

# Infrastructure Bill [HL]

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Transport, the Department for Communities and Local Government, the Department for Environment, Food and Rural Affairs, the Department for Business, Innovation and Skills and the Department of Energy and Climate Change are published separately as Bill 124 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Patrick McLoughlin has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Infrastructure Bill [HL] are compatible with the Convention rights.

# Infrastructure Bill [HL]

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**[NOTE: The words marked in bold type were inserted by the Lords to avoid questions of privilege.]**

A

# **B I L L**

TO

Make provision for strategic highways companies and the funding of transport services by land; to make provision for the control of invasive non-native species; to make provision about nationally significant infrastructure projects; to make provision about town and country planning; to make provision about the Homes and Communities Agency and Mayoral development corporations; to make provision about the Greater London Authority so far as it exercises functions for the purposes of housing and regeneration; to make provision about Her Majesty’s Land Registry and local land charges; to make provision enabling building regulations to provide for off-site carbon abatement measures; to make provision for giving members of communities the right to buy stakes in local renewable electricity generation facilities; to make provision about maximising economic recovery of petroleum in the United Kingdom; to provide for a levy to be charged on holders of certain energy licences; to enable Her Majesty’s Revenue and Customs to exercise functions in connection with the Extractive Industries Transparency Initiative; to make provision for underground access to deep-level land for the purposes of exploiting petroleum or deep geothermal energy; to make provision about renewable heat incentives; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## **PART 1**

### STRATEGIC HIGHWAYS COMPANIES

#### *Appointment as highway authorities*

#### **1 Appointment of strategic highways companies**

- (1) The Secretary of State may by order in accordance with this Part appoint one or more companies as a highway authority. 5
- (2) A company may only be appointed under this section if it is—
  - (a) limited by shares, and

- (b) wholly owned by the Secretary of State.
- (3) The appointment of a company terminates (in addition to termination by revocation of the order making the appointment) if the company ceases to be wholly owned by the Secretary of State.
- (4) A company appointed under this section is called a “strategic highways company” 5
- (5) In this section, “company” means a company registered under the Companies Act 2006.
- (6) Schedule 1 (which contains consequential and supplemental amendments) has effect. 10

## 2 Areas and highways in an appointment

- (1) The appointment of a strategic highways company must specify –
- (a) an area, consisting of the whole or any part of England, in respect of which the company is appointed;
- (b) highways in that area for which the company is to be the highway authority. 15
- (2) Highways may be specified under subsection (1)(b) by name or description.
- (3) Highways specified under subsection (1)(b) must be highways for which the Secretary of State or another strategic highways company is the highway authority immediately before the appointment has effect. 20
- (4) In the case of a strategic highways company appointed for an area adjacent to Wales, the highways specified under subsection (1)(b) may (subject to subsection (3)) include highways in Wales.
- (5) Where –
- (a) the appointment of a strategic highways company is varied, and 25
- (b) by virtue of that variation the company ceases to be the highway authority for one or more highways,
- the Secretary of State becomes the highway authority for those highways (to the extent that he or she would not otherwise be so).
- (6) Where the appointment of a strategic highways company terminates, the Secretary of State becomes the highway authority for any highway for which the strategic highways company is highway authority (whether by virtue of the appointment or otherwise) immediately before the termination. 30
- (7) Subsections (5) and (6) are subject to the appointment of another strategic highways company. 35

### *Functions*

## 3 Road Investment Strategy

- (1) The Secretary of State may at any time –
- (a) set a Road Investment Strategy for a strategic highways company, or
- (b) vary a Strategy which has already been set. 40

- (2) A Road Investment Strategy is to relate to such period as the Secretary of State considers appropriate.
- (3) A Road Investment Strategy must specify –
  - (a) the objectives to be achieved by the company during the period to which it relates, and 5
  - (b) the financial resources to be provided by the Secretary of State for the purpose of achieving those objectives.
- (4) The objectives to be achieved may include –
  - (a) activities to be performed;
  - (b) results to be achieved; 10
  - (c) standards to be met.
- (5) In setting or varying a Road Investment Strategy, the Secretary of State must have regard, in particular, to the effect of the Strategy on –
  - (a) the environment, and
  - (b) the safety of users of highways. 15
- (6) The Secretary of State and the company must comply with the Road Investment Strategy.
- (7) If a strategic highways company does not have a Road Investment Strategy currently in place, the Secretary of State must –
  - (a) lay before Parliament a report explaining why a Strategy has not been set, and 20
  - (b) set a Road Investment Strategy as soon as may be reasonably practicable.
- (8) Schedule 2 (which contains provision about the procedure for setting or varying a Road Investment Strategy) has effect. 25

#### **4 General duties of a strategic highways company**

- (1) A strategic highways company must, in exercising its functions, co-operate in so far as reasonably practicable with other persons exercising functions which relate to –
  - (a) highways, or 30
  - (b) planning.
- (2) A strategic highways company must also, in exercising its functions, have regard to the effect of the exercise of those functions on –
  - (a) the environment, and
  - (b) the safety of users of highways. 35

#### **5 Directions and guidance**

- (1) The Secretary of State may from time to time give a strategic highways company directions or guidance as to the manner in which it is to exercise its functions.
- (2) Directions under subsection (1) may provide, in particular, that a function is only to be exercised –
  - (a) after consultation with the Secretary of State, or
  - (b) with the consent of the Secretary of State. 40



- (3) In exercising its functions, a strategic highways company must –
- (a) comply with a direction, and
  - (b) have regard to guidance, given to it under subsection (1).
- (4) Directions and guidance under subsection (1) must be published by the Secretary of State in such manner as he or she considers appropriate. 5

## 6 Delegation of functions

- (1) A strategic highways company may authorise another person to exercise a function it has under any enactment, if the function is prescribed by regulations made by the Secretary of State. 10
- (2) An authorisation may authorise the exercise of a function –
- (a) wholly or to any other extent;
  - (b) generally or only in some cases or areas;
  - (c) unconditionally or subject to conditions.
- (3) An authorisation – 15
- (a) does not prevent the company or any other person from exercising the function to which the authorisation relates,
  - (b) may be for a period not exceeding ten years, and
  - (c) may be revoked at any time.
- (4) The strategic highways company may – 20
- (a) enter into a contract with an authorised person in connection with the exercise by that person of a function;
  - (b) make payments to an authorised person in that connection.
- (5) Where an authorisation is revoked at a time when a contract in connection with the exercise of a function is subsisting, the authorised person is entitled to treat the contract as repudiated by the company (and not as frustrated by reason of the revocation). 25
- (6) Regulations under this section may not prescribe a function if it is –
- (a) a power of entry, or
  - (b) a power or duty to make subordinate legislation. 30
- (7) Where a function of the Secretary of State is transferred to a strategic highways company under this Part and is, immediately before the transfer, authorised to be exercised by another person by an order under section 69 of the Deregulation and Contracting Out Act 1994 –
- (a) the authorisation is to have effect as if it had been given by the transferee company under this section, and 35
  - (b) if the function is not prescribed under subsection (1), it is to be regarded as having been so prescribed.
- (8) Where a function of a strategic highways company is transferred to another such company under this Part and is, immediately before the transfer, authorised to be exercised by another person under this section, the authorisation is to have effect as if it had been given by the transferee company under this section. 40

## 7 Exercise of delegated functions

- (1) A function to which an authorisation under section 6 relates may be exercised by –
  - (a) the authorised person, or
  - (b) an employee of that person. 5
- (2) Anything done by, or in relation to, the authorised person or that person’s employee in connection with the exercise of a function is to be treated as done by, or in relation to, the company.
- (3) Subsection (2) –
  - (a) does not affect the rights and liabilities of the strategic highways company and the authorised person as between one another, 10
  - (b) does not make the strategic highways company liable under section 6 of the Human Rights Act 1998 in respect of any act (within the meaning of that section) of the authorised person or an employee of the authorised person if the act is of a private nature, 15
  - (c) does not prevent any civil proceedings which could otherwise be brought by or against the authorised person from being brought, and
  - (d) does not apply for the purposes of any criminal proceedings brought in respect of anything done by the authorised person or that person’s employee. 20
- (4) Schedule 15 to the Deregulation and Contracting Out Act 1994 (restrictions on disclosure of information) applies to an authorisation under section 6 as it applies to an authorisation of the Secretary of State under Part 2 of that Act (contracting out).
- (5) In this section –
  - (a) “employee”, in relation to a body corporate, includes a director or other officer of the body; 25
  - (b) references to anything done include anything omitted to be done;
  - (c) references to the exercise of a function include the purported exercise of a function. 30

### *Oversight*

## 8 Watchdog

- (1) The Passengers’ Council must carry out activities to protect and promote the interests of users of highways for which a strategic highways company is the highway authority. 35
- (2) Those activities may include investigating, publishing reports or giving advice to the Secretary of State on –
  - (a) how a strategic highways company’s exercise of its functions or achievement of its objectives under a Road Investment Strategy affects users of highways for which it is the highway authority, and 40
  - (b) any other matters –
    - (i) relating to highways for which a strategic highways company is the highway authority, and
    - (ii) which the Council considers to be of interest to users of such highways. 45

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- (3) The Secretary of State may by regulations provide that those activities may not relate to a matter –
- (a) to the extent specified;
  - (b) subject to compliance with specified conditions.
- (4) The Secretary of State must consult the Council before making regulations under subsection (3). 5
- (5) The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Council under this section.
- (6) The Council may by agreement with a local highway authority carry out activities to protect and promote the interests of users of highways for which the authority is the highway authority. 10
- (7) Those activities may include investigating, publishing reports or giving advice to the local highway authority on any matters –
- (a) relating to highways for which the authority is the highway authority, and
  - (b) which the authority and the Council consider to be of interest to users of such highways. 15
- (8) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert –  
“The Passengers’ Council.” 20

## 9 Monitor

- (1) The Office of Rail Regulation must carry out activities to monitor how a strategic highways company exercises its functions.
- (2) Those activities may include investigating, publishing reports or giving advice to the Secretary of State on –
- (a) whether, how and at what cost a strategic highways company has achieved its objectives under a Road Investment Strategy, and
  - (b) objectives for a future Road Investment Strategy. 25
- (3) The Office may direct a strategic highways company to provide such information as the Office considers necessary for the purpose of carrying out activities under subsection (1). 30
- (4) A direction under subsection (3) may specify the form and manner in which the information is to be provided.
- (5) A direction under subsection (3) may not require –
- (a) production of a document which the strategic highways company could not be compelled to produce in civil proceedings, or
  - (b) provision of information which the company could not be compelled to give in evidence in such proceedings. 35
- (6) The strategic highways company must comply with a direction under subsection (3). 40
- (7) The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Office under this section.

## 10 Monitor: compliance and fines

- (1) If the Office of Rail Regulation is satisfied that a strategic highways company has contravened or is contravening –
  - (a) section 3(6) (compliance with the Road Investment Strategy), or
  - (b) section 5(3) (compliance with directions and regard to guidance),the Office may take one or more of the steps mentioned in subsection (2). 5
- (2) The Office may –
  - (a) give notice to the company as to the contravention and the steps the company must take in order to remedy it;
  - (b) require the company to pay a fine to the Secretary of State. 10

## 11 Monitor: general duties

- (1) The Office of Rail Regulation must exercise its functions under sections 9 and 10 in the way that it considers most likely to promote –
  - (a) the performance, and
  - (b) the efficiency,of the strategic highways company. 15
- (2) The Office must also, in exercising those functions, have regard to –
  - (a) the interests of users of highways,
  - (b) the safety of users of highways,
  - (c) the economic impact of the way in which the strategic highways company achieves its objectives, 20
  - (d) the environmental impact of the way in which the strategic highways company achieves its objectives,
  - (e) the long-term maintenance and management of highways, and
  - (f) the principles in subsection (3). 25
- (3) The principles are that –
  - (a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and
  - (b) regulatory activities should be targeted only at cases in which action is needed. 30

## 12 Monitor: guidance

- (1) The Secretary of State may from time to time give the Office of Rail Regulation guidance as to the manner in which it is to carry out its activities under section 9.
- (2) The Secretary of State and the Treasury, acting jointly, must give the Office guidance as to the circumstances in which the payment of a fine under section 10 should be required. 35
- (3) The Office must have regard to guidance given to it under this section.
- (4) Guidance under this section must be published by the Secretary of State in such manner as he or she considers appropriate. 40

*Transfers of property etc***13 Transfer schemes**

- (1) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities –
- (a) from the Secretary of State to one or more of the following – 5
    - (i) a strategic highways company, or
    - (ii) a proposed strategic highways company;
  - (b) from a strategic highways company or a former strategic highways company to one or more of the following – 10
    - (i) the Secretary of State,
    - (ii) a strategic highways company, or
    - (iii) a proposed strategic highways company.
- (2) In making a transfer scheme the Secretary of State must have regard to –
- (a) the functions, or the proposed functions, of the transferee under any enactment, and 15
  - (b) the terms of appointment, or proposed terms of appointment, of a strategic highways company, or a proposed strategic highways company, to which the scheme relates.
- (3) Schedule 3 (which contains more provision about transfer schemes) has effect.
- (4) In this section and Schedule 3 – 20
- “proposed strategic highways company” means a company which the Secretary of State proposes to appoint as a strategic highways company;
  - “former strategic highways company” means a company in respect of which such an appointment has terminated. 25

**14 Tax consequences of transfers**

- (1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to –
- (a) any property, rights or liabilities which are transferred by virtue of a transfer to which this section applies, or 30
  - (b) anything done for the purposes of, or in relation to, or in consequence of, a transfer to which this section applies.
- (2) This section applies to –
- (a) a transfer of property, rights and liabilities in accordance with a scheme under section 13, or 35
  - (b) a transfer occurring under section 263 of the Highways Act 1980 (vesting of highway in highways authority) by virtue of the appointment of a strategic highway company under section 1 or the variation or termination of such an appointment.
- (3) The provision that may be made under subsection (1)(a) includes, in particular, provision for – 40
- (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
  - (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision; 45

- (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred. 5
- (4) The provision that may be made under subsection (1)(b) includes, in particular, provision for –
  - (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer; 10
  - (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or to be treated in a specified way;
  - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer. 15
- (5) In this section –
  - (a) “relevant tax” means income tax, corporation tax, capital gains tax or stamp duty; 20
  - (b) “tax provision” means a provision of an enactment about a relevant tax.
- (6) References in this section to the transfer of property, rights or liabilities in accordance with a scheme under section 13 include references to –
  - (a) the creation of interests, rights or liabilities under the scheme, and 25
  - (b) the modification of interests, rights or liabilities under the scheme, (and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).

*Finance*

- 15 Financial assistance** 30
- (1) The Secretary of State may provide financial assistance –
    - (a) to a strategic highways company, for the purpose of any of its functions, or
    - (b) to any other person, for the promotion or improvement of transport services by land in England. 35
  - (2) Financial assistance may be provided in such form and on such terms as the Secretary of State considers appropriate.
  - (3) The form in which financial assistance may be provided include in particular –
    - (a) grants,
    - (b) loans, or 40
    - (c) guarantees.
  - (4) The terms on which financial assistance may be provided include in particular –
    - (a) in the case of a grant or a loan, terms as to repayment;
    - (b) in the case of a guarantee, terms as to reimbursement. 45

- (5) Subsection (1) does not affect any other power of the Secretary of State to provide financial assistance.
- (6) Subsection (1)(b) does not authorise the Secretary of State to provide financial assistance that he or she may provide under section 6 of the Railways Act 2005 (financial assistance relating to rail services). 5
- (7) In section 17(1)(e) of the Ministry of Transport Act 1919 (power to make advances for the promotion and improvement of transport services by land or water), after “by land” insert “in Wales”.

*Supplemental and general*

**16 Transfer of additional functions** 10

- (1) The Secretary of State may by regulations provide that a transferable function of the Secretary of State, other than an excluded function, is transferred to a strategic highways company.
- (2) A transferable function is a function under any enactment which relates to—  
(a) highways; 15  
(b) planning.
- (3) An excluded function is a function which—  
(a) is exercisable by statutory instrument;  
(b) relates to giving consent (however expressed) to the proposed exercise of a function by any other— 20  
(i) highway authority (within the meaning of the Highways Act 1980);  
(ii) traffic authority (within the meaning of the Road Traffic Regulation Act 1984).
- (4) Regulations under this section may provide for the function to be exercisable— 25  
(a) concurrently with the Secretary of State;  
(b) only with the consent of the Secretary of State;  
(c) subject to such other conditions as the Secretary of State considers appropriate.
- (5) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed). 30

**17 Consequential and transitional provision etc**

- (1) The Secretary of State may by regulations make—  
(a) consequential, supplementary or incidental provision, or 35  
(b) transitional or transitory provision or savings,  
in connection with an order under section 1 or any other provision made by or under this Part.
- (2) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed). 40

## 18 Interpretation of Part 1

In this Part –

- “enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978;
- “highway” has the same meaning as in the Highways Act 1980;
- “local highway authority” has the same meaning as in that Act;
- “users of highways” includes cyclists and pedestrians.

