision, must seek the view of the Independent Person. Members who have an allegation made against them may also seek the view of the Independent Person. The amendment would also make provision that the Independent Person’s appointment process is public and

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transparent and that the Independent Person cannot be a member nor have friends or family on the authority.

38. Amendment 24 is consequential upon a local authority having to have in place arrangements to deal with allegations.
39. Amendment 261 would make provision for the commencement of the provision in the Bill to register and declare pecuniary interests to commence not the day the Bill receives Royal Assent but rather at a time appointed by the Secretary of State in a commencement order. This allows the new register of interests regime, with its criminal penalty for non-compliance, to be brought in to coincide with the abolition of the Standards Board regime and the establishment of the post-Standards Board standards regime.
40. Amendments 332 and 383 are needed in consequence of the commencement of the repeal of Schedule 1A to the Race Relations Act 1976 by the Equality Act 2010.
41. Amendment 333 removes reference to the 'Ethical Standards Officer', an officer of the Standards Board for England with powers and responsibilities specific to that organisation, from the Audit Commission Act 1998 and the Data Protection Act 1998. This is a consequence of the abolition of the Standards Board for England. Amendment 410 would make corresponding entries in the Bill's Repeal Schedule.

Lords Amendment 16

42. This amendment relates to the definition of a joint committee or joint sub-committee. It would have the effect that the definition to a joint committee or joint sub-committee would apply to Chapter 5 of the Bill instead of applying only to the previous subsection in Clause 16.

Lords Amendments 17 and 18

43. These amendments would provide for the Mayor of London to exercise functions related to standards. The Bill as it left the House of Commons provides for these functions to be exercised by the London Assembly only. The amendments would provide for the standards functions to be carried out jointly by the Mayor and the Assembly.

Lords Amendment 19

44. This amendment relates to the Greater London Authority (GLA), and would define a committee, sub-committee, standards committee or standards sub-committee, and related expressions, for the purpose of Chapter 5 of Part 1 of the Bill (standards as being committees of the London Assembly), and clarify that members of the GLA include the Mayor of London and a member of the London Assembly.

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Lords Amendment 28

45. This amendment is consequential on Amendments 17, 18 and 37 which would provide for the the GLA`s standards functions under the Chapter to be exercised jointly by the Mayor of London and the London Assembly, and confer power to delegate those functions. This amendment would make it clear that that power to delegate is subject to the requirement in Clause 17(6) that a relevant authority`s code of conduct is to be adopted (or revised etc) by the authority itself.

Lords Amendment 29

46. The amendment would replace the original Clause 18 (Disclosure and registration of members` interests) with a new clause (Register of interests). The new clause makes provision for some of the matters that were to be covered in regulations, and would provide for the monitoring officer of a district council, London Borough or county council to deal with the register of interests for parish councils in their area and to arrange for the register to be published on the authority`s website and made available for public inspection. A parish council would be required to publish the register on its own website if it has one.

Lords Amendment 30

47. The amendment would insert a new clause that makes provision for some of the matters related to the registers of interests that were to be covered in regulations. The new clause covers the provisions of the original Clause 18 relating to the type of interests that members would be required to register, specifying them as “disclosable pecuniary interests”, setting out when an interest is disclosable, and requiring Monitoring Officers to enter any pecuniary interest notified to them by members, whether disclosable or not.

Lords Amendment 31

48. The amendment would insert a new clause that makes provision for some of the matters related to the registers of interests that were to be covered in regulations. The new clause covers the provisions of the original Clause 18 relating to the requirement to disclose an interest that has not yet been registered and restrictions on a person discussing or voting on matters in which they have a disclosable pecuniary interest. It would also enable authorities to provide for the exclusion of members from meetings in their standing orders.

Lords Amendment 32

49. The amendment would insert a new clause that makes provision for some of the matters related to the registers of interests that were to be covered in regulations. It would also enable authorities to provide in their standing orders for members to be excluded from meetings where they have disclosable interests in matters being considered.

Lords Amendment 33

50. The amendment would insert a new clause that makes provision for some of the matters related to the registers of interests that were to be covered in regulations. The new clause would enable authorities, on receipt of a written

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request, to grant members dispensations from restrictions on participating in decision-making which would otherwise apply in certain circumstances if they have a disclosable pecuniary interest in a matter to be discussed at a meeting. These circumstances are if they consider that: the business of the council or committee is likely to be impeded if no dispensations are granted; that the political balance of the committee or council would be so upset as to alter the outcome of a vote, if no dispensations are granted; if granting the dispensation is in the interests of residents; if all members of the executive are unable to participate in business to be carried out by the executive; or it is otherwise appropriate to grant a dispensation. The effect would be that members could be granted a dispensation for up to 4 years allowing them to participate in discussions or vote.

Lords Amendment 34

51. This amendment would make changes consequential to amendments 29 -33. It would also provide that members are guilty of an offence where they knowingly or recklessly provide false or misleading information in relation to pecuniary interests.

Lords Amendment 35

52. This amendment would clarify that a court could disqualify a person from office as an additional punishment rather than as an alternative punishment to a fine mentioned in subsection (2) of the clause.

Lords Amendment 36

53. This amendment would ensure that other Acts providing for members to be disqualified correctly cross-refer to the powers in the Localism Bill to disqualify members.

Lords Amendment 37

54. This amendment would insert a new clause that would allow the London Assembly and the Mayor of London to delegate standards functions to a committee or member of staff. This mirrors the powers local authorities have to delegate the functions to a committee or member of staff.

Lords Amendments 38-48

55. Lords' Amendments 38 to 46 and 48 would broaden the scope of the existing measures on pay accountability, to require authorities to publish a pay policy statement.

56. In addition to the details of an authority's approach to the remuneration of senior officers, a pay policy statement would have to set out that authority's approach to the remuneration of its lowest paid staff. Each authority would be required to define locally what they mean by lowest paid staff and include that definition, and the reasons for that definition, in their pay policy statement.

57. In addition, authorities would also be required to include in their pay policy

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statement their policies in relation to pay dispersion – that is, the relationship between the remuneration of their chief officers and all other employees.