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### PART 2

#### POWERS OF BRITISH TRANSPORT POLICE FORCE

## 19 Powers of British Transport Police Force

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- (1) In section 100 of the Anti-terrorism, Crime and Security Act 2001 (jurisdiction of transport police) –
  - (a) in subsection (2)(b), after “personal injury” insert “or damage to property”, and
  - (b) omit subsection (3)(a).
- (2) In section 172 of the Road Traffic Act 1988 (duty to give information as to identity of driver etc in certain circumstances), in subsection (2)(a), after “chief officer of police” insert “or the Chief Constable of the British Transport Police Force”.

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### PART 3

#### ENVIRONMENTAL CONTROL OF ANIMAL AND PLANT SPECIES

## 20 Environment control of animal and plant species

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- (1) The Wildlife and Countryside Act 1981 is amended as follows.
- (2) In section 14 (introduction of new species etc), after subsection (4) insert –

“(4A) Schedule 9A contains provision about species control agreements and orders and related matters.”
- (3) After Schedule 9 insert –

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#### “SCHEDULE 9A

Section 14(4A)

#### SPECIES CONTROL AGREEMENTS AND ORDERS (ENGLAND AND WALES)

### PART 1

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#### OVERVIEW AND INTERPRETATION

##### Overview

- 1 (1) This Schedule provides for –
  - (a) species control agreements between environmental authorities and owners of premises, and
  - (b) species control orders made by environmental authorities,

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and for related matters.

- (2) A species control agreement or species control order may relate to—
- (a) an invasive non-native species of animal or plant, or
  - (b) a species of animal that is no longer normally present in Great Britain.

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This is subject to the other provisions of this Schedule.

- (3) The following definitions apply for the purposes of this Schedule.

*Invasive non-native species*

- 2 (1) “Species” means any kind of animal or plant.
- (2) A species is “invasive” if, uncontrolled, it would be likely to have a significant adverse impact on—
- (a) biodiversity,
  - (b) other environmental interests, or
  - (c) social or economic interests.
- (3) A species is “non-native” if—
- (a) it is listed in Part 1 or 2 of Schedule 9, or
  - (b) in the case of a species of animal, it is a species—
    - (i) whose natural range does not include any part of Great Britain, and
    - (ii) which has been introduced into Great Britain or is present in Great Britain because of other human activity.
- (4) References to a species being “present” on premises include its being present at any stage in its life-cycle (for example, as eggs or seeds).

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*Species that are no longer normally present in Great Britain*

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- 3 A species of animal is “no longer normally present in Great Britain” if—
- (a) it is a species listed in Part 1B of Schedule 9, or
  - (b) it is a species—
    - (i) whose natural range includes all or any part of Great Britain, and
    - (ii) which has ceased to be ordinarily resident in, or a regular visitor to, Great Britain in a wild state.

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*Environmental authorities*

- 4 (1) “Environmental authority”, in relation to premises in England, means—
- (a) the Secretary of State,
  - (b) the Environment Agency,
  - (c) Natural England, and
  - (d) the Forestry Commissioners.
- (2) “Environmental authority”, in relation to premises in Wales, means—

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- (a) the Welsh Ministers, and
- (b) the Natural Resources Body for Wales.

*Owners and dwellings*

- 5 (1) “Owner”, in relation to premises consisting of land, means –
- (a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion, or
  - (b) a person in possession under a lease.
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- (2) “Dwelling” means a building or structure, or part of a building or structure, occupied wholly or mainly as a dwelling.
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*Operations*

- 6 (1) “Species control operations” are operations to do one or more of the following –
- (a) eradicate a species from premises;
  - (b) control a species on premises;
  - (c) prevent a species from returning to premises.
- 15
- (2) References to “carrying out” operations include arranging for operations to be carried out.

## PART 2

SPECIES CONTROL AGREEMENTS 20*Making of species control agreements*

- 7 (1) An environmental authority may enter into a “species control agreement” with an owner of any premises where the authority considers that there is present on the premises –
- (a) an invasive non-native species, or
  - (b) a species of animal that is no longer normally present in Great Britain.
- 25
- (2) Under a species control agreement the parties agree to the carrying out of species control operations.
- (3) Before entering into a species control agreement with an owner, an environmental authority must be satisfied that –
- (a) the provisions of the agreement are proportionate to the objective to be achieved, and
  - (b) in a case where there is more than one owner, the owner with whom the agreement is entered into is the most appropriate one.
- 30
- (4) Before entering into a species control agreement relating to animals of a species that is no longer normally present in Great Britain, the environmental authority must also be satisfied that –
- (a) the animals are present on the premises otherwise than under and in accordance with the terms of a licence under section 16(4)(c),
- 40

- (b) the animals on the premises are having a significant adverse impact on—
    - (i) biodiversity,
    - (ii) other environmental interests, or
    - (iii) social or economic interests, and
  - (c) there is no appropriate alternative way of obviating that impact. 5
- (5) A species control agreement may not be entered into in relation to premises consisting of a dwelling except where the environmental authority is the Secretary of State or the Welsh Ministers. 10

#### *Content of species control agreements*

- 8 (1) A species control agreement must provide for—
- (a) the species control operations to be carried out,
  - (b) the party who is to carry them out, and
  - (c) the time by which they are to be carried out. 15
- (2) A species control agreement may contain such supplementary provision as the parties consider appropriate.
- (3) That may include provision as to—
- (a) how species control operations are to be carried out,
  - (b) payment to be made by either party to the other, or to another person, in respect of the species control operations to be carried out, or
  - (c) any species control operations that must not be carried out. 20

#### *Liability*

- 9 An environmental authority is not liable to a person with an interest in the premises, other than the owner with whom a species control agreement is entered into, for anything done by the authority pursuant to the agreement. 25

### PART 3

#### SPECIES CONTROL ORDERS 30

#### *When a species control order may be made*

- 10 (1) An environmental authority may make a species control order in relation to premises if—
- (a) it considers that there is present on the premises—
    - (i) an invasive non-native species, or
    - (ii) a species of animal that is no longer normally present in Great Britain, and
  - (b) any of the following circumstances apply. 35
- (2) The circumstances are—
- (a) the environmental authority considers that an owner has failed to comply with a species control agreement entered into with the environmental authority and, having been 40

- given notice to that effect and a reasonable opportunity to rectify the failure, has not done so;
- (b) the environmental authority has offered to enter into a species control agreement with an owner but—
- (i) the owner has refused to enter into any kind of species control agreement, or 5
- (ii) no species control agreement has been entered into in respect of the premises by the end of the period of 42 days beginning with the day after the offer was made and the authority considers it unlikely that the owner will enter any kind of such agreement; 10
- (c) the environmental authority considers that the making of the order is urgently necessary;
- (d) the environmental authority has been unable to identify an owner, having— 15
- (i) placed on the premises a conspicuous notice of its desire to enter into a species control agreement, and
- (ii) waited for 5 days after the day on which the notice was placed.
- (3) Before making a species control order, an environmental authority must be satisfied that the provisions of the order are proportionate to the objective to be achieved. 20
- (4) Before making a species control order relating to animals of a species that is no longer normally present in Great Britain, the environmental authority must also be satisfied that— 25
- (a) the animals are present on the premises otherwise than under and in accordance with the terms of a licence under section 16(4)(c),
- (b) the animals on the premises are having a significant adverse impact on— 30
- (i) biodiversity,
- (ii) other environmental interests, or
- (iii) social or economic interests, and
- (c) there is no appropriate alternative way of obviating that impact. 35
- (5) A species control order may not be made in relation to premises consisting of a dwelling except by the Secretary of State or the Welsh Ministers.

*What an order must do*

- 11 (1) A species control order under paragraph 10(2)(a) or (b) (failure to comply with or enter into agreement) must contain provision— 40
- (a) requiring the owner specified in that paragraph to carry out species control operations, or
- (b) stating that the environmental authority proposes to carry out species control operations, 45
- or both.
- (2) A species control order under paragraph 10(2)(c) (emergency) must contain provision—

- (a) requiring any owner of the premises specified in the order to carry out species control operations, or
- (b) stating that the environmental authority proposes to carry out species control operations,
- or both. 5
- (3) A species control order under paragraph 10(2)(d) (no identifiable owner) must contain provision stating that the environmental authority proposes to carry out species control operations.
- 12 (1) A species control order must – 10
- (a) specify the species to which the order relates,
- (b) specify the species control operations to be carried out,
- (c) specify the time by which the species control operations must be carried out or (as the case may be) the time by which they are proposed to be carried out by the authority, and
- (d) if appropriate, include a map of the premises to which the order relates. 15
- (2) Unless it is made under paragraph 10(2)(c) (emergency), a species control order –
- (a) may not require an owner of premises to carry out species control operations, or provide for an environmental authority to carry out species control operations, before the end of the period in which an appeal may be made (see paragraph 16), and 20
- (b) must provide that if an appeal is made within that period, the owner need not carry out the operations, or the environmental authority shall not carry out the operations, before the appeal is withdrawn or finally determined. 25

*What an order may do*

- 13 (1) A species control order may contain provision supplementary to that specified in paragraphs 11 and 12. 30
- (2) That may include provision as to –
- (a) how species control operations are to be carried out;
- (b) payment to be made by the environmental authority to – 35
- (i) an owner, in respect of the reasonable costs of operations to be carried out by the owner, or
- (ii) another person, in respect of the reasonable costs of operations to be carried out by an owner;
- (c) payment that an owner must make in respect of the reasonable costs of species control operations to be carried out by the environmental authority; 40
- (d) species control operations that an owner must not carry out;
- (e) who will carry out species control operations for the environmental authority.

*Notice*

- 14 (1) After making a species control order, an environmental authority must forthwith give notice of it to – 45

- (a) all owners of the premises of whom the environmental authority is aware,
  - (b) the Secretary of State, if the environmental authority is the Environment Agency, Natural England or the Forestry Commissioners, and 5
  - (c) the Welsh Ministers, if the environmental authority is the Natural Resources Body for Wales.
- (2) In the case of an order under paragraph 10(2)(d) (no identifiable owner), the environmental authority must also give notice of the order by placing it on the premises conspicuously. 10
- (3) Notice under this paragraph must include –
- (a) reasons for making the species control order, and
  - (b) reasons for any requirement imposed by it on an owner.

*Revocation*

- 15 (1) An environmental authority may at any time revoke a species control order made by it. 15  
This does not stop it from making another one in respect of the same premises.
- (2) Notice of revocation must be given as specified in paragraph 14 (but reasons need not be given). 20

*Appeals*

- 16 (1) An owner of premises in relation to which a species control order is made may appeal to the First-tier Tribunal against – 25
- (a) the making of the order, or
  - (b) any provision of the order.
- (2) The First-tier Tribunal may –
- (a) affirm the order,
  - (b) direct the environmental authority which made the order to revoke or amend it,
  - (c) in the case of an order under paragraph 10(2)(c) (emergency), suspend the order, or 30
  - (d) make such other order as the Tribunal thinks fit.

*Notice of compliance*

- 17 Where an environmental authority considers that an owner of premises has complied with all the requirements in a species control order to carry out species control operations, the authority must give the owner notice to that effect. 35

*Enforcement*

- 18 (1) This paragraph applies where an environmental authority considers that an owner of premises required by a species control order to carry out a species control operation has not done so by the date or in the way specified in the order. 40

- (2) The authority must give the owner notice to that effect.
- (3) Sub-paragraphs (4) to (6) apply if, after a week after giving notice under sub-paragraph (2), the authority considers that the owner has still not carried out the species control operation in the way specified in the order. 5
- (4) The authority may carry out the operation itself or carry out such further work as is necessary to ensure that the operation is carried out in the way specified in the order.
- (5) The authority may recover from the owner any expenses reasonably incurred by it in doing so (less any payment which the authority would apart from this paragraph have been required to make to the owner in respect of the carrying out of the operations by the owner). 10
- (6) The authority is not required to make any payment provided for under paragraph 13(2)(b) in relation to the operation (and may recover any payment made under that paragraph). 15

#### *Offences*

- 19 (1) A person who, without reasonable excuse, fails to comply with a requirement imposed on that person by a species control order commits an offence.
- (2) A person who intentionally obstructs a person from carrying out an operation required or proposed under a species control order commits an offence. 20
- (3) A person guilty of an offence under sub-paragraph (1) or (2) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or a fine, or both. 25
- (4) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (3) to 51 weeks is to be read as a reference to 6 months.
- (5) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in sub-paragraph (3) to a fine is to be read as a reference to a fine not exceeding £40,000. 30

#### *Liability*

- 20 (1) An owner of premises is not liable to any other person for doing anything required to be done by a species control order. 35
- (2) An environmental authority is not liable to a person with an interest in premises for anything done –
- (a) by an owner pursuant to a requirement included in a species control order, or
- (b) by the authority pursuant to – 40
- (i) provision included in a species control order under paragraph 11(1)(b), (2)(b) or (3), or
- (ii) paragraph 18(4).

PART 4

POWERS OF ENTRY

*Powers of entry*

- 21 (1) A person who is authorised to do so may enter any premises to –
- (a) assist an environmental authority to determine whether to offer to enter into a species agreement with a person, 5
  - (b) assist an environmental authority to determine whether to make or revoke a species control order,
  - (c) investigate suspected non-compliance with a species control agreement or a species control order, 10
  - (d) carry out species control operations for an environmental authority under a species control order,
  - (e) place a notice as specified in paragraph 10(2)(d)(i) or 14(2) (no identifiable owner), or
  - (f) carry out species control operations or work pursuant to paragraph 18(4). 15

This is subject to the other provisions of this Schedule.

- (2) A person may not enter premises under sub-paragraph (1)(a) or (b) with a view to establishing whether a species is present unless the environmental authority has reasonable grounds for suspecting that it is. 20

*Authorisation by justice of the peace*

- 22 (1) To enter premises under paragraph 21 a person must be authorised by a warrant issued by a justice of the peace where –
- (a) the premises consist of a dwelling or a garden, yard, outbuildings or other land used or enjoyed wholly with a dwelling, 25
  - (b) admission to the premises has been refused by an owner or refusal is reasonably apprehended,
  - (c) the premises are unoccupied, 30
  - (d) the owner is temporarily absent,
  - (e) giving notice would defeat the purpose of entry,
  - (f) entry is to carry out species control operations for an environmental authority under an order under paragraph 10(2)(c) (emergency), 35
  - (g) entry is to carry out species control operations for an environmental authority under an order under paragraph 10(2)(d) (no identifiable owner),
  - (h) entry is to place a notice as specified in paragraph 10(2)(d)(i) or 14(2), or 40
  - (i) entry is to carry out operations or work pursuant to paragraph 18(4) which the environmental authority considers to be urgently necessary.
- (2) A justice of the peace may not grant a warrant –
- (a) in the circumstances in sub-paragraph (1)(a) to (d) unless satisfied that reasonable notice of the proposed entry has 45



- been given to all owners of the premises of whom the environmental authority is aware, or
- (b) in the circumstances in paragraph (1)(g) unless satisfied that the requirement in paragraph 14(2) (notice) has been met.
- (3) For the purposes of sub-paragraph (2)(a) less than 48 hours' notice is not reasonable. 5
- (4) A warrant may authorise a person to use reasonable force if necessary, but a person so authorised –
- (a) must be accompanied by a constable when doing so, and
- (b) may not use force against an individual. 10

*Authorisation by environmental authority*

- 23 (1) To enter premises under paragraph 21 in circumstances other than those specified in paragraph 22(1), a person must be authorised in writing by the environmental authority.
- (2) A person authorised by an environmental authority may not demand admission as of right to any premises unless reasonable notice has been given to all owners of the premises of whom the authority is aware. 15
- (3) For these purposes less than 48 hours' notice is not reasonable.

*Exercise of right of entry* 20

- 24 (1) A right of entry under paragraph 21 is exercisable at any reasonable time.
- (2) A person authorised under paragraph 22 or 23 to enter premises must, if so required before entering, produce evidence of his or her warrant or other authorisation and state the purpose of entry. 25
- (3) A person entering premises under paragraph 21 may –
- (a) take on to the premises such other persons as may be necessary;
- (b) take any equipment, machinery or materials on to the premises; 30
- (c) take samples of anything in or on the premises.
- (4) A person who enters premises under paragraph 21 which are unoccupied or from which the owner is temporarily absent must, on departure, leave them as effectively secured as they were on entry.

PART 5 35

SUPPLEMENTARY

*Compensation*

- 25 (1) The Secretary of State and the Welsh Ministers may (separately or jointly) make arrangements for the payment of compensation to an owner of premises in respect of financial loss resulting from – 40
- (a) a species control agreement or order, or

(b) the exercise of the powers of entry under this Schedule.

(2) The arrangements may secure that compensation is payable only for financial loss above a specified amount.

*Codes of practice*

- 26 (1) The Secretary of State must issue a code of practice in relation to species control agreements and orders in England. 5
- (2) A code under this paragraph must in particular provide guidance to environmental authorities in England on—
- (a) when to offer to enter into a species control agreement;
  - (b) how to go about entering into a species control agreement; 10
  - (c) what a species control agreement should contain (and in particular what it should contain by way of provision about payment of costs);
  - (d) when to make a species control order;
  - (e) what a species control order should contain (and in particular what it should contain by way of provision about payment and recovery of costs); 15
  - (f) standards of animal welfare to be met in connection with species control agreements and orders.
- (3) A code under this paragraph may be revised or replaced. 20
- (4) Before issuing (or revising or replacing) a code under this paragraph the Secretary of State must carry out a public consultation.
- (5) The Secretary of State must—
- (a) ensure that a code under this paragraph is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it, and 25
  - (b) lay a copy of a code under this paragraph before Parliament.
- 27 (1) The Welsh Ministers must issue a code of practice in relation to species control agreements and orders in Wales.
- (2) A code under this paragraph must in particular provide guidance to environmental authorities in Wales on—
- (a) when to offer to enter into a species control agreement;
  - (b) how to go about entering into a species control agreement;
  - (c) what a species control agreement should contain (and in particular what it should contain by way of provision about payment of costs); 35
  - (d) when to make a species control order;
  - (e) what a species control order should contain (and in particular what it should contain by way of provision about payment and recovery of costs); 40
  - (f) standards of animal welfare to be met in connection with species control agreements and orders.
- (3) A code under this paragraph may be revised or replaced.
- (4) Before issuing (or revising or replacing) a code under this paragraph the Welsh Ministers must carry out a public consultation. 45

- (5) The Welsh Ministers must –
- (a) ensure that a code under this paragraph is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it, and
  - (b) lay a copy of a code under this paragraph before the National Assembly for Wales. 5
- 28 (1) A person’s failure to comply with a provision of a code under paragraph 26 or 27 does not make the person liable to civil or criminal proceedings.
- (2) A code under paragraph 26 or 27 – 10
    - (a) is admissible in evidence in any civil proceedings, and
    - (b) must be taken into account by a court in any civil proceedings in which it appears to the court to be relevant.”
- (4) In section 19 (enforcement), at the end insert –
- “(9) This section does not apply in relation to offences under Schedule 9A.” 15
- (5) In section 25 (functions of local authorities), at the end insert –
- “(3) Nothing in this section applies in relation to Schedule 9A or orders or offences under it.”
- (6) In section 26 (regulations, orders, notices etc), at the end insert –
- “(7) In this section references to orders do not include species control orders under Schedule 9A.” 20

## 21 Native and non-native species etc

- (1) Schedule 9 to the Wildlife and Countryside Act 1981 (animals and plants to which section 14 of that Act applies) is amended as follows.
- (2) In the heading to Part 1, at the beginning insert “NON-NATIVE”. 25
- (3) In Part 1, omit the entries relating to the wild boar, capercaillie, chough, corncrake, common crane, white-tailed eagle, goshawk, red kite and barn owl.
- (4) After Part 1 insert –

### “PART IA

#### NATIVE ANIMALS 30

<i>Common name</i>	<i>Scientific name</i>	
Capercaillie	<i>Tetrao urogallus</i>	
Chough	<i>Pyrrhocorax pyrrhocorax</i>	
Corncrake	<i>Crex crex</i>	
Crane, Common	<i>Grus grus</i>	35
Eagle, White-tailed	<i>Haliaeetus albicilla</i>	

<i>Common name</i>	<i>Scientific name</i>
Goshawk	Accipiter gentilis
Kite, Red	Milvus milvus
Owl, Barn	Tyto alba”.

- (5) After Part 1A (as inserted by subsection (4) above) insert – 5

“PART IB

ANIMALS NO LONGER NORMALLY PRESENT

<i>Common name</i>	<i>Scientific name</i>
Boar, Wild	Sus Scrofa.”

**22 Species control agreements and orders: supplementary** 10

- (1) The Wildlife and Countryside Act 1981 is amended as follows.
- (2) In section 14 (introduction of new species etc), in subsection (1)(b), after “Part I” insert “, IA or IB”.
- (3) In the heading to section 14ZA (sale etc of invasive non-native species), for “invasive non-native species” substitute “certain animals and plants included in Schedule 9”. 15
- (4) In the heading to section 14ZB (codes of practice in connection with invasive non-native species), for “invasive non-native species” substitute “species which are non-native or included in Schedule 9”.
- (5) In section 22 (power to vary Schedules), in subsection (5)(a), after “Part I” insert “, IA or IB”. 20

**PART 4**

PLANNING, LAND AND BUILDINGS

*Nationally significant infrastructure projects*

**23 Timing of appointment of examining authority** 25

In section 61 of the Planning Act 2008 (decision as to whether application for order granting development consent should be handled by Panel or single appointed person) for subsection (1) substitute –

- “(1) Subsection (2) applies where the Secretary of State has accepted an application for an order granting development consent.” 30

**24 Two-person Panels**

- (1) In section 65 of the Planning Act 2008 (appointment of Panel to examine application for order granting development consent) in subsection (1)(a) (Panel to consist of three, four or five persons) before “three” insert “two,”.
- (2) In section 68(3) of that Act (duty of Secretary of State to appoint additional members if Panel comes to have two members or a single member) – 5  
 (a) omit “two members or”, and  
 (b) for “three” substitute “two”.
- (3) In section 73(1)(b) of that Act (Panel’s continuing identity not affected by its coming to have two members or a single member) omit “two members or”. 10
- (4) In section 75 of that Act (decision-making by Panel) –  
 (a) before subsection (1) insert –  
 “(A1) If the members of a Panel with two members disagree as to a proposed decision by the Panel, the view of the lead member is to prevail.”, and 15  
 (b) in subsection (1) (decision by Panel requires the agreement of a majority) for “the Panel” substitute “a Panel with three or more members”.

**25 Changes to, and revocation of, development consent orders**

- (1) Schedule 6 to the Planning Act 2008 (changes to, and revocation of, orders granting development consent) is amended as follows. 20
- (2) In paragraph 2 (non-material changes to orders) –  
 (a) in sub-paragraph (8) (duty for Secretary of State to comply with prescribed consultation and publicity requirements) after “Secretary of State” insert “and the person who has made the application under sub-paragraph (4)”, and 25  
 (b) after that sub-paragraph insert –  
 “(8A) The power to make regulations under sub-paragraph (8) includes power to allow the Secretary of State or the person who has made the application under sub-paragraph (4) to exercise a discretion.” 30
- (3) In paragraph 3 (changes to, and revocation of, orders) after sub-paragraph (5) insert –  
 “(5A) The Secretary of State may refuse to exercise the power on an application made under sub-paragraph (4) or (5) if, in particular, the Secretary of State considers that the development that would be authorised as a result of the change should properly be the subject of an application under section 37 for a development consent order.” 35
- (4) In paragraph 4 (supplementary provisions about changes to, and revocation of, orders) after sub-paragraph (5) insert – 40  
 “(5A) The power to make regulations under sub-paragraph (4) includes power to allow a person to exercise a discretion.”

*Deemed discharge of planning conditions*

**26 Deemed discharge of planning conditions**

After section 74 of the Town and Country Planning Act 1990 insert –

**“74A Deemed discharge of planning conditions**

- (1) The Secretary of State may by development order make provision for the deemed discharge of a condition to which this section applies. 5
- (2) This section applies to a condition which –
  - (a) has been imposed on the grant of planning permission for the development of land in England, and
  - (b) requires the consent, agreement or approval of a local planning authority to any matter. 10
- (3) Deemed discharge of a condition means that the local planning authority’s consent, agreement or approval to any matter as required by the condition is deemed to have been given.
- (4) A development order which makes provision for deemed discharge of a condition must provide that the condition is deemed to be discharged only if –
  - (a) a person (“the applicant”) has applied to the local planning authority for the consent, agreement or approval required by the condition, 20
  - (b) the period for the authority to give notice of their decision on the application has elapsed without that notice having been given, and
  - (c) the applicant has taken such further steps (if any) as are prescribed under subsection (5). 25
- (5) The Secretary of State may by development order make provision about the procedure for the deemed discharge of a planning condition and, in particular, provision –
  - (a) allowing or requiring steps to be taken by the applicant or the local planning authority; 30
  - (b) as to the time at which or period within which a step may or must be taken;
  - (c) as to the time at which the deemed discharge takes effect (including for this to be determined by the applicant, subject to such limitations as may be prescribed); 35
  - (d) for a time or period within paragraph (b) or (c) to be modified by agreement between the applicant and the local planning authority;
  - (e) as to the form or content of any notice which may or must be given as part of the procedure, and as to the means by which it may or must be given. 40
- (6) The Secretary of State may by development order provide that provision for deemed discharge of a condition does not apply –
  - (a) in relation to a condition of a prescribed description;
  - (b) in relation to a condition imposed on the grant of planning permission of a prescribed description; 45

- (c) in relation to a condition imposed on the grant of planning permission for development of a prescribed description;
- (d) in other prescribed circumstances.
- (7) The power in subsection (6)(d) includes power to provide that provision for deemed discharge of a condition does not apply where an applicant for planning permission and the local planning authority to whom the application is made agree, before or after planning permission is granted, that it should not apply in relation to a condition imposed on the grant of permission. 5
- (8) The Secretary of State may by development order make provision for section 78(2) (appeals to the Secretary of State) not to apply, or to apply with modifications, where – 10
- (a) a person has applied for the consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission, 15
- (b) the local planning authority have not given notice to that person of their decision on the application within the period mentioned in section 78(2), and
- (c) the person has taken such further steps (if any) as are prescribed to bring about the deemed discharge of the planning condition. 20
- (9) A development order which makes provision for deemed discharge of a condition must limit the application of that provision to a condition imposed on the grant of planning permission following an application made after the development order comes into force.
- (10) In this section – 25
- “condition” includes a limitation;
- “prescribed” means prescribed by development order made by the Secretary of State.”
- The Homes and Communities Agency and other bodies*
- 27 Property etc transfers to the HCA and the GLA 30**
- (1) The Housing and Regeneration Act 2008 is amended in accordance with subsections (2) to (4).
- (2) After section 53 (and after the italic heading before section 54) insert –
- “53A Other property etc transfers to the HCA**
- (1) The Secretary of State may at any time make one or more schemes for the transfer to the HCA of designated property, rights or liabilities of a specified public body. 35
- (2) In subsection (2) “specified public body” means a public body which is for the time being specified, or of a description specified, by regulations made by the Secretary of State. 40
- (3) On the date specified by a scheme as the date on which the scheme is to have effect, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.
- (4) Schedule 6 applies to a scheme under this section.

- (5) The Secretary of State may not make a scheme under this section unless the specified public body to which the scheme relates has consented to its provisions.
- (6) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry). 5
- (7) In this section –  
“designated”, in relation to a scheme, means specified in or determined in accordance with the scheme; 10  
“public body” means a person or body with functions of a public nature.
- (8) This section and section 53B bind the Crown, but do not have effect in relation to property, rights or liabilities belonging to – 15  
(a) Her Majesty in right of the Crown,  
(b) Her Majesty in right of Her private estates,  
(c) Her Majesty in right of the Duchy of Lancaster, or  
(d) the Duchy of Cornwall.
- (9) The reference in subsection (8) to Her Majesty’s private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862. 20

**53B Tax consequences of transfers under section 53A**

- (1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to – 25  
(a) any property, rights or liabilities transferred in accordance with a transfer scheme under section 53A, or  
(b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities in accordance with such a transfer scheme. 30
- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision for –  
(a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;  
(b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision; 35  
(c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred. 40
- (3) The provision that may be made under subsection (1)(b) includes, in particular, provision for –  
(a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer; 45



- 
- (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not have a specified consequence or be treated in a specified way;
- (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer. 5
- (4) In this section – 10  
“relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax or stamp duty reserve tax;  
“tax provision” means a provision of an enactment about a relevant tax.
- (5) References in this section to the transfer of property, rights or liabilities in accordance with a transfer scheme under section 53A include references to – 15  
(a) the creation of interests, rights or liabilities under the scheme, and  
(b) the modification of interests, rights or liabilities under the scheme, 20  
(and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).”
- (3) In section 51 (property etc transfers) after subsection (3) insert –  
“(3A) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).” 25
- (4) In section 320 (orders and regulations) – 30  
(a) in subsection (7) (instruments subject to annulment in pursuance of a resolution of either House of Parliament) after paragraph (c) insert –  
“(ca) regulations under section 53A(2),”, and  
(b) after that subsection insert –  
“(7A) An instrument containing regulations under section 53B is subject to annulment in pursuance of a resolution of the House of Commons.” 35
- (5) The Greater London Authority Act 1999 is amended in accordance with subsections (6) to (9).
- (6) After section 333D insert – 40  
**“333DA Transfer schemes**
- (1) The Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of a specified public body to – 45  
(a) the Authority, or  
(b) a company or body through which the Authority exercises functions in relation to housing or regeneration.

- (2) In subsection (1) “specified public body” means a public body which is for the time being specified, or of a description specified, by regulations made by the Secretary of State.
- (3) On the date specified by a scheme as the date on which the scheme is to have effect, the designated property, rights or liabilities are transferred and vest in accordance with the scheme. 5
- (4) The Secretary of State may not make a scheme under this section unless the specified public body to which the scheme relates has consented to its provisions.
- (5) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry). 10
- (6) In this section – 15
  - “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
  - “public body” means a person or body with functions of a public nature.
- (7) This section and sections 333DB and 333DC bind the Crown, but do not have effect in relation to property, rights or liabilities belonging to – 20
  - (a) Her Majesty in right of the Crown,
  - (b) Her Majesty in right of Her private estates,
  - (c) Her Majesty in right of the Duchy of Lancaster, or
  - (d) the Duchy of Cornwall. 25
- (8) The reference in subsection (7) to Her Majesty’s private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862.