Lords Amendment 49

58. Amendment 49 would make provision for the Commission for Local Administration in England (more commonly known as the Local Government Ombudsman services) to make arrangements to discharge its functions jointly with other ombudsman bodies or for its functions to be discharged by another ombudsman body. This provision does not include investigation functions which are already covered by joint investigation legislation. The amendment would also provide that the Commission for Local Administration in England has the power to delegate any of its functions (to whatever extent it determines) to any person whom it authorises to undertake those functions.

Lords Amendment 50

59. Lords amendment 50 would set out that the EU Fines clauses are to enable a Minister to pass on a fine if the authority has been designated by order using the procedures set out in the clauses.

Lords Amendments 51 – 53 and 82 - 84

60. Lords amendments 51 – 53 and 82 – 84 would make changes to the definition of the various terms used in Part 2 of the Bill.

Lords Amendment 54

61. Lords amendment 54 would makes changes so that the duty to produce a policy statement covers the new aspects of designation and an independent panel. An independent panel would also have regard to the policy statement, as well as any Minister. The Secretary of State would have a duty to consult on the policy statement with such persons as the Secretary of State considers appropriate.

Lords Amendment 55

62. Lords amendment 55 would mean that the provisions can only be used for fines which occur after the commencement of the Act. The Minister also would have a power to certify that amounts which relate to the responsibilities of the devolved administrations do not fall under the Bill provisions. Apportionment amongst the devolved administrations and central government will be undertaken in accordance with the devolution settlement.

Lords Amendments 56 and 253-254

63. Lords amendments 56 and 253-254 would expand the provisions to cover non-devolved matters in devolved areas.

Lords Amendments 57 and 234

64. Lords amendments 57 and 234 would mean that a named authority, the specific infraction case and the domestic law obligation or function would need to be designated by Order, using affirmative procedures. Only actions or inactions following designation would be taken into account when deciding whether

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to pass on a fine, and only for the specific infraction case. The designation order would cease to have effect when the infraction case was closed.

Lords Amendment 58

65. Lords amendment 58 would mean that an independent advisory panel needed to be formed before seeking to pass on a fine to a public authority. The Minister would be able to invite nominations for the panel from appropriate bodies with appropriate expertise, and to pay expenses and allowances and provide administrative and practical support. The Panel would receive representations directly from authorities and would make their recommendations to the Minister publicly available.

Lords Amendments 59, 62 – 64, 66, 73, 75 – 81

66. Lords amendments 59, 62 – 64, 66, 73, 75 – 81 would update the process for passing on fines to incorporate the role of an independent advisory panel. It would also mean a revised process for ongoing periodic penalties so that both the lump sum fine and any ongoing periodic penalties would be considered upfront together. This would greatly improve transparency, so that authorities could plan their finances in the knowledge of the full potential financial impact. The authority would then make regular ongoing payments until such time as they provide evidence that they had taken all reasonable steps to comply. Payments could be suspended whilst the Minister reviews the evidence, drawing on the expertise of the independent panel or others. The authority, and the Minister, could seek a reduction in the authority's liability (but not an increase) if there is a change of circumstances.

Lords Amendments 60, 65, 67

67. Lords amendments 60, 65, 67 would enable a Minister of the Crown, rather than a Secretary of State, to use the powers set out in these clauses. This is because HM Treasury and the Cabinet Office do not have a Secretary of State but may have policy responsibility in specific cases.

Lords Amendments 61, 68 – 72, 74

68. Lords Amendments 61, 68 – 72, 74 would make minor cross-referencing changes to make the clauses work as a whole and with the proposed Lords amendments.

Lords Amendments 85-94

69. Lords amendments 85-94 would insert a new Part allowing Welsh Ministers to pass on fines to public authorities exercising devolved functions in Wales. These would replicate the UK provisions in their entirety.

Lords Amendment 95

70. To ensure that the system of non-domestic rates work correctly once Clause 39 has come into force, changes need to be made to the annual regulations which govern contributions to the central pool, which have a deadline of 31 December. This amendment would disapply that deadline in relation to amendments of those regulations that deal with the implications of clause 39 for the

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financial year beginning on 1 April 2012.

Lords Amendments 96 -112

71. These amendments delete clauses 42 – 58 of the Bill, removing all provisions relating to ‘Local Referendums.’

Lords Amendments 113, 114 and 346-349

72. These are minor amendments that would make consequential amendments to correct drafting errors and ensure that regulations operate appropriately in relation to Wales.

Lords Amendment 115 and 116

73. Amendments 115 and 116 relate to adding other persons or bodies as relevant authorities.

74. Amendment 115 would enable a Minister of the Crown or other Government department to be specified as a relevant authority under the power given to the Secretary of State under Clause 68(2)(d) to add other persons or bodies carrying on functions of a public nature as relevant authorities. Amendment 116 would ensure that if the duty on relevant authorities to consider expressions of interest applies to a person or body that exercises functions outside England, the definition of a relevant service in this Chapter would only include those services provided by or on behalf of the authority in the exercise of its functions in England.

Lords Amendment 117

75. Amendment 117 would amend Clause 68(8) to clarify that a public or local authority cannot be a community body.

Lords Amendment 118, 119, 120 and 121

76. Amendments 118, 119, 120 and 121 would make changes to the provisions on timescales associated with the Community Right to Challenge.

77. Amendment 118 would remove Clause 69(5) which gives the Secretary of State the power to specify in regulations minimum periods that may be specified by relevant authorities under Clause 69(2).

78. Amendment 119 would remove Clause 70(4) which gives the Secretary of State the power to specify minimum and maximum periods that will elapse between the date of the relevant authority’s decision to accept an expression of interest and the date on which it will begin the procurement exercise as a result of that acceptance. The amendment inserts new subsections (4) – (4C), which would instead require a relevant authority to specify these periods. A relevant authority would be able to specify different periods for different cases. It would be required to publish details of a specification under subsection (4) in such manner as it thinks fit which must include publication on the authority’s website. The relevant authority would need to comply with a specification under subsection (4).