### **333DB Further provisions about transfer schemes**

- (1) A transfer scheme may – 30
  - (a) create for the transferor interests in, or rights over, property transferred by virtue of the scheme,
  - (b) create for a transferee interests in, or rights over, property retained by the transferor or transferred to another transferee,
  - (c) create rights or liabilities between the transferor and a transferee or between transferees. 35
- (2) A transfer scheme may provide for the transfer of property, rights or liabilities that would not otherwise be capable of being transferred or assigned.
- (3) In particular, a transfer scheme may provide for the transfer to take effect regardless of a contravention, liability or interference with an interest or right that would otherwise exist by reason of a provision having effect in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question. 40
- (4) It does not matter whether the provision referred to in subsection (3) has effect under an enactment or an agreement or in any other way. 45

- (5) A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a transfer scheme is conclusive evidence for all purposes of that fact.
- (6) A transfer scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it. 5
- (7) A transfer by virtue of a transfer scheme does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.
- (8) Anything which – 10  
 (a) is done by the transferor for the purposes of, or otherwise in connection with, anything transferred by virtue of a transfer scheme, and  
 (b) is in effect immediately before the transfer date,  
 is to be treated as done by the transferee. 15
- (9) There may be continued by or in relation to the transferee anything (including legal proceedings) –  
 (a) which relates to anything transferred by virtue of a transfer scheme, and  
 (b) which is in the process of being done by or in relation to the transferor immediately before the transfer date. 20
- (10) Subsection (11) applies to any document –  
 (a) which relates to anything transferred by virtue of a transfer scheme, and  
 (b) which is in effect immediately before the transfer date. 25
- (11) Any references in the document to the transferor are to be read as references to the transferee.
- (12) A transfer scheme may include supplementary, incidental, transitional and consequential provision.
- (13) In this section – 30  
 “enactment” includes subordinate legislation within the meaning of the Interpretation Act 1978;  
 “transfer scheme” means a transfer scheme under section 333DA;  
 “transfer date” means a date specified by a transfer scheme as the date on which the scheme is to have effect. 35

### **333DC Tax consequences of transfers under section 333DA**

- (1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to –  
 (a) any property, rights or liabilities transferred in accordance with a transfer scheme, or 40  
 (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities in accordance with such a transfer scheme.
- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision for – 45

- 
- (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
- (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
- (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred. 5
- (3) The provision that may be made under subsection (1)(b) includes, in particular, provision for – 10
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;
- (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not have a specified consequence or be treated in a specified way; 15
- (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer. 20
- (4) In this section –
- “enactment” includes subordinate legislation within the meaning of the Interpretation Act 1978; 25
- “relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax or stamp duty reserve tax;
- “tax provision” means a provision of an enactment about a relevant tax; 30
- “transfer scheme” means a transfer scheme under section 333DA.
- (5) References in this section to the transfer of property, rights or liabilities in accordance with a transfer scheme include references to –
- (a) the creation of interests, rights or liabilities under the scheme, and 35
- (b) the modification of interests, rights or liabilities under the scheme,
- (and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).”
- (7) In section 408 (transfers of property, rights or liabilities to the Greater London Authority etc) after subsection (8) insert – 40
- “(8A) An order under subsection (1) above may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).” 45
- (8) In section 409 (transfer schemes for transfers to the Greater London Authority

etc) after subsection (8) insert –

“(8A) A scheme under subsection (1) or (2) above may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).” 5

(9) In section 420 (regulations and orders) –

(a) in subsection (7) (instruments subject to annulment in pursuance of a resolution of either House of Parliament) after the entry for section 243(7) insert – 10

“section 333DA(2);”, and

(b) after subsection (8) insert –

“(8A) A statutory instrument which contains regulations under section 333DC shall be subject to annulment in pursuance of a resolution of the House of Commons.” 15

## 28 Easements etc affecting land

(1) The Housing and Regeneration Act 2008 is amended in accordance with subsections (2) to (4).

(2) In section 11 (which introduces the provision made about land of the HCA in Schedule 3) for “land of the HCA” substitute “land acquired by the HCA”. 20

(3) In the title to Schedule 3 (main powers in relation to land of the HCA) for “land of the HCA” substitute “land acquired by the HCA”.

(4) In paragraph 1 of that Schedule (powers to override easements etc in undertaking works on, or using, land of the HCA) in each of sub-paragraphs (1) and (3) for “land of the HCA” substitute “land which has been vested in or acquired by the HCA”. 25

(5) Section 333ZB of the Greater London Authority Act 1999 (powers in relation to land held for housing or regeneration purposes) is amended in accordance with subsections (6) to (9).

(6) In the heading after “land” insert “acquired or”. 30

(7) For subsection (1) (application of Schedule 3 to the Housing and Regeneration Act 2008 to land held by the GLA) substitute –

“(1) Schedule 3 to the Housing and Regeneration Act 2008 (powers in relation to land acquired by the Homes and Communities Agency) applies in relation to the Authority and land which has been vested in or acquired by the Authority for the purposes of housing or regeneration as it applies in relation to the Homes and Communities Agency and land which has been vested in or acquired by the Agency.” 35

(8) In subsection (2) for the “and” at the end of paragraph (a) substitute –

“(aa) references to land which has been vested in or acquired by the Homes and Communities Agency are to be read as references to land which has been vested in or acquired by the Authority for the purposes of housing or regeneration, and”. 40

- (9) After subsection (4) insert –
- “(5) In this section references to the Authority include a company or body through which the Authority exercises functions in relation to housing or regeneration.
- (6) Subsection (5) does not affect the application of Parts 3 and 4 of Schedule 4 to the Housing and Regeneration Act 2008 –
- (a) in relation to the acquisition of land by the Authority under this Part, or
- (b) in relation to land in respect of which functions of the Authority relating to housing or regeneration are being or have been exercised.”
- (10) In section 208 of the Localism Act 2011 (powers in relation to land acquired by a Mayoral development corporation) for subsection (1) substitute –
- “(1) Schedule 3 to the Housing and Regeneration Act 2008 (powers, in relation to land acquired by the Homes and Communities Agency, to override easements etc, to extinguish public rights of way, and in relation to burial grounds and consecrated land) applies in relation to an MDC and land which has been vested in or acquired by an MDC as it applies in relation to the Homes and Communities Agency and land which has been vested in or acquired by the Agency.”
- (11) The amendments made by this section do not apply in relation to land which is disposed of by the Homes and Communities Agency, the Greater London Authority, a company or body through which the Authority exercises functions in relation to housing or regeneration or a Mayoral development corporation before the day on which this section comes into force.
- (12) The reference in subsection (11) to land disposed of by the Greater London Authority does not include land disposed of to a company or body through which the Authority exercises functions in relation to housing or regeneration.

*Her Majesty’s Land Registry*

**29 Transfer of responsibility for local land charges to Land Registry** 30

- (1) Schedule 4 (transfer of responsibility for local land charges to Land Registry) has effect.
- (2) In that Schedule –
- (a) Part 1 amends the Local Land Charges Act 1975,
- (b) Part 2 amends the Land Registration Act 2002,
- (c) Part 3 amends other Acts, and
- (d) Part 4 contains transitional provision.

**30 Conferral of additional powers on Land Registry**

- (1) In section 105 of the Land Registration Act 2002 (power of registrar to provide or arrange for the provision of consultancy or advisory services about the registration of land in England and Wales or elsewhere) in subsection (1) for

- the words from “, consultancy or advisory services” to the end substitute “ –
- (a) consultancy or advisory services about land or other property in England and Wales or elsewhere,
  - (b) information services about land or other property in England and Wales, or
  - (c) services relating to documents or registers which relate to land or other property in England and Wales.”
- (2) For the title to that section substitute “Services relating to land or other property”.
- 31 Transfer of power to nominate member of Rule Committee** 10
- (1) In section 127(2)(h) of the Land Registration Act 2002 (power of Lord Chancellor to nominate consumer affairs member of Rule Committee) for “Lord Chancellor” substitute “Secretary of State”.
  - (2) This section applies in relation to the nomination of a member of the Rule Committee on or after the day on which this section comes into force. 15
- Off-site carbon abatement measures*
- 32 Provision in building regulations for off-site carbon abatement measures**
- (1) The Building Act 1984 is amended as follows.
  - (2) In section 1(1A) (matters that may be covered by building regulations) after paragraph (c) insert “;
    - (d) the action to be taken as a result of a building’s contribution to or effect on emissions of carbon dioxide (whether or not from the building itself).”
  - (3) Schedule 1 (building regulations) is amended as follows.
  - (4) After paragraph 7 insert – 25
    - “7A (1) This paragraph applies if building regulations impose a requirement in relation to a building as respects its contribution to or effect on emissions of carbon dioxide (whether or not the requirement relates to emissions from the building itself).
    - (2) Building regulations may make provision for a person to whom the requirement applies to meet it (in whole or in part) by taking action otherwise than in relation to the building. 30
    - (3) Such action may include –
      - (a) doing things which consist of, or cause or contribute, directly or indirectly to –
        - (i) reductions in emissions of carbon dioxide, or
        - (ii) the removal of carbon dioxide from the atmosphere;
      - (b) agreeing with another person that the person will do things within paragraph (a);
      - (c) making a payment or payments to a fund – 40

- (i) which is administered by, or by a person acting on behalf of, the Secretary of State or the Welsh Ministers, and
    - (ii) the proceeds of which are used to pay (directly or indirectly) for activities within paragraph (a). 5
  - (4) Provision made under paragraph 4A for the use of certificates as evidence of compliance with building regulations by virtue of action within sub-paragraph (3) may include provision –
    - (a) for the creation and maintenance of a register for keeping track of the use of certificates for that purpose; 10
    - (b) about the administration of the register;
    - (c) for charges to be imposed in connection with the registration of any matter in the register or for the disclosure of information held in the register.
  - (5) If building regulations make provision for the creation and maintenance of a register, building regulations must make provision for the register to be administered by, or by a person acting on behalf of, the Secretary of State or the Welsh Ministers. 15
  - (6) Building regulations made by the Welsh Ministers may make provision for the use, in relation to action taken in respect of a building in Wales, of a register administered by, or by a person acting on behalf of, the Secretary of State. 20
  - (7) Building regulations made by the Secretary of State may make provision about the use of such a register for that purpose.
  - (8) Building regulations may make provision for the creation and maintenance of a fund of a kind referred to in sub-paragraph (3)(c), including provision about – 25
    - (a) the administration of such a fund;
    - (b) the purposes for which proceeds from such a fund may be used. 30
  - (9) Building regulations may make provision about –
    - (a) the calculation of payments to be made into a fund of a kind referred to in sub-paragraph (3)(c);
    - (b) the maximum payment which may be required to be made into such a fund in respect of a building. 35
  - (10) Building regulations made by the Welsh Ministers may make provision for a payment or payments in respect of a building in Wales to be made to a fund administered by, or by a person acting on behalf of, the Secretary of State.
  - (11) Building regulations made by the Secretary of State may make provision about the use of such a fund for that purpose. 40
  - (12) Paragraph 8(2) does not prevent building regulations from providing for action within sub-paragraph (3) to be taken in relation to a building erected before the date on which the regulations come into force.” 45
- (5) In paragraph 8(2) (requirement for building regulations not to apply to buildings erected before regulations come into force, subject to exceptions)



after “Subject to sub-paragraphs (3) to (6) below and to” insert “paragraph 7A(12) above and”.

- (6) The reference to the Building Act 1984 in article 2(a) of the Welsh Ministers (Transfer of Functions) (No 2) Order 2009 (SI 2009/3019) is to be treated as referring to that Act as amended by this section. 5

## PART 5

### ENERGY

#### *The community electricity right*

### 33 The community electricity right

- (1) The Secretary of State may make regulations which give individuals resident in a community or groups connected with a community (or both) the right to buy a stake in a renewable electricity generation facility that is located – 10
- (a) in the community (if it is a land-based facility), or
  - (b) adjacent to the community (if it is an offshore facility).
- (2) The Secretary of State may make regulations about – 15
- (a) the kind, or kinds, of body which may be a facility operator,
  - (b) ownership of facility operators, and
  - (c) matters relating to the ownership of facility operators (including the rights, duties and powers arising from ownership),
- if the Secretary of State considers that the regulations are appropriate in connection with the right to buy. 20
- (3) The Secretary of State may make regulations about the supply of information in connection with the following –
- (a) the right to buy;
  - (b) ownership of stakes in qualifying facilities (including the transfer of ownership); 25
  - (c) operation of qualifying facilities;
  - (d) ownership of facility operators (including matters relating to the ownership of facility operators);
  - (e) monitoring and assessing – 30
    - (i) the operation of the right to buy, and
    - (ii) the ownership of stakes in qualifying facilities.
- (4) The Secretary of State may make regulations about the enforcement of obligations imposed by regulations made under any of subsections (1) to (3); and the regulations about enforcement may include – 35
- (a) provision for obligations to be enforceable as, or as if they were, generation licence conditions or relevant requirements;
  - (b) a power to impose financial penalties for breach of obligations.
- (5) The Secretary of State may by regulations modify – 40
- (a) any generation licence condition, or
  - (b) any generation licence exemption,

if the Secretary of State considers that the modification is appropriate in connection with regulations made under any of subsections (1) to (4) or this subsection.

- (6) Schedule 5 (which describes certain provision that community electricity right regulations can make, including provision about renewable electricity generation facilities, communities, and individuals and groups who may exercise the right to buy) has effect. 5
- (7) In this section, Schedule 5 and section 34 –
- “community electricity right regulations” means regulations under this section; 10
  - “electricity generation licence” means a licence granted under section 6(1)(a) of the Electricity Act 1989;
  - “facility operator” means a person who generates, or is expected to generate, electricity at a qualifying facility for the purpose of giving a supply to any premises or enabling a supply to be so given; 15
  - “generation licence condition” means –
    - (a) the conditions of a particular electricity generation licence, or
    - (b) the standard conditions so far as they are incorporated in electricity generation licences by virtue of section 8A of the Electricity Act 1989; 20
  - “generation licence exemption” means an exemption from section 4(1)(a) of the Electricity Act 1989 granted under section 5(1) of that Act;
  - “land-based facility” means a renewable electricity generation facility that is not an offshore facility;
  - “offshore facility” means a renewable electricity generation facility that is located in waters in or adjacent to Great Britain that are beyond the mean low water mark; 25
  - “qualifying facility” means a renewable electricity generation facility in relation to which the right to buy is to be, is, or has been, exercisable;
  - “relevant requirement” has the same meaning as in section 25 of the Electricity Act 1989; 30
  - “renewable electricity generation facility” means a facility using a renewable source of energy to generate electricity (and here “renewable source” has the same meaning as in sections 32 to 32LB of the Electricity Act 1989 – see section 32M of that Act) which is located in – 35
    - (a) Great Britain,
    - (b) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea adjacent to Great Britain, but do not form part of that territorial sea, 40
    - (c) the territorial sea adjacent to Great Britain, or
    - (d) the Renewable Energy Zone (within the meaning of Chapter 2 of Part 2 of the Energy Act 2004), except for any part of that Zone which forms part of the territorial sea adjacent to Northern Ireland; 45
  - “right to buy” means the right to buy a stake in a renewable electricity generation facility that is given by regulations under subsection (1).

### 34 Supplementary provision

- (1) Community electricity right regulations may confer a function on –

- (a) the Secretary of State, or
  - (b) any other person, apart from the Scottish Ministers or the Welsh Ministers.
- (2) The functions that may be imposed include –
- (a) a duty (including a restriction or prohibition); 5
  - (b) a function involving the exercise of a discretion;
  - (c) a requirement to consult;
  - (d) a requirement to take account of guidance.
- (3) The provisions of section 33, Schedule 5 and this section which specify particular kinds of provision that may be made in community electricity right regulations do not limit the powers conferred by section 33 to make such regulations. 10
- (4) The duties under Schedule 5 to make particular provision in community electricity right regulations do not apply unless the Secretary of State decides to exercise the power conferred by section 33 to make such regulations. 15
- (5) Provision which commences community electricity right regulations may be framed so as to secure that the regulations do not apply to a renewable electricity generation facility if development of the facility has reached a stage of advancement specified in the commencement provision.
- (6) A reference in section 33 or Schedule 5 to buying a stake in a renewable electricity generation facility includes a reference to making a loan in relation to a renewable electricity generation facility. 20
- (7) The Secretary of State must carry out a review of section 33, Schedule 5 and the preceding provisions of this section as soon as reasonably practicable after the end of the period of 5 years beginning with the day on which they come into force. 25

*The Extractive Industries Transparency Initiative*

**35 The Extractive Industries Transparency Initiative**

After section 8 of the Commissioners for Revenue and Customs Act 2005 insert – 30

**“8A The Extractive Industries Transparency Initiative**

- (1) The Commissioners may do anything which they think necessary or expedient in connection with the Extractive Industries Transparency Initiative in so far as it relates to taxes the collection and management of which is the responsibility of the Commissioners. 35
- (2) In this section “the Extractive Industries Transparency Initiative” means the international initiative of that name which has the aim of promoting openness in the management of revenues from natural resources.”

*Recovery of UK petroleum*

**36 Maximising economic recovery of UK petroleum**

After section 9 of the Petroleum Act 1998 insert –

“PART 1A

MAXIMISING ECONOMIC RECOVERY OF UK PETROLEUM 5

**9A The principal objective and the strategy**

- (1) In this Part the “principal objective” is the objective of maximising the economic recovery of UK petroleum, in particular through –
- (a) development, construction, deployment and use of equipment used in the petroleum industry (including upstream petroleum infrastructure), and 10
  - (b) collaboration among the following persons –
    - (i) holders of petroleum licences;
    - (ii) operators under petroleum licences;
    - (iii) owners of upstream petroleum infrastructure; 15
    - (iv) persons planning and carrying out the commissioning of upstream petroleum infrastructure.
- (2) The Secretary of State must produce one or more strategies for enabling the principal objective to be met.
- (3) A strategy may relate to matters other than those mentioned in subsection (1)(a) and (b). 20
- (4) For provision about producing and revising a strategy, see sections 9F and 9G.