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79. Amendment 120 would remove Clause 71(3) which requires a relevant authority to make a decision in respect of an expression of interest within such time as may be specified by the Secretary of State by regulations. It would instead insert new subsections (3) – (3D) which would require the relevant authority to specify the maximum period that will elapse between the date on which it receives an expression of interest submitted by a relevant body and the date on which it notifies the relevant body of its decision in respect of the expression of interest. A relevant authority would be able to specify different periods for different cases. It would be required to publish details of a specification under subsection (3) in such manner as it thinks fit which must include publication on the authority’s website. A relevant authority that receives an expression of interest would be required to notify the relevant body in writing of the period within which it expects to notify the body of its decision in respect of the expression of interest. Where a relevant authority has specified periods under Clause 69(2) during which expressions of interest may be submitted to the authority and the expression of interest is made within the period so specified, notification would need to be given within a period of 30 days, beginning immediately after the end of that specified period. Where the relevant authority has not specified such a period, notification would need to be given within a period of 30 days beginning on the date that the relevant authority receives the expression of interest.
80. Amendment 121 would amend Clause 71(4) to remove the power given to the Secretary of State to specify the period within which a relevant authority must notify a relevant body which has submitted an expression of interest of its decision and instead require the relevant authority to notify the relevant body of such a decision within the period it has specified under subsection (3).

Lords Amendment 122

81. This amendment would remove the main part of the delegated power to define “land of community value” and instead define land of community value on the face of the Bill, based on principal use for social wellbeing and social interests (including cultural, recreational and sporting interests). The delegated power is retained, to specify land which may not be listed.

Lords Amendment 123 and 124

82. These amendments would be minor drafting changes following amendment 122, altering details of the delegated power to restrict it to exemptions from listing.

Lords Amendment 125

83. This amendment would remove the delegated power to specify matters which a local authority must take into account in deciding whether land is an asset of community value.

Lords Amendment 126

84. This amendment would add that “social interests” includes cultural, recreational and sporting interests.

These notes relate to the Lords Amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011.

Lords Amendment 127

85. This amendment would provide that land may “only” be listed in response to a community nomination or where permitted by regulations.

Lords Amendment 128

86. This amendment would remove the power to specify in regulations who may make a community nomination, and instead provide on the face of the Bill that “a voluntary or community body with a local connection” may do so.

Lords Amendment 129

87. This amendment would remove wording in Clause 76(3)(b) which particularly mentions that the delegated power in clause 76(1)(b) may be used to allow local authorities to list on their own initiative.

Lords Amendment 130

88. This amendment would extend the delegated power in Clause 76(4) to enable regulations to define the meaning of “voluntary or community body” and specify conditions to be met to demonstrate “local connection”.

Lords Amendment 131

89. This amendment would add a requirement that where it is not reasonably practicable to give notice as required, the local authority must “take reasonable alternative steps” to bring the notice to the person’s attention.

Lords Amendment 132

90. This amendment would remove the power in Clause 78(5) to make further provision about giving written notice on being included in or removed from the list.

Lords Amendment 133

91. This amendment would enable a local authority to remove an unsuccessfully nominated asset from the list of unsuccessfully nominated assets after five years if it wishes.

Lords Amendment 134

92. This amendment would remove the power in Clause 80(4) to make regulations about the content of the list of unsuccessful community nominations.

Lords Amendment 135

93. This amendment would remove the power under Clause 81(2) to make regulations on how the lists should be published.

Lords Amendments 136, 137 and 138

94. Lords amendments 136, 137 and 138 would ensure that where land was previously listed before sale, is again listed under the new owner, and the new owner wants to sell shortly after buying, the new owner cannot benefit

These notes relate to the Lords Amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011.

Lords Amendment 139

95. This amendment would provide that only the local authority must be sent the written request from a community interest group to be treated as a potential bidder.

Lords Amendment 140

96. This amendment would exempt on the face of the Bill certain types of disposals from complying with the moratorium rules (in addition to those to be specified in regulations).

Lords Amendments 141, 142 and 143

97. These amendments would insert the lengths of the various periods into Clause 82 of the Bill. Amendment 141 would set the full moratorium period at six months. Amendment 142 would set the interim moratorium period at six weeks. Amendment 143 would set the protected period at 18 months.

Lords Amendment 144

98. Lords amendment 144 would define ‘a member of a person’s family’ for the purposes of an exemption introduced by amendment 140.

Lords Amendment 145

99. Amendment 145 would remove the delegated power to establish the moratorium periods in regulations.

Lords Amendments 146 and 147

100. These amendments would remove surrender of a qualifying leasehold estate from being a relevant disposal.

Lords Amendment 148

101. This amendment would insert a new clause which requires a local authority to inform the owner as soon as practicable of a request during the interim moratorium from a community interest group to be treated as a bidder.

Lords Amendments 149

102. This amendment would insert a power to make provision in regulations for a landowner to appeal against the local authority’s decision on compensation. This power to provide for an independent appeal would be additional to the power enabling regulations to give landowners the right to request an internal review of a compensation decision.

Lords Amendment 150

103. This amendment would add a new clause providing that if different parts of an asset are in different local authority areas, the local authorities concerned must co-operate with each other in carrying out functions in relation to the land or any

These notes relate to the Lords Amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011.

part of it.

Lords Amendments 151, 152, 153 and 154

104. These amendments provide the Secretary of State with a power to revoke the eight existing regional strategies outside London by Order. There is also an additional order-making power allowing the Secretary of State to revoke any remaining county structure plan policies that were saved as part of the transitional provisions for the Planning and Compulsory Purchase Act 2004. The orders will be subject to the negative parliamentary procedure.

Lords Amendment 155

105. This amendment corrects a typographical error in the drafting.

Lords Amendment 156

106. This amendment was introduced to remove an unintended consequence of the drafting. The amendment closes a loop-hole, so that a draft development plan document will not be able to be adopted by a local planning authority that has not complied with the duty to co-operate. The amendment means that a local planning authority can only require an Inspector to recommend modifications that would enable a development plan document to be adopted, if the Inspector has concluded that the council has complied with the duty to co-operate.

Lords Amendments 157, 158, 159, 160, 161, 163 and 164

107. Amendments 158 and 159 amend section 216 of the 2008 Act to clarify that permitted spending on infrastructure includes providing it initially, improving or replacing infrastructure, and operating and maintaining it, where doing so supports development.

108. Amendment 157 provides that the Community Infrastructure Levy regulations must aim to ensure a balance between requiring developers to contribute towards meeting the costs of supporting development of an area and ensuring that the economic viability of development of the area is not harmed by doing so. This elevates economic viability to an explicit rather than implied element of the purpose of the instrument and will help ensure that charges set by local authorities are reasonable and appropriate. The amendment also allows for regulations to require charging authorities to consider the costs of the matters allowed by the widened spending powers when setting a charge in their area.