**9B Exercise of certain functions of the Secretary of State**

- The Secretary of State must act in accordance with the current strategy or strategies when – 25
- (a) exercising functions under the other Parts of this Act (except Part 4),
  - (b) exercising functions under Part 4 to the extent that they concern reduction of the costs of abandonment of offshore installations and submarine pipelines, 30
  - (c) exercising functions under Chapter 3 of Part 2 of the Energy Act 2011 (upstream petroleum infrastructure),
  - (d) exercising any function or using any power under a petroleum licence, and 35
  - (e) exercising any other function or using any power –
    - (i) to provide advice or assistance to another person, or
    - (ii) to acquire, use or supply information,for the purpose of enabling the principal objective to be met.

**9C Carrying out of certain petroleum industry activities 40**

- (1) A person who is the holder of a petroleum licence must act in accordance with the current strategy or strategies when planning and carrying out activities as the licence holder.

- (2) A person who is an operator under a petroleum licence must act in accordance with the current strategy or strategies when planning and carrying out activities as the operator under the licence.
- (3) A person who is the owner of upstream petroleum infrastructure must act in accordance with the current strategy or strategies when planning and carrying out the person’s activities as the owner of upstream petroleum infrastructure (including the development, construction, deployment and use of the infrastructure). 5
- (4) A person must act in accordance with the current strategy or strategies when planning and carrying out the commissioning of upstream petroleum infrastructure. 10

#### **9D Reports by the Secretary of State**

- (1) As soon as practicable after the end of each reporting period, the Secretary of State must—
- (a) consider the extent to which, during that period, these persons have followed section 9C by acting in accordance with the current strategy or strategies— 15
- (i) licence holders,
- (ii) operators under petroleum licences,
- (iii) owners of upstream petroleum infrastructure, and 20
- (iv) persons planning and carrying out the commissioning of upstream petroleum infrastructure; and
- (b) produce a report on the results of the consideration of that question.
- (2) The report may contain other material, including a statement of action which the Secretary of State has taken, or is proposing to take, in response to any matter included in the report (including changes to a strategy). 25
- (3) The Secretary of State must publish, and lay before each House of Parliament, a copy of each report produced under this section. 30
- (4) In this section “reporting period” means—
- (a) the period of two years beginning with the day when this section comes into force, and
- (b) each subsequent period of one year beginning with the day after the end of a previous reporting period. 35

#### **9E Secretary of State’s security and resilience functions**

- (1) This Part does not limit the exercise of the Secretary of State’s security and resilience functions.
- (2) This Part is subject to the exercise of the security and resilience functions by the Secretary of State. 40
- (3) In this section “security and resilience function” means any function which relates to—
- (a) the security of petroleum supplies, or
- (b) the resilience of the petroleum industry.

- 
- 9F Producing and revising a strategy**
- (1) The Secretary of State must produce the first strategy before the end of the period of one year beginning with the day on which this section comes into force.
- (2) The Secretary of State may subsequently – 5  
(a) produce a new strategy, or  
(b) revise a current strategy,  
whenever the Secretary of State thinks appropriate.
- (3) The Secretary of State must review each current strategy before the end of each relevant four year period. 10
- (4) In reviewing a current strategy, the Secretary of State must (in particular) take account of the results of any consideration undertaken under section 9D in respect of reporting periods falling within the relevant four year period.
- (5) In this section “relevant four year period”, in relation to a current strategy, means a period of four years beginning with – 15  
(a) the date on which the strategy was issued, or  
(b) if later, the date on which the last review under subsection (3) was concluded.
- 9G Procedure for producing and revising a strategy** 20
- (1) Before –  
(a) producing the first strategy,  
(b) producing a new strategy, or  
(c) revising a current strategy,  
the Secretary of State must prepare a draft of the strategy or revised strategy. 25
- (2) The Secretary of State must –  
(a) consult such persons as the Secretary of State thinks appropriate about the draft, and  
(b) consider any representations made by them. 30
- (3) If, after complying with that duty, the Secretary of State decides to proceed with the draft (in its original form or with modifications), the Secretary of State must lay a copy of the draft before each House of Parliament.
- (4) The Secretary of State may not take any further steps in relation to the draft if, within the 40 day period, either House resolves not to approve the draft (a “negative resolution”). 35
- (5) If neither House passes a negative resolution, the Secretary of State may issue the strategy or revised strategy in the form laid before Parliament.
- (6) The strategy or revised strategy comes into force on the date specified by the Secretary of State (which must not be before the date when it is issued). 40
- (7) Subsection (4) does not prevent a new draft of a strategy or revised strategy from being laid before Parliament.

- (8) In this section “40 day period”, in relation to the draft of a strategy or revised strategy, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or if the draft is not laid before each House on the same day, the later of the 2 days on which it is laid). 5
- (9) For the purposes of calculating the 40 day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- 9H “Upstream petroleum infrastructure” and its owners**
- (1) In this Part “upstream petroleum infrastructure” means – 10
- (a) a gas processing facility,
  - (b) an oil processing facility, or
  - (c) an upstream petroleum pipeline,
- if and in so far as it meets conditions A and B.
- (2) A facility or pipeline meets condition A if and in so far as it is situated in Great Britain or relevant UK waters. 15
- (3) A facility or pipeline meets condition B if and in so far as it is used in relation to UK petroleum (including such petroleum after it has been got).
- (4) But an upstream petroleum pipeline is not “upstream petroleum infrastructure” if it is a pipeline to which section 17GA applies (petroleum pipelines subject to Norwegian access system). 20
- (5) In this section, the following expressions have the same meanings as in Chapter 3 of Part 2 of the Energy Act 2011 (see section 90 of that Act) – 25
- (a) “gas processing facility”;
  - (b) “oil processing facility”;
  - (c) “upstream petroleum pipeline”.
- (6) In this Part, “owner”, in relation to upstream petroleum infrastructure, means – 30
- (a) a person in whom the pipeline or facility is vested;
  - (b) a lessee and any person occupying or controlling the pipeline or facility; and
  - (c) a person who has the right to have things conveyed by the pipeline or processed by the facility.
- 9I Other interpretation** 35
- In this Part –
- “current strategy”, in relation to any particular time, means a strategy under section 9A(2) in force at that time;
  - “operator under a petroleum licence” means a person who is responsible for organising or supervising any of the operations of searching for, boring for, or getting UK petroleum in pursuance of the petroleum licence; 40
  - “owner”, in relation to upstream petroleum infrastructure, has the meaning given in section 9H;
  - “petroleum” has meaning given in section 1; 45
  - “petroleum licence” means a licence granted under –

- (a) section 3 of this Act, or
  - (b) section 2 of the Petroleum (Production) Act 1934;
- “principal objective” has the meaning given in section 9A;
- “relevant UK waters” means –
- (a) the territorial sea adjacent to the United Kingdom, and 5
  - (b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964;
- “UK petroleum” means petroleum which for the time being exists in its natural condition in strata beneath relevant UK waters;
- “upstream petroleum infrastructure” has the meaning given in section 9H.” 10

### 37 Levy on holders of certain energy industry licences

- (1) The Secretary of State may, by regulations, provide for a levy to be imposed on, and be payable by, one or more of the following kinds of persons –
  - (a) persons who hold licences under section 2 of the Petroleum (Production) Act 1934 or licences under section 3 of the Petroleum Act 1998 (exploitation of petroleum); 15
  - (b) persons who hold licences under section 4 of the Energy Act 2008 (unloading and storing gas);
  - (c) persons who hold licences under section 18 of the Energy Act 2008 granted by the Secretary of State (storage of carbon dioxide). 20
- (2) No licensing levy is to be imposed in respect of a time which falls after the end of the period of 3 years beginning with the first day of the first charging period.
- (3) The Secretary of State must exercise the power conferred by subsection (1) so as to secure – 25
  - (a) that the total amount of licensing levy which is payable in respect of a charging period does not exceed the costs incurred by the Secretary of State in exercising the relevant functions in respect of that period; and
  - (b) that no levy is payable in respect of costs incurred in any exercise of relevant functions for which a charge is payable under the Gas and Petroleum (Consents) Charges Regulations 2013 (as those Regulations stand when this section comes into force). 30
- (4) In determining for the purposes of subsection (3)(a) the total amount of licensing levy payable in respect of a charging period, an amount of levy payable in respect of that period may be ignored if (during that period or subsequently) – 35
  - (a) having been paid, it is repaid or credit for it is given against other licensing levy that is payable; or
  - (b) having not been paid, the requirement to pay it is cancelled.
- (5) The “relevant functions” referred to in subsection (3) are – 40
  - (a) functions under the following enactments –
    - (i) the Pipe-lines Act 1962 (cross-country pipe-lines);
    - (ii) section 3 and the other provisions of Part 1 of the Petroleum Act 1998 (exploitation of petroleum);
    - (iii) Part 1A of the Petroleum Act 1998 (maximising economic recovery of UK petroleum); 45
    - (iv) Part 3 of the Petroleum Act 1998 (submarine pipelines);



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- (v) Part 4 of the Petroleum Act 1998, in so far as the functions concern reduction of the costs of abandonment of offshore installations and submarine pipelines;
  - (vi) section 4 and the other provisions of Chapter 2 of Part 1 of the Energy Act 2008 (importation and storage of combustible gas); 5
  - (vii) section 18 and the other provisions of Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide);
  - (viii) Chapter 3 of Part 2 of the Energy Act 2011 (upstream petroleum infrastructure);
  - (b) carrying out policy work on matters relating to UK petroleum and its recovery; 10
  - (c) providing advice and assistance to the petroleum industry on matters relating to UK petroleum and its recovery;
  - (d) collaborating with the petroleum industry on matters relating to UK petroleum and its recovery; 15
  - (e) acquiring, using and supplying information on matters relating to UK petroleum and its recovery;
  - (f) encouraging development of the petroleum industry in relation to the recovery of UK petroleum;
  - (g) carrying out, or providing advice and assistance to those carrying out, research and development in relation to technology and products relevant to the recovery of UK petroleum; 20
  - (h) functions which relate to –
    - (i) the security of petroleum supplies, or
    - (ii) the resilience of the petroleum industry; 25
  - (i) international co-operation on matters relating to UK petroleum and its recovery, including –
    - (i) resolution of disputes relating to the entitlements of different countries in relation to petroleum fields, and
    - (ii) openness and accountability in the management of natural resources. 30
  - (6) The matters relating to UK petroleum and its recovery which fall within paragraphs (b), (c), (d) and (e) of subsection (5) include –
    - (a) maximising the economic recovery of UK petroleum, and
    - (b) improving the supply chain of UK petroleum. 35
  - (7) The amount or amounts of licensing levy payable by licence holders must be –
    - (a) set out in the regulations, or
    - (b) calculated in accordance with a method set out in the regulations.
  - (8) The licensing levy is payable to the Secretary of State.
  - (9) Schedule 6 (the licensing levy) has effect. 40
  - (10) Schedule 6 does not limit the provision that may be made by regulations under this section.
  - (11) The Secretary of State may, by regulations, amend subsection (3)(b) by adding, removing or amending a reference to any regulations made under section 188 of the Energy Act 2004. 45
  - (12) In this section and Schedule 6 –

“charging period” means a period in respect of which licensing levy is payable;

“licensing levy” means the levy provided for in regulations under this section;

“UK petroleum” means petroleum (within the meaning given in section 1 of the Petroleum Act 1998) which for the time being exists in its natural condition in strata beneath—

- (a) the territorial sea adjacent to the United Kingdom, and
- (b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964.

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*Petroleum and geothermal energy in deep-level land*

**38 Petroleum and geothermal energy: right to use deep-level land**

(1) A person has the right to use deep-level land in any way for the purposes of exploiting petroleum or deep geothermal energy.

(2) Land is subject to the right of use (whether for the purposes of exploiting petroleum or deep geothermal energy) only if it is—

- (a) deep-level land, and
- (b) within a landward area.

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(3) But that does not prevent deep-level land that is within a landward area from being used for the purposes of exploiting petroleum or deep geothermal energy outside a landward area.

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(4) Deep-level land is any land at a depth of at least 300 metres below surface level.

(5) This section confers the right to use Scottish deep-level land for the purposes of exploiting deep geothermal energy only in cases where the sole, or main, use of that energy is to be, or is, the generation of electricity.

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**39 Further provision about the right of use**

(1) The ways in which the right of use may be exercised include—

- (a) drilling, boring, fracturing or otherwise altering deep-level land;
- (b) installing infrastructure in deep-level land;
- (c) keeping, using or removing any infrastructure installed in deep-level land;
- (d) passing any substance through, or putting any substance into, deep-level land or infrastructure installed in deep-level land;
- (e) keeping, using or removing any substance put into deep-level land or into infrastructure installed in deep-level land.

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(2) The purposes for which the right of use may be exercised include—

- (a) searching for petroleum or deep geothermal energy;
- (b) assessing the feasibility of exploiting petroleum or deep geothermal energy;
- (c) preparing for exploiting petroleum or deep geothermal energy;
- (d) decommissioning, and other activity which falls to be continued or undertaken, in consequence of activities undertaken for the purposes of exploiting petroleum or deep geothermal energy.

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- (3) The right of use includes the right to leave deep-level land in a different condition from the condition it was in before an exercise of the right of use (including by leaving any infrastructure or substance in the land).
- (4) The right of use –
- (a) does not give a person (“R”) any power which is greater than, or different from, the power which R would have had if the right had been granted by a person legally entitled to grant it; and 5
  - (b) does not relieve a person (“R”) from any obligation or liability to which R would have been subject if the right had been granted by a person legally entitled to grant it. 10
- (5) A person (“L”) who owns land (the “relevant land”) is not liable, as the owner of that land, in tort or delict for any loss or damage which is attributable to the exercise, or proposed exercise, of the right of use by another person (whether in relation to the relevant land or any other land).
- (6) For that purpose, loss or damage is not attributable to the exercise, or proposed exercise, of the right of use (in particular) if, or to the extent that, the loss or damage is attributable to a deliberate omission by L. 15
- (7) There is a “deliberate omission by L” if L, as owner of the relevant land, decides –
- (a) not to do an act, or 20
  - (b) not to allow another person to do an act,
- and the circumstances at the time of that decision were such that L would not have had to bear any of the costs incurred (whether by L or any other person) in doing or allowing the act.
- (8) Section 38 and this section bind the Crown. 25

#### 40 Payment scheme

- (1) The Secretary of State may, by regulations, require relevant energy undertakings to make payments in respect of the proposed exercise, or exercise, of the right of use.
- (2) The regulations may require payments to be made – 30
- (a) to owners of relevant land or interests in relevant land;
  - (b) to other persons for the benefit of areas in which relevant land is situated.
- (3) The regulations may –
- (a) specify the amount or amounts of payments; 35
  - (b) make provision for determining the amount or amounts of payments.
- (4) The regulations may require relevant energy undertakings to provide the Secretary of State, or any other specified person, with specified information about –
- (a) the proposed exercise, or exercise, of the right of use; 40
  - (b) the making of payments in accordance with regulations under this section.
- (5) Before making any regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

#### 41 Notice scheme

- (1) The Secretary of State may, by regulations, require relevant energy undertakings to give notice of the proposed exercise, or exercise, of the right of use.
- (2) The regulations may require relevant energy undertakings—
  - (a) to give notice—
    - (i) to owners of relevant land or interests in relevant land;
    - (ii) to persons of other specified descriptions;
  - (b) to display notice within the area in which relevant land is situated or elsewhere;
  - (c) to publish notice (otherwise than by displaying the notice).
- (3) The regulations may make provision about the information which the notice is to contain, including provision about information relating to—
  - (a) any payment scheme regulations which are in force;
  - (b) the application of any payment scheme regulations to the proposed exercise, or exercise, of the right of use;
  - (c) the method for obtaining a payment under any payment scheme regulations.
- (4) The regulations may make provision about the manner in which notice is to be given, displayed or published, including provision requiring notice to be—
  - (a) displayed at specified places or places of specified descriptions;
  - (b) published in specified publications or publications of specified descriptions.
- (5) The regulations may require relevant energy undertakings to provide the Secretary of State, or any other specified person, with specified information about—
  - (a) the proposed exercise, or exercise, of the right of use;
  - (b) the giving of notice in accordance with regulations under this section.
- (6) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (7) In this section “payment scheme regulations” means regulations under section 40.

#### 42 Payment and notice schemes: supplementary provision

- (1) Regulations under section 40 or 41 may make provision about the enforcement of relevant requirements, including provision for the imposition of financial penalties in respect of breach of relevant requirements.
- (2) Regulations under section 40 or 41 may confer a function on—
  - (a) the Secretary of State, or
  - (b) any other person, apart from the Scottish Ministers or the Welsh Ministers.
- (3) The functions that may be imposed include—
  - (a) a duty (including a restriction or prohibition);
  - (b) a function involving the exercise of a discretion;
  - (c) a requirement to consult.

- (4) The provisions of sections 40 and 41 and this section which specify particular kinds of provision that may be made in regulations under section 40 or 41 do not limit the powers conferred by that section to make such regulations.
- (5) The Secretary of State must carry out a review of sections 40 and 41 and the preceding provisions of this section as soon as reasonably practicable after the end of the period of 5 years beginning with the day on which they come into force. 5
- (6) The Secretary of State must by regulations –
- (a) repeal section 40, and make any consequential amendments (including repeals) of the other provisions of this Act that the Secretary of State considers appropriate, if the relevant conditions are met in relation to the power under section 40; 10
  - (b) repeal section 41, and make any consequential amendments (including repeals) of the other provisions of this Act that the Secretary of State considers appropriate, if the relevant conditions are met in relation to the power under section 41. 15
- (7) The relevant conditions are met in relation to the power under section 40 or the power under section 41 if –
- (a) that power is not exercised within the period of 7 years beginning with the day on which that section comes into force, and 20
  - (b) the Secretary of State is satisfied that there is no convincing case for retaining that power.

### 43 Interpretation

- (1) For the purposes of deciding whether land is deep-level land –
- (a) the depth of a point in land below surface level is the distance between that point and the surface of the land vertically above that point; and 25
  - (b) in determining what is the surface of the land, any building or other structure on the land, and any water covering the land, must be ignored.
- (2) In sections 38 to 42 and this section – 30
- “deep geothermal energy” means geothermal energy in deep-level land (including in water or any other fluid in deep-level land);
  - “deep-level land” has the meaning given in section 38(4);
  - “landward area” has the same meaning as in the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 (see regulation 1(2) of those Regulations); 35
  - “petroleum” has the same meaning as in Part 1 of the Petroleum Act 1998 (see section 1 of that Act);
  - “relevant energy undertaking” means a person who proposes to exercise, or exercises, the right of use; 40
  - “relevant land” means land in respect of which the right of use is proposed to be, or is, exercised;
  - “relevant requirement” means a requirement imposed by regulations under section 40 or 41;
  - “right of use” means the right conferred by section 38; 45
  - “Scottish deep-level land” means deep-level land in Scotland or beneath waters adjacent to Scotland;
  - “specified” means specified in regulations under section 40 or 41;

“substance” includes electricity and any other intangible thing.

- (3) The power of the Secretary of State to make regulations under section 4 of the Petroleum Act 1998 includes power to make such amendments of the definition of “landward area” in subsection (2) above as the Secretary of State considers appropriate in consequence of any other exercise of the power under section 4 of the 1998 Act. 5

*Renewable heat incentives*

**44 Renewable heat incentives**

- (1) Section 100 of the Energy Act 2008 (renewable heat incentives) is amended in accordance with subsections (2) to (4). 10
- (2) After subsection (1) insert –
- “(1A) Regulations under this section may confer any function on any person.
- (1B) Regulations under this section may provide for a function conferred on a person to be exercisable on behalf of another person.”
- (3) In subsection (2) – 15
- (a) in paragraph (a), for the words before sub-paragraph (i) substitute –
- “(a) make provision giving any of the following persons entitlements to payments (“RHI payments”) in specified circumstances –”;
- (b) in paragraph (b), for “such payments” substitute “RHI payments”; 20
- (c) after paragraph (b) insert –
- “(ba) make provision about the circumstances in which, and descriptions of persons to whom, the whole or a part of an entitlement to an RHI payment may be assigned (whether the person has the entitlement by virtue of regulations under paragraph (a) or regulations under this paragraph); 25
- (bb) authorise or require the Secretary of State, the Authority, designated fossil fuel suppliers, or any person with any other administration function, to make an RHI payment – 30
- (i) to the person who is entitled to the payment by virtue of regulations under paragraph (a), or
- (ii) where that entitlement has been wholly or partly assigned in accordance with regulations under this section, to the person or persons for the time being enjoying the entitlement or any part of it;” 35
- (d) in paragraph (c), for “such payments” substitute “RHI payments”;
- (e) for paragraph (d) substitute – 40
- “(d) authorise or require a person to provide specified information;”;
- (f) in paragraph (e), omit “to the Secretary of State or the Authority”;
- (g) in paragraph (h), omit “for the Secretary of State or the Authority”;
- (h) omit paragraph (i);

- (i) at the end insert –
- “(j) authorise the Secretary of State to make payments to a person in respect of the exercise by the person of functions under regulations under this section;
  - (k) make provision about the resolution of disputes relating to the exercise of functions under regulations under this section, including provision about arbitration or appeals (which may, in particular, provide for the person conducting an arbitration or determining an appeal to order the payment of costs or compensation).”
- (4) In subsection (3), after the definition of “fossil fuel supplier” insert –
- ““other administration function” means a function relating to the administration of a scheme established under this section, other than a function conferred by regulations under subsection (2)(bb);”.
- (5) Section 105 of the Energy Act 2008 (Parliamentary control of subordinate legislation) is amended in accordance with subsections (6) to (8).
- (6) In subsection (2) –
- (a) in paragraph (a), omit sub-paragraph (vi);
  - (b) after paragraph (aa) insert –
- “(ab) regulations which contain (whether alone or together with other provision) affirmative resolution provision made under section 100 (renewable heat incentives);”.
- (7) In subsection (3), after “(2)(a)” insert “, (ab)”
- (8) After subsection (3) insert –
- “(3A) Provision made under section 100 is affirmative resolution provision if –
- (a) the provision is made under any of the powers which always attract the affirmative resolution procedure, or
  - (b) the provision –
    - (i) is not made under any of those powers, and
    - (ii) meets condition A, B, C or D.
- (3B) The powers which always attract the affirmative resolution procedure are the powers conferred by –
- (a) section 100(2)(c), (e), (f), (g), (h) and (k),
  - (b) section 100(5), and
  - (c) section 100(6).
- (3C) Provision meets condition A if –
- (a) it is made under the power conferred by section 100(2)(bb), and
  - (b) it requires a designated fossil fuel supplier to make a payment under an RHI scheme.
- (3D) Provision meets condition B if –
- (a) it confers an administration function on a person who is not the Secretary of State or the Authority, and
  - (b) the time when the provision comes into force will be the first time that an administration function under the RHI scheme

- concerned is exercisable by a person who is not the Secretary of State or the Authority.
- (3E) Provision meets condition C if –
- (a) it is made under a power conferred by paragraph (ba) or (bb)(ii) of section 100(2), 5
  - (b) it is made in relation to an RHI scheme that was in existence immediately before the coming into force of this subsection, and
  - (c) it is the first provision to be made under that power in relation to that RHI scheme.
- (3F) Provision meets condition D if – 10
- (a) it is made under a power conferred by paragraph (a), (b), (ba), (bb), (d) or (j) of section 100(2),
  - (b) it is made in relation to an RHI scheme that was not in existence immediately before the coming into force of this subsection, and
  - (c) it is the first provision to be made under that power in relation to that RHI scheme. 15
- (3G) In deciding whether provision meets condition B, the following matters must be ignored –
- (a) for the purposes of subsection (3D)(a): any provision which confers a payment function on designated fossil fuel suppliers; 20
  - (b) for the purposes of subsection (3D)(b): any payment function under the RHI scheme concerned which (before the time when the provision comes into force) is, or has been, exercisable by designated fossil fuel suppliers.
- (3H) The fact that provision is to some extent made under a power conferred by section 100(1), (1A) or (1B) does not prevent that provision from being taken (for the purposes of subsections (3A) to (3F)) as being made under any other power conferred by section 100. 25
- (3I) In subsections (3B) to (3H) and this subsection –
- “administration function” means a function relating to the administration of an RHI scheme; 30
  - “designated fossil fuel suppliers” has the same meaning as in section 100;
  - “payment function” means a function of making a payment under an RHI scheme (whether the function authorises or requires the making of the payment); 35
  - “RHI scheme” means a scheme under section 100 to facilitate and encourage renewable generation of heat.”
- (9) In section 105 of the Utilities Act 2000 (general restrictions on disclosure of information), in subsection (3) – 40
- (a) in paragraph (a), omit “or section 100”;
  - (b) after paragraph (a) insert –
    - “(aa) it is made for the purpose of facilitating any functions of any person under section 100 of the Energy Act 2008;”.



*Consequential provision***45 Consequential provision**

- (1) The Secretary of State may by regulations make consequential provision in connection with any provision made by or under this Part (other than section 35). 5
- (2) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).
- (3) In this section “enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978. 10

**PART 6**

## GENERAL PROVISIONS

**46 Regulations and orders**

- (1) Regulations and orders made by the Secretary of State, the Treasury or the Welsh Ministers under this Act are to be made by statutory instrument. 15
- (2) A statutory instrument which contains an order under section 1 –  
 (a) appointing a strategic highways company for an area other than the whole of England, and  
 (b) which is the first exercise of the power in respect of such an area,  
 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 20
- (3) A statutory instrument which contains an order under section 1 –  
 (a) appointing a strategic highways company for an area other than the whole of England, and  
 (b) which is a subsequent exercise of the power in respect of such an area,  
 is subject to annulment in pursuance of a resolution of either House of Parliament. 25
- (4) A statutory instrument containing (whether alone or with other provisions) –  
 (a) regulations under section 16,  
 (b) regulations under section 33 or 37(11), 30  
 (c) regulations under section 40, 41 or 42, or  
 (d) regulations under section 17 or 45 which amend, repeal or modify the application of an Act,  
 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 35
- (5) Subsection (2) does not apply to a statutory instrument containing only regulations under section 33(5)(b).
- (6) A statutory instrument –  
 (a) which contains regulations under this Act other than under section 14 or 48, and  
 (b) to which subsection (2) does not apply, 40

is subject to annulment in pursuance of a resolution of either House of Parliament.

- (7) A statutory instrument which contains regulations under section 14 is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) A power to make regulations under this Act may be used – 5
  - (a) to make different provision for different purposes;
  - (b) in relation to all or only some of the purposes for which it may be used.
- (9) Regulations under this Act may include incidental, supplementary, consequential, transitional, transitory or saving provision.
- (10) Subsections (8) and (9) do not apply to regulations under section 48. 10

#### 47 Extent

- (1) Part 1 (strategic highways companies) extends to England and Wales only, save that –
  - (a) sections 14 and 16 to 18 extend to England and Wales, Scotland and Northern Ireland, and 15
  - (b) an amendment or repeal made by that Part, other than the amendment made by section 15(7), has the same extent as the provision to which it relates.
- (2) In Part 2 (powers of British Transport Police Force) –
  - (a) section 19(1) extends to England and Wales only, and 20
  - (b) section 19(2) extends to England and Wales and Scotland.
- (3) Part 3 (environmental control of animal and plant species) extends to England and Wales only.
- (4) In Part 4 (planning, land and buildings) –
  - (a) an amendment or repeal has the same extent as the provision to which it relates, and 25
  - (b) section 28(11) and (12), Part 4 of Schedule 4 and section 29 so far as applying to that Part and section 32(6) extend to England and Wales only.
- (5) In Part 5 (energy) – 30
  - (a) sections 33 and 34, sections 36 and 37, sections 38 to 43, section 44, section 45, and Schedules 5 and 6 extend to England and Wales and Scotland, and
  - (b) section 35 extends to England and Wales, Scotland and Northern Ireland. 35
- (6) This Part extends to England and Wales, Scotland and Northern Ireland.

#### 48 Commencement

- (1) Part 1 (strategic highways companies) comes into force –
  - (a) in so far as it confers power to make regulations, on the day on which this Act is passed, and 40
  - (b) for all other purposes, on such day as the Secretary of State appoints by regulations.

- (2) Part 2 (powers of British Transport Police Force) comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) Part 3 (environmental control of animal and plant species) –
- (a) so far as it relates to England, comes into force on such day as the Secretary of State appoints by regulations, and 5
  - (b) so far as it relates to Wales, comes into force on such day as the Welsh Ministers appoint by regulations.
- (4) In Part 4 (planning, land and buildings) –
- (a) sections 23, 24 and 32 come into force on such day as the Secretary of State appoints by regulations, 10
  - (b) section 25 comes into force –
    - (i) in so far as it confers power to make regulations, on the day on which this Act is passed, and
    - (ii) for all other purposes, on such day as the Secretary of State appoints by regulations, 15
  - (c) section 26 comes into force on the day on which this Act is passed, and
  - (d) sections 27, 28, 29, 30 and 31 and Schedule 4 come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (5) In the case of section 29 and Schedule 4, subsection (4) has effect subject to Part 4 of that Schedule. 20
- (6) In Part 5 (energy) –
- (a) sections 33 and 34 and Schedule 5 come into force on 1 June 2016,
  - (b) section 35 and sections 38 to 43 come into force at the end of the period of two months beginning with the day on which this Act is passed, 25
  - (c) sections 36 and 37 and Schedule 6 come into force on such day as the Secretary of State appoints by regulations, and
  - (d) section 44 and section 45 come into force on the day on which this Act is passed.
- (7) This Part comes into force on the day on which this Act is passed. 30
- (8) Regulations under subsection (1)(b), (3), (4)(a) or (b)(ii) or (6)(c) may appoint different days for different purposes or areas.
- (9) The Secretary of State may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act, other than Part 3 so far as it relates to Wales. 35
- (10) The Welsh Ministers may by regulations make transitional, transitory or saving provision in connection with the coming into force of Part 3 so far as it relates to Wales.

#### 49 Short title

- (1) This Act may be cited as the Infrastructure Act 2014. 40
- (2) **Nothing in this Act shall impose any charge on the people or on public funds, or vary the amount or incidence of or otherwise alter any such charge in any manner, or affect the assessment, levying, administration or application of any money raised by any such charge.**

## SCHEDULES

### SCHEDULE 1

Section 1

#### STRATEGIC HIGHWAYS COMPANIES: CONSEQUENTIAL AND SUPPLEMENTAL AMENDMENTS

#### PART 1

#### HIGHWAYS ACT 1980

5

1 The Highways Act 1980 is amended as follows.

2 (1) Section 1 (highway authorities: general provision) is amended as follows.

(2) In subsection (1) –

(a) after “Minister is” insert “, subject to subsection (1A),”;

(b) after paragraph (d) insert –

“(e) any highway for which he becomes the highway authority by virtue of section 2 of the Infrastructure Act 2014.”

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(3) After subsection (1) insert –

“(1A) A strategic highways company is the highway authority for –

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(a) any highway specified in the appointment of the company in accordance with Part 1 of the Infrastructure Act 2014;

(b) any highway that is directed to become a trunk road and for which that company is directed to be highway authority under section 10;

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(c) any special road provided by the company;

(d) any highway for which an order made under any enactment expressly provides for that company to be the highway authority;

(e) any highway transferred to the company by an order under section 14 or 18;

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(f) any other highway constructed by the company except where –

(i) by virtue of section 4(3) or 5(2) or some other enactment, a local highway authority is the highway authority for it; or

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(ii) by means of an order under section 14 or 18 the highway is transferred to a local highway authority.

Paragraphs (a), (b) and (f) do not apply where a local highway authority becomes the highway authority by virtue of section 2.”