109. Amendments 160, 161, 163 and 164 make consequential changes that are necessary to allow existing delegated powers, to determine matters that must be, may not be or may be funded within the permitted uses of the levy, to apply appropriately to matters allowed by the new spending powers. Amendment 257 provides that all the changes to Part 11 of the 2008 Act will be enacted by order rather than automatically.

These notes relate to the Lords Amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011.

Lords Amendments 162 and 165

110. Amendments 162 and 165 extend the permitted uses of levy receipts, in specified situations. As well as providing infrastructure, the provisions allow regulations to specify that a proportion of receipts may be applied to any matter that supports development by addressing the demands that it places on the areas that host it.
111. Amendment 162 provides that where regulations made under section 216A require a local authority to pass any Community Infrastructure Levy receipts arising from development in an area to another person, those funds may be applied to these extended matters.
112. Amendment 165 allows for regulations to specify that a charging authority may apply some or all of the funds it receives from development of an area to matters other than infrastructure, but only where regulations have been made under section 216A which do not apply to that area.

Lords Amendments 166 and 167

113. These amendments would provide that where a local planning authority wishes to decline to determine a retrospective planning application because there is a related enforcement notice for the development specified, then that enforcement notice must be “pre-existing”, and define a “pre-existing enforcement notice” as one which was issued before the retrospective application was received by the local planning authority.

Lords Amendments 168 and 169

114. These amendments would recast new s171BC(1)(a) of the Town and Country Planning Act 1990 to say that a planning enforcement order can only be made if the apparent breach of planning control has been deliberately concealed; and omit subsection (2) of new s171BC which describes what a person’s actions can include, thus deleting “inaction” from being an action.

Lords Amendment 170

115. This amendment would introduce new s172A into the Town and Country Planning Act 1990 to allow local planning authorities to assure any people receiving an enforcement notice (where the authority does not think they are responsible for the alleged breach of planning control) that they will not be prosecuted if the enforcement notice is not complied with. It would provide for the letter to be withdrawn in whole or in part and for the recipient to be given time to comply if the letter is withdrawn. Even if a letter is withdrawn, a recipient could not subsequently be prosecuted in respect of the period during which the assurance was in place. Any assurance would be binding on any prosecutor.

Lords amendments 171, 172, 173, 174 and 175

116. These amendments would mean that the issue of a hoarding removal notice under new section 225A of the Town and Country Planning Act 1990 would be subject to the right of appeal in new section 225AA. The right of appeal itself is

These notes relate to the Lords Amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011.

in a similar format to new sections 225C and 225H and covers the grounds of appeal; who can appeal; non-material defects of notices; correct service of notices; a bar on raising the grounds of appeal in any proceedings for recovery of expenses; and definitions.

Lords Amendments 176, 177 and 178

117. Amendments 176, 177 and 178 extend the power in Clause 115 of the Bill to Wales, to the extent that matters are not devolved to Welsh Ministers.

Lords Amendment 179

118. Amendment 179 removes the requirement, when the Secretary of State is deciding whether to accept an application, for absolute compliance with certain standards and guidance in order for the application to be accepted. This is replaced with a requirement that the Secretary of State must be satisfied that the application has been prepared to a satisfactory standard, and in coming to this decision must have regard to these standards and guidance.

Lords Amendment 180

119. Amendment 180 would set the deadline for the submission of a report to the Secretary of State by reference to the deadline for completion of the examination, or the day of completion if earlier, and the deadline for deciding an application by reference to the deadline for the completion of the examination, or the day on which the Secretary of State receives a report of the examination if earlier.

Lords Amendment 181

120. Amendment 181 would amend sections 128 and 130 of the Planning Act 2008 to bring the requirements for special parliamentary procedure to be engaged in line with those that apply under section 17 and 18 of the Acquisition of Land Act 1981.

Lords Amendment 182

121. This amendment would clarify that the amendments made to section 70 of the Town and Country Planning Act 1990 do not alter whether (under subsection (2) of that section), regard is to be had to any particular consideration, or the weight to be given to any consideration to which regard is to be had under that subsection.

Lords Amendments 183, 184, 186, 187, 188, 189, 191, 192, 193 and 196

122. These amendments would make minor and technical changes to clauses 135 and 136 which would remove a drafting error, ensure that terms are used consistently, remove redundant text and ensure that cross-referencing is correct.

Lords Amendments 185, 190, 194 and 195

123. These amendments would amend clauses 135 and 136 and clarify the terms of the notice that the landlord is required to serve on a tenant if the tenancy that follows an introductory, demoted or family intervention tenancy is to be a flexible

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tenancy.

Lords Amendments 197 and 198

124. These Amendments would insert two new clauses. The first would make minor amendments to the Law of Property Act 1925 so that certain tenancies granted by social landlords would not need to be executed by deed. The second of the new clauses would make minor amendments to the Land Registration Act 2002 so that certain tenancies granted by social landlords would not be required to be registered with the Land Registry (neither amendment would apply to shared ownership or other leaseholders).

Lords Amendments 199 and 200

125. These Amendments would delete the inserted new section 86A(8) and instead add a new sub-section (6) to Clause 139 making it clear that the new provisions in relation to succession to secure tenancies would not apply in relation to tenancies that were granted before commencement of this clause.

Lords Amendments 201 and 202

126. Amendment 201 would insert a new section 17(7) into the Housing Act 1988 to ensure that there will be no statutory succession in the case of shared ownership properties, since this could potentially conflict with the rights of a beneficiary in a deceased shared owner's will.

127. Amendment 202 would insert a new clause which would amend the Housing Act 1985 and the Housing Act 1988 to provide that where there is no eligible successor but someone inherits the balance of a fixed-term secure or assured tenancy as part of the deceased tenant's estate, the landlord can recover the property. The new clause would also amend the Housing Act 1985 so that where there is a successor who was not the deceased tenant's spouse or civil partner, the property is larger than that successor requires and the property is in England or Wales, the court may decide whether the time limit in which the landlord may seek possession starts six months after the death of the original tenant or six months after the landlord became aware of that death.

Lords Amendments 203, 204 and 206

128. The way the legislation is currently drafted means that where a fixed-term assured shorthold tenancy is demoted for anti-social behaviour, then, if the demotion period is successfully completed, the tenancy automatically becomes a periodic assured ("lifetime") tenancy. These amendments would mean that a private registered provider of social housing could ensure that the tenancy that follows successful completion of the demotion period is another fixed-term tenancy.

Lords Amendments 205, 207 and 208

129. These amendments would insert text into Clauses 141, 142 and 144 and would ensure that certain provisions apply only to England and Wales.

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Lords amendments 209, 210 and 211

130. Under the Bill as currently drafted, no direct access to the Housing Ombudsman is permitted; a complaint against a social landlord is not “duly made” to the Ombudsman unless it is made in writing by a designated person.

131. The amendments would provide two exceptions, that would allow a tenant to submit a complaint directly to the Ombudsman where:

- a period of at least 8 weeks had elapsed since the conclusion of the landlord’s internal complaints process, **or**
- a designated person had (in writing) either declined to refer the complaint or has agreed that the complainant may submit it to the Ombudsman directly.

132. As regards the first of those exceptions, starting the clock for the 8-week period at the end of the landlord’s complaints process will allow a recognisable starting point for the ombudsman’s determination. It will be for the Housing Ombudsman to determine whether the landlord’s complaints process has been concluded, on receiving the complaint.

Lords Amendment 212

133. This amendment would introduce a new clause into the Bill which would amend the existing legislation in the Housing Act 2004 governing tenancy deposit protection. Following two Court of Appeal decisions which highlighted some areas of doubt in the existing legislation, the new clause would clarify that the financial penalties in the legislation apply where a deposit is protected after the deadline set by the legislation and that the financial penalties apply equally after the tenancy with which the deposit is associated has ended. The new clause would also extend the deadline, in which the landlord must protect the deposit and provide information to the tenant about that protection, from 14 to 30 days. It would give the Courts discretion to set the financial penalty for non-compliance at a figure between a sum equivalent to the deposit and a sum equivalent to three times the deposit. Currently, the Courts have no discretion and the penalty is set at three times the deposit. Finally, the clause would clarify that the other penalty associated with non-compliance – removal of the power to use section 21 of the Housing Act 1988 to evict – would be reversed once action had been taken to rectify the situation.

Lords Amendment 213

134. Lords amendment 213 would amend Schedule 14 to the Housing Act 2004 to exclude fully mutual housing co-operatives from the Houses in Multiple Occupation (HMO) definition, removing such organisations from the HMO licensing provisions contained in the Housing Act 2004.

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Lords Amendment 215, 217, 218, 219, 220, 221 and 222

135. Amendment 215 would amend Clause 173(3)(d) by requiring the Mayor to publish the Mayor's reasons for disagreeing – if the Mayor did so - with comments made by an affected borough, where those comments related to the Mayor's proposed Mayoral development area. It would put an affected borough on the same footing as the London Assembly, which already has this 'right' under Clause 173.
136. Amendment 217 would amend Clause 178(7)(c) by requiring the Mayor to publish the Mayor's reasons for disagreeing – if the Mayor did so - with comments made by an affected borough council, where those comments related to a Mayoral Development Corporation's proposed planning functions. Amendment 218 would add a new sentence to Clause 178(7) to define 'affected local authority'. It would put an affected borough on the same footing as the London Assembly, which already has this 'right' under Clause 178.
137. Amendment 221 would amend Clause 190(4)(c) by requiring the Mayor to publish the Mayor's reasons for disagreeing – if the Mayor did so - with comments made by an affected borough council, where those comments related to a Mayoral Development Corporation's proposed non-domestic rate relief. Amendment 222 would add a new sentence to Clause 190(4)(c) to define 'affected local authority'. It would put an affected borough on the same footing as the London Assembly, which already has this 'right' under Clause 190.
138. Amendments 219 and 220 are minor and technical. Relating to Clause 180, they would put right minor inaccuracies.

Lords Amendment 216

139. This amendment would amend Clause 177 by adding a paragraph to enable a Mayoral development corporation to take on a wider range of activities, beyond its principal object if the Mayor delegates a function to it. This would allow a Mayoral development corporation to carry out a function or functions which has or have been delegated to it, and which are not directly related to, or incidental to, the object of achieving regeneration of its designated area.

Lords Amendment 224

140. This amendment would amend Clause 199 to require a Minister to consult each London borough, the Common Council of the City of London, and the London Assembly before making or varying a delegation of Ministerial functions to the Mayor.

Lords Amendment 225

141. This amendment would extend section 401A of the Greater London Authority Act 1999, which enables the GLA and functional bodies to share administrative, technical and professional services with each other, to cover three further London authorities: London Pensions Fund Authority, London Travel Users' Committee, and the Commissioner for Police of the Metropolis. It would also give the

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Secretary of State an order-making power to extend section 401A to other persons or bodies performing public functions in Greater London.

Lords Amendment 226

142. This amendment would reform the planning assumptions for compulsory purchase compensation. Substituted section 14 of the Land Compensation Act 1961 would provide that for land taken by compulsory purchase, planning permission must be assumed for

- any planning permission in force at the valuation date;
- the prospect on the assumptions set out, in the circumstances known to the market, of planning permission being given on the valuation date;
- “appropriate alternative development”: being development for which planning permission would have been granted in the absence of the scheme for which the compulsory purchase was made.

143. The main assumption is that the scheme was cancelled on the launch date, defined as the date the compulsory notices were first issued.

144. Substituted section 15 would provide that planning permission is also to be assumed for the acquiring authority’s proposals underlying the compulsory purchase. This substitution would also omit the present subsections (3) and (4) which allow compensation to be paid for wartime and pre-1948 rebuilding rights under Schedule 3 to the Town and Country Planning Act 1990.

145. The present section 16 of the 1961 Act would also be omitted. This would mean that assumptions based on the provisions of the development plan would not be considered. These are intended to be subsumed in the assumptions to be provided in substituted section 14.

146. Substituted section 17 would provide for local planning authorities to grant certificates of appropriate alternative development as an aid to valuation on application by any party to the compulsory purchase. The certificate would describe what types of development would have received planning permission in the absence of the scheme.

147. Substituted section 18 would provide for appeals against a certificate to be made to the Upper Tribunal. The Tribunal would hear the case *afresh* and could confirm, vary or cancel the certificate and issue a substitute.

Lords Amendments 227-247

148. These are amendment to Clause 209, which makes provision for how powers under the Bill to make orders and regulations are to be exercised.