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(4) In subsections (2) and (3) to (4) –

(a) after “subsection (1)” insert “or (1A)”;

- (b) after “Minister” insert “or a strategic highways company”.
- 3 In section 2 (highway authority for road which ceases to be a trunk road), in subsection (2) –
- (a) after the first “Minister” insert “or by a strategic highways company”; 5
- (b) after the second “Minister” insert “or the company”.
- 4 (1) Section 3 (highway authority for approaches to and parts of certain bridges) is amended as follows.
- (2) In subsection (1), after the first “Minister” insert “or a strategic highways company”. 10
- (3) In subsection (3), after “Minister” insert “or a strategic highways company”.
- 5 (1) Section 4 (agreement for exercise by Minister of certain functions of local highway authority as respects highway affected by construction etc of trunk road) is amended as follows.
- (2) In subsection (1) – 15
- (a) after the first “Minister” insert “or a strategic highways company, whichever is the highway authority for a trunk road (“the trunk road authority”);
- (b) for the second “Minister” substitute “trunk road authority”;
- (c) for “a trunk road”, wherever occurring, substitute “that trunk road”. 20
- (3) In subsection (2) –
- (a) for “Minister”, wherever occurring, substitute “trunk road authority”;
- (b) for “he” substitute “the trunk road authority”.
- (4) In subsection (3) – 25
- (a) omit “by him”;
- (b) for “Minister” substitute “trunk road authority”.
- (5) In subsections (4) and (5), for “Minister”, wherever occurring, substitute “trunk road authority”.
- (6) In the heading, after “Minister” insert “or strategic highways company”. 30
- 6 (1) Section 5 (agreement for local highway authority to maintain and improve certain highways constructed or to be constructed by Minister) is amended as follows.
- (2) In subsection (1) – 35
- (a) after the first “Minister” insert “or a strategic highways company”;
- (b) for “their” substitute “the local highway authority’s”;
- (c) after the second “Minister” insert “or the company”.
- (3) In the heading, after “Minister” insert “or strategic highways company”.
- 7 (1) Section 6 (delegation etc of functions with respect to trunk roads) is amended as follows. 40
- (2) In subsection (1) –
- (a) after “Minister” insert “or a strategic highways company”;
- (b) after “his” insert “or its”;

- 
- (c) after “him” insert “or it”.
- (3) In subsection (1A) –
- (a) after “Minister” insert “or a strategic highways company”;
- (b) for “their”, wherever occurring, substitute “that council’s”.
- (4) In subsection (1B) – 5
- (a) after “Minister” insert “or a strategic highways company”;
- (b) for “their” substitute “that council’s”.
- (5) In subsection (2) –
- (a) after “Minister”, wherever occurring, insert “or a strategic highways company”;
- (b) for “he may attach” substitute “may be attached”. 10
- (6) In subsection (3) –
- (a) after “Minister”, wherever occurring, insert “or a strategic highways company”;
- (b) after “he” insert “or the company”;
- (c) after “him” insert “or the company”. 15
- (7) In subsection (4), after “Minister”, wherever occurring, insert “or a strategic highways company”.
- (8) In subsection (5) –
- (a) after “Minister” insert “or a strategic highways company”;
- (b) in paragraph (b), for “them” substitute “the council”. 20
- (9) In subsection (6), after “Minister”, wherever occurring, insert “or a strategic highways company”.
- (10) In subsection (8) –
- (a) after “Minister”, wherever occurring, insert “or a strategic highways company”.
- (b) after “his” substitute “or the company’s”. 25
- 8 (1) Section 8 (agreements between local highway authorities for doing of certain works) is amended as follows.
- (2) In subsection (1) – 30
- (a) after “local highway authorities” insert “and strategic highways companies”;
- (b) for “each other” substitute “other such authorities and companies”.
- (3) In the heading, after “local highway authorities” insert “and strategic highways companies”. 35
- 9 (1) Section 9 (seconding of staff etc) is amended as follows.
- (2) In subsection (1) –
- (a) after “Minister” insert “or a strategic highways company”.
- (b) after “his”, wherever occurring, insert “or the company’s”.
- (3) In subsection (2), after “Minister” insert “or a strategic highways company”. 40
- 10 (1) Section 10 (general provision as to trunk roads) is amended as follows.

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- (2) In subsection (2)(a)(i), after “Minister” insert “or a strategic highways company”.
- (3) After subsection (3) insert –
- “(3A) The power to direct that a highway or proposed highway become a trunk road includes the power to direct that a strategic highways company is the highway authority for that trunk road.” 5
- (4) In subsection (8), after “Minister” insert “or a strategic highways company”.
- 11 (1) Section 11 (local and private Act functions with respect to trunk roads) is amended as follows.
- (2) In subsection (1), after “Minister alone” insert “or a strategic highways company alone, whichever is highway authority for the trunk road (“the trunk road authority”),”.
- (3) In subsection (2), in paragraphs (a), (b) and (c), for “Minister”, wherever occurring, substitute “trunk road authority”.
- 12 In section 14 (powers as respects roads that cross or join trunk or classified roads), in subsection (3) – 15
- (a) in paragraph (a), after “trunk road” insert “for which he is the highway authority”;
- (b) in paragraph (b), for “in relation to a classified road” substitute “in any other case”. 20
- 13 (1) Section 16 (general provision as to special roads) is amended as follows.
- (2) For subsection (4) substitute –
- “(4) A reference in this Act to a special road authority is a reference to –
- (a) except where paragraph (b) or (c) applies, a highway authority authorised to provide a special road by means of – 25
- (i) a scheme under this section, or
- (ii) a scheme referred to in subsection (1);
- (b) except where paragraph (c) applies, the highway authority determined to be the special road authority by a jointly submitted scheme under subsection (10); 30
- (c) a strategic highways company, where the company is the highway authority for a special road by virtue of an appointment under Part 1 of the Infrastructure Act 2014.”
- (3) In subsection (6)(b) –
- (a) for “the case” substitute “any other case”; 35
- (b) omit “local”.
- (4) In subsection (10) –
- (a) omit “local”;
- (b) omit from “, references in this Act” to the end.
- 14 In section 18 (supplementary orders relating to special roads), in subsection (3)(b) – 40
- (a) for “the case” substitute “any other case”;
- (b) omit “local”.

- 15 In section 19 (certain special roads and other highways to become trunk roads), in subsections (1) and (2), after “Minister”, wherever occurring, insert “or a strategic highways company”.
- 16 (1) Section 23 (compensation in respect of certain works executed in pursuance of orders under section 14 or 18) is amended as follows. 5
- (2) After the first “Minister,” insert “a strategic highways company,”.
- (3) After the second “Minister,” insert “the strategic highways company,”.
- 17 (1) Section 24 (construction of new highways and provision of road-ferries) is amended as follows.
- (2) In subsection (1) – 10
- (a) after “Minister” insert “or a strategic highways company”;
- (b) omit “, with the approval of the Treasury,”;
- (c) after “he”, wherever occurring, insert “or it”;
- (d) in paragraph (d), after “him” insert “or it”;
- (e) in the words following paragraph (d), after “his” insert “or its”. 15
- (3) After subsection (1) insert –
- “(1A) Where a strategic highways company proposes to construct a highway which will communicate with a highway for which another strategic highways company is the highway authority, the communication shall not be made unless the manner in which it is to be made has been approved by the Secretary of State.” 20
- (4) In subsection (2) –
- (a) after the first “Minister” insert “or a strategic highways company”;
- (b) after the second “Minister” insert “or the company”.
- 18 (1) Section 26 (compulsory powers for creation of footpaths, bridleways and restricted byways) is amended as follows. 25
- (2) In subsection (1) –
- (a) after “local authority” insert “or a strategic highways company”;
- (b) after “the authority” insert “or company”;
- (c) after “them”, wherever occurring, insert “or it”. 30
- (3) In subsection (3) –
- (a) after the first “local authority” insert “and a strategic highways company”;
- (b) omit “other”.
- (4) In subsection (3A)(b), after “local authority” insert “and a strategic highways company”. 35
- 19 In section 38 (power of highway authorities to adopt by agreement), in subsection (1), after “Minister,” insert “or a strategic highways company, whichever is the highway authority”.
- 20 (1) Section 41 (duty to maintain highways maintainable at public expense) is amended as follows. 40
- (2) In subsection (2), after “him” insert “or a strategic highways company”.



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- (3) In subsection (4)(b), after “Minister” insert “or the strategic highways company”.
- (4) In subsection (5), after the second “Minister” insert “or the strategic highways company”.
- 21 (1) Section 55 (extinguishment of liability to maintain or improve bridges comprised in trunk roads and special roads) is amended as follows. 5
- (2) In subsection (1), after “Minister” insert “or a strategic highways company (“the trunk road authority”)”.
- (3) In subsection (2) – 10
- (a) for the first “Minister” substitute “trunk road authority”;
- (b) for the second “Minister” substitute “authority”.
- (4) In subsection (3), for “Minister”, wherever occurring, substitute “trunk road authority”.
- (5) In subsection (4) – 15
- (a) for the first “Minister” substitute “trunk road authority”;
- (b) after the second “Minister” insert “, a strategic highways company or trunk road authority”.
- (6) In subsection (5), in the definition of “owners”, for “Minister” substitute “trunk road authority”.
- 22 In section 63 (relief of main carriageway of trunk road from local traffic), after “Minister” insert “or a strategic highways company”. 20
- 23 In section 66 (footways and guard-rails etc for publicly maintainable highways), in subsection (6) –
- (a) after the first “Minister” insert “or a strategic highways company”;
- (b) after the second “Minister” insert “or the strategic highways company”. 25
- 24 In section 69 (subways), in subsection (2)(a), after “Minister” insert “or a strategic highways company”.
- 25 (1) Section 80 (power to fence highways) is amended as follows.
- (2) In subsection (1)(b), after “Minister” insert “or a strategic highways company”. 30
- (3) In subsection (3), after “Part III)” insert “and, in the case of a trunk road, consent has been given under section 175B (consent of highway authority required for trunk road access).”
- (4) In subsection (4) – 35
- (a) in paragraph (b) –
- (i) after “Minister” insert “or a strategic highways company”;
- (ii) after “him” insert “or it”;
- (b) in the words following paragraph (b), after “Minister” insert “or a strategic highways company”. 40
- 26 (1) Section 90C (consultation and local inquiries) is amended as follows.
- (2) In subsection (1) –
- (a) after “Secretary of State” insert “, a strategic highways company”;

- (b) after “he” insert “, it”.
- (3) In subsection (2), after “Secretary of State” insert “, a strategic highways company”.
- (4) In subsection (4) –
- (a) after “Secretary of State” insert “, a strategic highways company”; 5
- (b) after “him” insert “, it”;
- (c) after “he” insert “, it”.
- 27 (1) Section 93 (power to make orders as to reconstruction, improvement etc of privately maintainable bridges) is amended as follows.
- (2) In subsections (1) and (2), omit “local”, wherever occurring. 10
- (3) Omit subsection (5).
- 28 In section 95 (supplemental provisions as to orders and agreements under sections 93 and 94), in subsection (2), for the words from “section 94” to the end substitute “sections 93 and 94 are exercisable by the highway authority for the trunk road over, or partly over, the bridge.” 15
- 29 In section 97 (lighting of highways), in subsection (1), for “The Minister and every local” substitute “A”.
- 30 (1) Section 105A (environmental impact assessments) is amended as follows.
- (2) In subsection (2) –
- (a) after “Secretary of State” insert “or a strategic highways company”; 20
- (b) after the first “he” insert “or it”;
- (c) after the second “he” insert “or it, whichever is considering the project,”.
- (3) In subsection (3) –
- (a) after “Secretary of State” insert “or the strategic highways company”; 25
- (b) after “he” insert “or the company”.
- (4) In subsection (4), after “Secretary of State” insert “or the strategic highways company”.
- (5) In subsection (5)(d) –
- (a) after “Secretary of State” insert “or the strategic highways company”; 30
- (b) after “his” insert “or its”.
- 31 (1) Section 105B (procedure) is amended as follows.
- (2) In subsection (1) –
- (a) after “Secretary of State” insert “or a strategic highways company”; 35
- (b) after “him” insert “or it (as the case may be)”.
- (3) In subsection (3), after “Secretary of State” insert “or the strategic highways company (as the case may be)”.
- (4) In subsection (3A) –
- (a) in paragraphs (a) and (h), after “Secretary of State” insert “or the strategic highways company”; 40
- (b) in paragraph (i), after “Secretary of State” insert “or the strategic highways company (as the case may be)”;

- (c) in paragraph (j), after “Secretary of State” insert “or the strategic highways company”.
- (5) In subsections (3B) and (3C), after “Secretary of State” insert “or the strategic highways company”.
- (6) In subsection (4) – 5
- (a) after “Secretary of State” insert “or the strategic highways company”;
- (b) after “he” insert “or it”.
- (7) In subsection (5) – 10
- (a) after the first “Secretary of State” insert “or the strategic highways company”;
- (b) in paragraphs (b) and (c) –
- (i) after “Secretary of State” insert “or the strategic highways company (as the case may be)”;
- (ii) after “him” insert “or it”.
- (8) In subsection (5A) – 15
- (a) after “Secretary of State”, wherever occurring, insert “or the strategic highways company”;
- (b) after “him”, wherever occurring, insert “or it”.
- (9) In subsection (6) – 20
- (a) after “Secretary of State” insert “or the strategic highways company (as the case may be)”;
- (b) after “he”, wherever occurring, insert “or it”;
- (c) after “his”, wherever occurring, insert “or its”.
- (10) In subsection (7), after “Secretary of State”, wherever occurring, insert “or the strategic highways company”. 25
- (11) In subsection (8)(e), after “Secretary of State” insert “, the strategic highways company”.
- 32 (1) Section 105C (other EEA States) is amended as follows.
- (2) In subsection (1) – 30
- (a) in paragraph (a), after “Secretary of State” insert “or a strategic highways company”;
- (b) in paragraph (b), after “Secretary of State” insert “or the strategic highways company, whichever is considering the project”.
- (3) In subsection (2) – 35
- (a) after “Secretary of State” insert “or the strategic highways company”;
- (b) in paragraph (a), after “him” insert “or the company”;
- (c) in paragraphs (b) and (c), after “he” insert “or the company”.
- (4) In subsection (4) – 40
- (a) after “Secretary of State” insert “or the strategic highways company”;
- (b) in paragraphs (a) and (c), after “he” insert “or the company”.
- (5) In subsection (5) –
- (a) after “Secretary of State” insert “or the strategic highways company”;
- (b) after “he”, wherever occurring, insert “or the company”;
- (c) in paragraph (b), after “him” insert “or the company”.

- (6) In subsections (6) and (7), after “Secretary of State” insert “or the strategic highways company”.
- 33 In section 105D (validity of decisions), in subsection (1), after “Secretary of State” insert “or a strategic highways company”.
- 34 (1) Section 106 (orders and schemes providing for construction of bridges over or tunnels under navigable waters) is amended as follows. 5
- (2) In subsection (3) –
- (a) after “local highway authority” insert “or a strategic highways company”;
- (b) after “the authority” insert “or company”. 10
- (3) In subsection (6), omit “local”.
- 35 In section 108 (power to divert navigable watercourses), in subsection (2)(b), for “a local” substitute “any other”.
- 36 In section 110 (power to divert non-navigable watercourses and to carry out other works on any watercourse), in subsection (6)(b), for “, they shall not carry them” substitute “or a strategic highways company, they must not be carried”. 15
- 37 (1) Section 112 (provision of picnic sites and public conveniences for users of trunk roads) is amended as follows.
- (2) In subsection (1), after “Minister” insert “or a strategic highways company”. 20
- (3) In subsection (2) –
- (a) after “Minister” insert “or a strategic highways company”;
- (b) after “him” insert “or the company”.
- (4) In subsections (3) to (5), after “Minister”, wherever occurring, insert “or a strategic highways company”. 25
- (5) In subsection (6) –
- (a) after “Minister” insert “or the strategic highways company, whichever is highway authority for the trunk road,”;
- (b) after “him” insert “or it”.
- (6) In subsection (7), after “Minister” insert “or a strategic highways company”. 30
- 38 (1) Section 113 (exercise by council of functions of Minister with respect to management or provision of picnic sites etc) is amended as follows.
- (2) In subsection (1) –
- (a) after “Minister” insert “or a strategic highways company”;
- (b) after “his” insert “or its”;
- (c) after “him” insert “or it”. 35
- (3) In subsection (2), omit “by Minister”.
- (4) In subsection (3) –
- (a) after “Minister” insert “or a strategic highways company”;
- (b) in paragraph (b), after “he” insert “or it”;
- (c) in paragraph (c), after “his” insert “or its”. 40