149. Amendments 227, 228, 230, 241 and 247 are consequential to amendments to Part 2, which would give Ministers of the Crown power to make orders in relation

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to EU fines.

150. Amendment 229 would clarify that the powers in Clause 214 (commencement), do not include power to make incidental etc provision, except to the extent already provided for in Clause 214(7). This is the normal practice as commencement orders are subject to no parliamentary procedure.
151. Amendments 231, 232, 233, 236, 237, 238 and 240 give effect to recommendations made by the Lord's Delegated Powers and Regulatory Reform Committee about the parliamentary procedure to be followed for certain powers. They would make orders under Clause 5(2) that amend primary legislation and are not combined with orders under Clause 5(1) subject to an affirmative procedure; they provide the affirmative procedure will apply to orders under Clause 5(3) and (4) that extend the application of existing orders and apply the affirmative procedure to orders under Clauses 8(2), 68(2)(d) and (5)(e), and 70(8). They also would provide that orders under clause 102 (charges for meeting costs under neighbourhood planning) are subject to approval in both Houses.
152. Amendments 234, 235, 239, 242, 243 and 244 are consequential to other amendments that introduce new powers, to provide for an appropriate parliamentary procedure to apply to these, or that leave out powers. Amendment 246 is also consequential, and would disapply the hybridity procedure from orders designating public authorities for the purpose of Part 2 (EU Fines).
153. Amendment 245 would ensure commencement orders made by Welsh ministers are subject to no procedure, in line with the provision for commencement in England.

Lords Amendments 248- 251

154. These are amendments to clause 210 (power to make further consequential amendments). They would ensure that Welsh Ministers have appropriate power to make consequential amendments.

Lords Amendment 252

155. Lords Amendment 252 would update Clause 212 (Financial provisions) to include reference to a Minister of the Crown. This reflects subsections (7) and (8) of Lords Amendment 58. As the Bill was introduced in the Commons, Clause 212 is included for procedural reasons only, and is not intended to have any legal effect.

Lords Amendments 253 -255

156. Clause 213 sets out the extent of the Bill. Amendments 253 and 254 reflect the extension of Part 2 (EU Fines) to Scotland and Northern Ireland, and amendment. 255 ensures that certain amendments and repeals extend only to England and Wales even though the legislation amended or repealed extends beyond England and Wales.

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Lords Amendments 256- 261

157. Clause 214 sets out the commencement arrangements for the provisions in the Bill. These amendments are consequential to other Lords amendments and would ensure that appropriate provision is made for commencement.

Lords Amendments 262, 350, 351, 418 - 424

158. These are consequential amendments arising from Lords amendments 151, 152, 153, and 154.

Lords Amendments 263- 274 and 322

159. Lords amendments 263 to 267 and 270 would amend Schedule 2 to the Bill, new section 9E to include area committees in the list of executive members, committees and officers who may discharge a local authority's executive functions. Lords amendment 268 inserts a new section 9E(5A) to provide that where an area committee is discharging executive functions it may, unless the "senior executive member" (the elected mayor or leader, as the case may be) otherwise directs, arrange for the discharge of those functions by an officer of the authority.

160. Amendments 269, 271, 272 and 273 would delete from Schedule 2 the substantive provisions of new section 9EA. This would remove the Secretary of State's power by regulations to make provision in relation to the discharge of executive functions by an area committee. The amendments would also remove restrictions on the maximum size of an area committee. Amendments 274 and 322 are consequential on the above amendments.

Lords Amendments 275- 293 and 330

161. Amendment 277 would amend Schedule 2, section 9FC to remove the limitation to 'local government' matter therefore expanding the matters that councillors, who are not members of a scrutiny committee, may refer to a scrutiny committee for consideration. Lords amendment 278 inserts the words 'excluded matter' into section 9FC(1)(c) to preserve the ability to exclude matters by order. Amendments 279 to 282 are consequential on the above amendments.

162. Amendment 283 would amend Schedule 2, section 9FF to remove reference to 'local improvement targets in Local Area Agreements' and replaces it with a reference to the functions of partner authorities (as set out in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007) that relate to the authority's area or the inhabitants of that area. This empowers local authorities to hold partner authorities to account for wider activities they undertake. Amendment 284 exempts health bodies from having to have regard to the reports and recommendations of a non-unitary district council scrutiny committee. This aims to retain the current position for such bodies. Amendments 285 and 290 are consequential to amendments 283 and they remove definitions that are no longer needed.

163. Amendments 286 to 289 would amend Schedule 2, section 9FF to

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remove the distinctions in the scrutiny provisions between non-unitary district council scrutiny committees and the scrutiny committees in other local authorities. This effectively places non-unitary district council scrutiny committees in the same position, with respect to partner authorities, as other overview and scrutiny committees in principal authorities. This leads to amendment 291 which removes section 9FH that provides the Secretary of State with the powers to make provision for scrutiny by district councils in county areas. These powers are no longer necessary as all principal local authorities will have equivalent scrutiny powers. Amendment 292 would remove subsections (4) to (7) of section 9FJ and simplifies the powers of the Secretary of State to make regulations on the information certain partner authorities must provide to scrutiny committees.

164. Amendments 275, 276, 293 and 330 are consequential on amendment 291.

Lords Amendments 294, 296, 297, 317, 324, 325, 329, 331 and 404

165. Lords Amendments 294 and 296 would remove from Schedule 2 to the Bill, new sections 9HA, 9HB, 9HC, 9HD, 9HE, 9HH and 9HI of the Local Government Act 2000, which would have provided for mayoral management arrangements. Under mayoral management arrangements the elected mayor would become the chief executive of their local authority.

166. Amendments 297 and 317 are consequential on the above amendments, and would delete new section 9HO of the 2000 Act (Elected mayors: restricted posts), including the power for the Secretary of State to specify, by regulations, additional posts in a local authority that an elected mayor may not hold. Amendments 324, 329, 331 also make consequential amendments to Schedule 3 to the Bill and amendment 404 make consequential amendments to Schedule 25 (Repeals and revocations) to the Bill.

Lords Amendments 298, 299, 300, 304-308 and 311-316

167. Amendment 312 would amend Schedule 2 to the Bill, new section 9N of the 2000 Act (*Power to implement change to mayor and cabinet executive*), by deleting the Secretary of State's power, by order to provide that a specified authority must move to the mayor and cabinet executive on a relevant date. It also deletes the concept of 'shadow mayor' whereby on the relevant date, specified in the order, the existing leader of the local authority becomes the 'shadow mayor'. The amendment would also delete the requirement at new section 9NB for an order made under new section 9N to include provision requiring the specified authority to hold a referendum on whether it should continue to operate the mayor and cabinet executive.

168. Amendment 312 would instead provide the Secretary of State with a power, by order, to require a specified local authority to hold a referendum on whether it should operate the mayor and cabinet executive. Lords amendments 298, 299, 300, 304, 305, 306, 307, 308, 311, 313, 314, 315 and 316 are all consequential on

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amendment 312.

Lords Amendments 301, 302 and 303

169. Lords amendments 301, 302 and 303 would amend Schedule 2, new section 9L to provide that a local authority may resolve to change its governance arrangements at any time and, save for local authorities moving to or from the mayor and cabinet executive, move to the new arrangements at its first annual meeting or a later annual meeting it specifies in its resolution.

170. The amendments provide that if a local authority resolves to move to the mayor and cabinet executive, it will change governance arrangements on the third day after the first election of a mayor. If a local authority resolves to move from the mayor and cabinet executive, it will change governance arrangements on the third day after the end of its current elected mayor's term of office.

Lords Amendments 309 and 310

171. Lords Amendments 309 and 310 would remove unnecessary provision from Schedule 2, new section 9MF in relation to the effect of the results of local authority governance referendums.

Lords Amendment 318 to 321 and 328

172. Amendments 318 to 321 and 328 replace, in Part 2 of Schedule 2 to the Bill, the now out of date term "local education authority", with the current terminology "a local authority which has education functions". The amendments also make a consequential amendment to Schedules 3.

Lords Amendment 326

173. This amendment would provide that regulations made by the Secretary of State under new section 9MG of the 2000 Act, as inserted by Schedule 2, in relation to the conduct of local authority governance referendums would be subject to the affirmative resolution procedure.

Lords Amendments 334 and 335

174. These amendments to the Council Tax Referendums provisions would mean that business voters in the City of London (those who are entitled to vote in ward elections because they occupy certain premises subject to non-domestic rates or are appointed by a qualifying body which occupies certain premises) will not be eligible to vote in a council tax referendum in the City of London. Without these amendments business voters would be able to vote in a council tax referendum in the City of London even though they may not be resident in the area.

Lords Amendments 336 and 345

175. These amendments would ensure that regulations made under new section 52ZQ should be subject to the affirmative procedure as recommended by the Delegated Powers and Regulatory Reform Committee.

Lord Amendments 337 to 344

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176. These amendments would provide that levies and special levies issued to local authorities by levying bodies are to be disregarded for the purposes of calculating whether a council tax increase is excessive and, as a result, authorities do not need to take these into account when determining whether it is necessary to hold a council tax referendum.

Lords Amendments 352, 353, 360-364, 366, 367, 371-380 and 382.

177. These amendments introduce the concept of a “business neighbourhood” where the right to vote in neighbourhood planning referendums will be extended to non-domestic rate payers.

178. Amendments 360, 361, 362, 363, 364 & 382 would insert a new section (section 61GA) into the Town and Country Planning Act 1990 after new section 61G. The effect would be to enable local planning authorities to designate a business neighbourhood area if they consider that the area is wholly or predominantly business in nature. The amendment would require a local planning authority to always consider, when designating a neighbourhood area under new section 61G, whether they should designate the area concerned as a business area. The amendments would also require local planning authorities to identify any business neighbourhood areas on their maps of neighbourhood areas which they are required to publish under subsection(8) of new section 61G .

179. Amendments 371, 372, 373, 374, 375, 376, 377, 378, 379 and 380 would insert new paragraph 14A into new Schedule 4B to the Town and Country Planning Act 1990 with the effect of requiring the local authority to hold an additional referendum in a business area. The new paragraph also sets out who can vote in that additional referendum – namely a non-domestic ratepayer on properties in the referendum area or persons who meet other conditions set out in secondary legislation.

180. Amendments 352, 353, 366 and 367 set out how referendums will be run in designated business neighbourhoods. This particularly allows for the situation where one referendum achieves more than half of those voting being in favour of the plan or order and one does not.

181. Lords amendment 352 would amend subsection(4) of new section 61E of the Town and Country Planning Act 1990, with the effect of requiring more than half of those voting in both the residential and non-residential referendums in a business neighbourhood to support the neighbourhood development order for it to be made by the local planning authority.

182. Lords amendment 353 would amend subsection(5) of new section 61E of the Town and Country Planning Act 1990 with the effect of empowering the local authority to make a neighbourhood development order in a business neighbourhood area, but not requiring it to do so, where more than half of those voting in one of the referendums in a business neighbourhood area have voted in favour of making the order.

These notes relate to the Lords Amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011.

183. Lords amendment 366 would amend subsection(4) of new section 38A of the Planning and Compulsory Purchase Act 2004, with the effect of requiring more than half of those voting in both the residential and non-residential referendums in a business neighbourhood to support the neighbourhood development plan for it to be made by the local planning authority.

184. Lords Amendment 367 would amend subsection(5) of new section 38A of the Planning and Compulsory Purchase Act 2004 with the effect of empowering the local authority to make a neighbourhood development plan in a business neighbourhood area, but not requiring it to do so, where more than half of those voting in one of the referendums in the business neighbourhood area have voted in favour of making the plan.

Lords Amendment 354

185. This amendment would amend new section 61F of the Town and Country Planning Act 1990 to require that to be designated as a neighbourhood forum a group or organization must have a purpose which seeks to promote the overall economic, social and environmental wellbeing of the neighbourhood area.

Lords Amendments 355 and 356

186. These amendments would insert a new subsection (8A) into new section 61F of the Town and Country Planning Act 1990, with the effect that a local planning authority could remove the designation of a neighbourhood forum if the forum no longer met the conditions and criteria that the local planning authority used when it designated the forum in the first place. Where the designation of a forum is withdrawn the authority must give reasons.

Lords Amendment 357

187. This amendment would amend subsection (11) of new section 61F of the Town and Country Planning Act 1990 to allow the Secretary of State to make regulations in relation to the de-designation of neighbourhood forums as well as in connection with the designation of forums.

Lords Amendment 358

188. This amendment would amend subsection (12) of new section 61F of the Town and Country Planning Act 1990 to allow the Secretary of State to make regulations that cover the suspension of duties on local planning authorities in relation to the validation and examination of neighbourhood planning proposals, where de-designation is being considered.

Lords Amendment 359

189. This amendment would add a new condition to section 61G(6) of the Town and Country Planning Act 1990 regarding the modification of designated neighbourhood areas by a local planning authority. The effect being that a local planning authority can only modify a designated neighbourhood area (i.e. by changing the boundary) for an area with a parish council, with the consent of that parish council.

These notes relate to the Lords Amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011.

Lords Amendment 365

190. This amendment would amend new section 38A(2) of the Planning and Compulsory Purchase Act 2004 with the effect of making it clear that neighbourhood development plan policies can apply to the whole or any part of a neighbourhood area – that is to say they do not need to have policies that apply across the whole neighbourhood areas.

Lords Amendment 368

191. This amendment would amend paragraph 2 of new Schedule 4B to the Town and Country Planning Act 1990, with the effect that proposals made by a forum which has its designation removed must be withdrawn before examination stage, but would still be considered a valid proposal if the proposals have reached examination.

Lords Amendment 369

192. This amendment would amend new Schedule 4B to the Town and Country Planning Act 1990 – to add a ‘consultation statement’ to the list of documents that must be submitted by a qualifying body to the local planning authority prior to independent examination. Under paragraph 4(3)(b) of new Schedule 4B, this amendment would mean that the local planning authority would have to be satisfied that such a statement had been supplied, before the local planning authority submitted the proposal for independent examination. This statement would need to set out details of those consulted in developing the neighbourhood plan or order, the key issues raised through the consultation and any other prescribed information. The amendment also requires the Government to use its regulation-making powers under paragraph 4(2)(d) to make particular consultation requirements before a neighbourhood planning proposal can be submitted to a local planning authority, and specifically to require a consultation statement to be submitted to the local planning authority prior to independent examination.

Lords Amendments 370

193. This amendment would amend paragraph 8(2) of new Schedule 4B to the Town and Country Planning Act 1990 to the Town and Country Planning Act 1990, with the effect of adding a new basic condition that all neighbourhood development plans and orders must meet, before they can proceed to referendum and brought into force by the local planning authority. The new basic condition requires that the making of a plan or order should contribute to the achievement of sustainable development.

Lords Amendment 381

194. This amendment would amend the consequential amendments in relation to neighbourhood planning (Schedule 12) to ensure that regulations on neighbourhood planning referendums are subject to the affirmative procedure. This implements the recommendation of the Delegated Powers and Regulatory Reform Committee.

These notes relate to the Lords Amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011.

Lords Amendment 384

195. Lords amendment 384 would make minor amendments to the Housing (Scotland) Act 2010 and the Equality Act 2010, to recognise the abolition of the Tenant Services Authority.

Lords Amendments 385

196. Lords amendment 385 would free up current restrictions on payments that housing associations may make to members, under Section 122 of the Housing and Regeneration Act 2008. It would give the Secretary of State an Order-making power to add to the permitted classes of payments that housing associations may make to their members. It would however require the Secretary of State to consult the Charity Commission, the Social Housing Regulator, and representatives of social landlords before making any order.

Lords Amendments 389 and 430

197. These amendments will ensure that, during a moratorium on the disposal of a private registered provider's land under section 145 of the Housing and Regeneration Act 2008, the GLA may not direct the provider to repay grant.

Lords Amendment 391

198. This amendment would add two sub-paragraphs to paragraph 1 of Schedule 21 by placing the Mayor under a duty to appoint to the Board a member of any borough council whose area was affected by the designation of a Mayoral development area. In appointing a member, the Mayor would have to ensure that the member had experience of and a demonstrable capacity in a matter relevant to the Mayoral Development Corporation's function and that the member did not have conflicting financial or other interests.

Lords Amendment 392

199. This amendment would add a sub-paragraph to paragraph 2, Schedule 21 to allow the Mayor to remove a borough member from a Mayoral Development Corporation Board if that member ceased to be a borough council member and the Mayor wished to appoint another member of the council in the person's place.

Lords Amendment 393

200. This amendment would remove the requirement for a Mayoral Development Corporation's committees and sub-committees to have a majority of Mayoral Development Corporation members.

Lords Amendment 394

201. This amendment would add a new sub-paragraph to paragraph 9, Schedule 21, to provide that the absence of at least one elected member from each affected borough council would not affect the validity of a Mayoral Development Corporation's proceedings.

These notes relate to the Lords Amendments to the Localism Bill, as brought from the House of Lords on 1 November 2011.

Lords Amendment 395

202. This amendment would amend Schedule 22 to add a Mayoral Development Corporation to the list of bodies defined as a local authority for the purposes of the Local Authorities (Goods and Services) Act 1970. This would allow a Mayoral Development Corporation to share administrative services and supply goods to local authorities on the same basis as the GLA and other functional bodies.

Lords Amendments 396, 397 and 398

203. These amendments would apply to Schedule 22, consequential amendments. Amendment 396 would include Mayoral Development Corporations in a list of bodies that could be investigated by the local government ombudsmen. Amendment 397 would ensure that, in delegating a function to a Mayoral Development Corporation, the Mayor would still be able to exercise that function himself. Amendment 398 would apply restrictions to the political activities of a Mayoral Development Corporation's staff and officers. It would also ensure that, in exercising a delegated function, a Mayoral Development Corporation would be subject to the same scrutiny, by a monitoring officer, that the GLA would be subject to were it to carry out the same function. This scrutiny would cover the Mayoral Development Corporation and its staff and members.

Lords Amendments 399- 402

204. Lords amendments 399, 400, 401 and 402 would amend Schedule 24 (Transfer and transfer schemes: tax) to apply this schedule to transfers made under the clause that would be inserted by Lords Amendment 6 in relation to transfer and delegation of functions to certain authorities.

Lords Amendments 404 -440

205. These amendments would amend the repeals schedule (Schedule 25) to ensure that it is fully consistent with the rest of the Bill.

Lords Amendment 441

206. This would amend the long title of the Bill to correct an error.

LOCALISM BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

*These notes refer to the Lords Amendments to the Localism Bill as brought
from the House of Lords on 1 November 2011 [Bill 244]*

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