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- (5) In subsections (5) and (7), after “Minister” insert “or a strategic highways company”.
- (6) In the heading, after “Minister” insert “or a strategic highways company”.
- 39 (1) Section 124 (stopping up of private access to highways) is amended as follows. 5
- (2) In subsection (2), after “if they are” insert “a strategic highways company or”.
- (3) In subsection (3) –
- (a) for “a local” substitute “any other”;
- (b) in paragraph (b), for “local” substitute “other”. 10
- (4) In subsection (4)(d) and (e), omit “local”, wherever occurring.
- (5) In subsection (5) –
- (a) after “order made by” insert “a strategic highways company or”;
- (b) omit the second “local”.
- (6) In subsections (6) and (7), omit “local”. 15
- 40 In section 129 (further provision with respect to new means of access), in subsection (3), for “a local” substitute “any other”.
- 41 In section 154 (cutting or felling etc trees etc that overhang or are a danger to roads or paths), in subsection (1)(a) –
- (a) after the first “Minister” insert “or a strategic highways company”;
- (b) for the second “Minister” substitute “highway authority”. 20
- 42 In section 174 (precautions to be taken by persons executing works in streets), in subsections (1A) and (1B), omit “local”.
- 43 Before section 176 insert –
- “175B Consent of highway authority required for trunk road access** 25
- (1) Access to or from a trunk road in England must not be constructed, formed or laid out without the consent of the highway authority for the trunk road.
- (2) Subsection (1) does not apply where –
- (a) section 24(2) applies, or
- (b) development consent is required under the Planning Act 2008.” 30
- 44 In section 232 (power to treat as a private street land designated for purposes of this section by development plan), in subsection (7), after “constructed by” insert “a strategic highways company or”. 35
- 45 (1) Section 239 (acquisition of land for construction, improvement etc of highway: general powers) is amended as follows.
- (2) In subsection (1), after “Minister” insert “or a strategic highways company”.
- (3) In subsection (2) –
- (a) after “Minister” insert “or a strategic highways company”;
- (b) after “his” insert “or its”. 40

- 46 In section 240 (acquisition of land in connection with construction, improvement etc of highway: further general powers), in subsection (3) –
- (a) after “Minister” insert “or a strategic highways company”;
  - (b) in paragraph (b), after “his” insert “or its”.
- 47 (1) Section 245A (acquisition of land by Secretary of State or Assembly for buildings etc needed for traffic management purposes) is amended as follows. 5
- (2) After subsection (1) insert –
- “(1A) A strategic highways company may acquire land in England which in its opinion is required for the provision of any buildings or facilities which are needed – 10
- (a) for use by, or in connection with the activities of, traffic officers in the area for which it is appointed in accordance with Part 1 of the Infrastructure Act 2014; or
  - (b) for other purposes connected with the management of traffic on highways in that area and for which it is the highway authority.” 15
- (3) In the heading, after “Secretary of State” insert “, strategic highways company”.
- 48 In section 247 (general provision as to acquisition procedure etc), in subsection (1), after “this Act on” insert “a strategic highways company or”. 20
- 49 (1) Section 254 (compulsory acquisition for certain purposes of rights in land belonging to local authorities etc) is amended as follows.
- (2) In subsection (1)(b), after “Minister”, wherever occurring, insert “or a strategic highways company”. 25
  - (3) In subsection (2), after “Minister”, wherever occurring, insert “or a strategic highways company”.
  - (4) In subsection (5)(b), after “Minister” insert “or a strategic highways company”.
- 50 (1) Section 260 (clearance of title to land acquired for statutory purposes) is amended as follows. 30
- (2) In subsection (3)(b), after “Minister” insert “or a strategic highways company”.
  - (3) In subsection (4), after “Minister” insert “, strategic highways company”.
- 51 In section 263 (vesting of highways maintainable at public expense), in subsection (3), omit “local”. 35
- 52 (1) Section 265 (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) is amended as follows.
- (2) In subsection (1) –
    - (a) after the first “Minister” insert “or the strategic highways company, whichever is highway authority for the trunk road,”; 40
    - (b) after the second “Minister” insert “or the company”.
  - (3) In subsection (2), after “Minister” insert “or a strategic highways company”.

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- (4) In subsection (4) –
- (a) after “Minister” insert “or a strategic highways company”;
  - (b) after “him” insert “or the company”.
- (5) In subsection (5) –
- (a) after “Minister”, wherever occurring, insert “or the strategic highways company”; 5
  - (b) in paragraph (a), after “him” insert “or the company”.
- (6) In subsections (6) and (7), after “Minister”, wherever occurring, insert “or a strategic highways company”.
- (7) In subsection (8) – 10
- (a) after “Minister” insert “or the strategic highways company”;
  - (b) after “him” insert “or it”;
  - (c) after “he” insert “or it”.
- 53 (1) Section 266 (transfer to Minister of privately maintainable bridges carrying trunk roads) is amended as follows. 15
- (2) In subsection (1), after “Minister” insert “or a strategic highways company, whichever is highway authority for the trunk road (“the trunk road authority”),”.
- (3) In subsection (2), for “Minister” substitute “trunk road authority”.
- (4) In subsection (3) – 20
- (a) for the first “Minister” substitute “trunk road authority”;
  - (b) for “Minister”, wherever else occurring, substitute “authority”.
- (5) In subsection (4), for “Minister” substitute “trunk road authority”.
- (6) In subsections (5) and (6) – 25
- (a) for the first “Minister” substitute “trunk road authority”;
  - (b) for “Minister”, wherever else occurring, substitute “authority”.
- (7) In subsections (7), (8) and (10), for “Minister”, wherever occurring, substitute “trunk road authority”.
- (8) In the heading, after “Minister” insert “or a strategic highways company”.
- 54 In section 266A (transfer of property and liabilities upon a highway becoming or ceasing to be a GLA road), in subsection (8)(b), after “Minister” insert “or a strategic highways company”. 30
- 55 (1) Section 267 (transfer to local highway authorities of privately maintainable bridges carrying special roads) is amended as follows.
- (2) In subsection (1), after “Minister” insert “or a strategic highways company,”. 35
- (3) In subsections (2) and (3), for “Minister” substitute “trunk road authority”.
- 56 (1) Section 271 (provisions with respect to transfer of toll highways to highway authorities) is amended as follows.
- (2) In subsection (1)(i), after “trunk road” insert “for which he is the highway authority”. 40

- (3) After subsection (1)(i) insert –  
 “(ia) in the case of a trunk road for which it is the highway authority, a strategic highways company;”.
- 57 (1) Section 277 (contribution towards maintenance of bridge where road ceases to be a trunk road) is amended as follows. 5
- (2) After the first “Minister” insert “or a strategic highways company”.
- (3) After the second “Minister” insert “or the company”.
- 58 (1) Section 284 (powers of Minister in relation to privately maintainable parts of trunk roads) is amended as follows.
- (2) After “Minister” insert “or a strategic highways company, whichever is highway authority for the trunk road,”. 10
- (3) In the heading, after “Minister” insert “or strategic highways company”.
- 59 (1) Section 284A (trunk roads: miscellaneous functions of Secretary of State) is amended as follows.
- (2) For the words from “any trunk road” to the end substitute “a trunk road for which the Secretary of State is highway authority, include the Secretary of State and, in relation to a trunk road for which a strategic highways company is the highway authority, include that company.” 15
- (3) In the heading, after “Secretary of State” insert “and strategic highways company”. 20
- 60 (1) Section 329 (further provision as to interpretation) is amended as follows.
- (2) In subsection (1) –
- (a) in the definition of “local highway authority” after “Minister” insert “or a strategic highways company”;
- (b) at the appropriate place insert – 25
- ““strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2014;”.
- (3) After subsection (5) insert –
- “(6) Subsection (5) is subject to the specification of those roads as ones for which a strategic highways company is highway authority under Part 1 of the Infrastructure Act 2014.” 30
- 61 In section 330 (construction of certain enactments relating to execution of works by statutory undertakers), in subsection (1), after “Minister” insert “or a strategic highways company, whichever is highway authority for the trunk road,”. 35
- 62 In section 331 (references to functions of council as respects any highway), after “Minister” insert “or a strategic highways company”.
- 63 (1) Schedule 1 (procedures for making or confirming certain orders and schemes) is amended as follows. 40
- (2) In paragraph 1, after “trunk road” insert “for which he is the highway authority”.



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- (3) In paragraph 2—
- (a) after “order relating to” insert “a trunk road for which a strategic highways company is the highway authority or to”;
  - (b) omit “local”.
- (4) In paragraph 3— 5
- (a) after the first “Minister” insert “, the strategic highways company”;
  - (b) after the second “Minister” insert “, of the strategic highways company”.
- (5) In paragraphs 4 and 5, after “Minister” insert “, the strategic highways company”. 10
- (6) In paragraph 6, after “Minister” insert “, a strategic highways company”.
- (7) In paragraphs 7(1)(ii), 8(1)(b), 9 and 10 omit “local”.
- (8) In paragraph 11, for “local” substitute “other”.
- (9) In paragraph 12, for the first “local” substitute “other”.
- (10) In paragraph 13, for “a local” substitute “another”. 15
- (11) In paragraphs 14(1)(ii), 15(1)(b) and 16 omit “local”.
- (12) In paragraph 17, for “local” substitute “other”.
- 64 In Schedule 3 (provisions of this Act referred to in section 11), in the headings to Parts 1, 2 and 3, after “Minister”, wherever occurring, insert “or a strategic highways company”. 20
- 65 (1) Schedule 5 (modifications of certain provisions of the Town and Country Planning Act 1990 as applied by section 21) is amended as follows.
- (2) In Part 1 (modifications in relation to land referred to in paragraph (a) or (b) of section 21(2)), in paragraph 3, after “when” insert “a strategic highways company or”. 25
  - (3) In Part 2 (modifications in relation to land referred to in paragraph (c) of section 21(2))—
    - (a) in paragraph 1, after “Minister,” insert “the strategic highways company,”;
    - (b) in paragraph 3, after “references to” insert “a strategic highways company or”; 30
    - (c) in paragraph 4, in the substituted text of subsection (1) of section 273 of the Town and Country Planning Act 1990, after “Minister,” insert “the strategic highways company,”;
    - (d) in paragraph 5, after “Minister,” insert “the strategic highways company,”. 35
- 66 (1) Schedule 11 (provisions as to orders under section 93 of this Act) is amended as follows.
- (2) In paragraph 9(3), omit “local”.
  - (3) In paragraph 15(1), omit “other than a trunk road bridge”. 40
  - (4) Omit paragraph 17.

- 67 (1) Schedule 21 (transitional matters arising where a highway becomes a trunk road or a trunk road ceases to be a trunk road) is amended as follows.
- (2) In paragraph 1 –
- (a) after the first “Minister” insert “or a strategic highways company, whichever is highway authority for the trunk road”; 5
- (b) after the second “Minister” insert “or the company”;
- (c) for “him” substitute “it”.
- (3) In paragraph 3 –
- (a) after the first “Minister” insert “or a strategic highways company”;
- (b) after “Minister”, wherever else occurring, insert “or the company”. 10
- (4) In paragraph 4, after “Minister”, wherever occurring, insert “or a strategic highways company”.
- (5) In paragraphs 6 to 9 –
- (a) after the first “Minister” insert “or a strategic highways company”;
- (b) after “Minister”, wherever else occurring, insert “or the company”. 15

## PART 2

## OTHER ENACTMENTS

*Parliamentary Commissioner Act 1967 (c. 13)*

- 68 In Schedule 2 to the Parliamentary Commissioner Act 1967, at the appropriate place insert “A strategic highways company for the time being appointed under Part 1 of the Infrastructure Act 2014.” 20

*Road Traffic Regulation Act 1984 (c. 27)*

- 69 The Road Traffic Regulation Act 1984 is amended as follows.
- 70 (1) Section 1 (traffic regulation orders outside Greater London) is amended as follows. 25
- (2) In subsection (3) –
- (a) after “Secretary of State” insert “, a strategic highways company”;
- (b) after “he is” insert “, it is”.
- (3) In subsection (3A) –
- (a) after the first “Secretary of State” insert “, a strategic highways company”; 30
- (b) in paragraph (b), after “Secretary of State,” insert “the strategic highways company”.
- 71 In section 2 (what a traffic regulation order may provide), in subsection (5), after “local authority” insert “, a strategic highways company”. 35
- 72 In section 6 (orders similar to traffic regulation orders), in subsection (2) –
- (a) after “Secretary of State” insert “or a strategic highways company”;
- (b) after “his” insert “or its”.
- 73 (1) Section 9 (experimental traffic orders) is amended as follows.
- (2) In subsection (2) – 40

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- (a) after “Secretary of State” insert “or a strategic highways company”;  
 (b) after “he” insert “or it”.
- (3) In subsection (2A) –  
 (a) after “Secretary of State” insert “or a strategic highways company”;  
 (b) after “his” insert “or its”. 5
- 74 In section 16A (prohibition or restriction on roads in connection with certain events), in subsection (6) –  
 (a) after “Secretary of State” insert “or a strategic highways company”;  
 (b) after “his” insert “or its”.
- 75 (1) Section 16B (restrictions on orders under s16A) is amended as follows. 10  
 (2) In subsection (1) –  
 (a) in paragraph (a), after “Secretary of State” insert “or a strategic highways company”;  
 (b) in paragraph (b), after “he” insert “or it”.
- (3) In subsection (2), after “Secretary of State” insert “or a strategic highways company”. 15  
 (4) In subsections (4) and (5), for “is not himself the traffic authority, he” substitute “or a strategic highways company (whichever made the order or agreed that it should continue in force) is not the traffic authority, he or it”.  
 (5) In subsection (6) – 20  
 (a) in paragraph (a), after “Secretary of State” insert “or a strategic highways company”;  
 (b) in paragraph (b), after “his” insert “or its”.
- 76 In section 19 (regulation of use of highways by public service vehicles), in subsection (1), after “Greater London” insert “or a strategic highways company”. 25
- 77 (1) Section 23 (powers of local authorities with respect to pedestrian crossings on roads other than trunk roads) is amended as follows.  
 (2) In subsections (1) to (3), before “local traffic authority” insert “strategic highways company or a”. 30  
 (3) For the heading substitute “Powers of strategic highways companies and local traffic authorities with respect to pedestrian crossings”.
- 78 In section 24 (pedestrian crossings on trunk roads), in the heading, for “trunk” substitute “other”.
- 79 In section 37 (extension of powers for purposes of general scheme of traffic control), in subsection (3), after “Secretary of State” insert “or a strategic highways company”. 35
- 80 In section 58 (consents for the purposes of s 57(1)), in paragraph (i) of the table in subsection (1) –  
 (a) in the first column, after “Secretary of State” insert “or a strategic highways company”; 40  
 (b) in the second column, after “Secretary of State” insert “or the strategic highways company, whichever is the traffic authority for the road”.

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- 81 (1) Section 65 (powers and duties of highway authorities as to placing of traffic signs) is amended as follows.
- (2) In subsection (2), after “directions to” insert “a strategic highways company or”.
- (3) In the heading, for “highway” substitute “traffic”. 5
- 82 In section 69 (general provisions as to removal of signs), in subsection (3) –
- (a) after “directions to” insert “a strategic highways company or”;
- (b) for “the authority” substitute “it or them”.
- 83 (1) Section 70 (default powers of Secretary of State as to traffic signs) is amended as follows. 10
- (2) In subsection (1) –
- (a) after “If” insert “a strategic highways company,”;
- (b) after “from” insert “the company or”.
- (3) After subsection (2) insert –
- “(3) In England, where subsection (1) applies in respect of non-compliance with a direction by a traffic authority other than a strategic highways company –
- (a) a strategic highways company may carry out the work required by the direction with the consent of the Secretary of State, and 15
- (b) the expenses incurred by the company in doing so are recoverable by the company from the authority summarily as a civil debt.” 20
- 84 In section 71 (power to enter land in connection with traffic signs), in subsection (1), after “A” insert “strategic highways company, a”. 25
- 85 (1) Section 74B (transfer of traffic control systems between Secretary of State and Transport for London) is amended as follows.
- (2) In subsections (1) and (2) –
- (a) after the first “Secretary of State” insert “or a strategic highways company”;
- (b) after the second “Secretary of State” insert “or the company”. 30
- (3) In subsection (5), after “Secretary of State” insert “or the strategic highways company”.
- (4) In the heading, after “Secretary of State” insert “or a strategic highways company”. 35
- 86 In section 83 (provisions as to directions under s 82(2)), in subsection (2) –
- (a) after the first “by” insert “a strategic highways company or”;
- (b) after the third “by” insert “the company or”.
- 87 In section 84 (speed limits on roads other than restricted roads), in subsection (1B), after “orders of” insert “strategic highways companies or”. 40
- 88 (1) Section 85 (traffic signs for indicating speed restrictions) is amended as follows.
- (2) In subsections (2) and (3), omit “local”, wherever occurring.

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- (3) After subsection (3) insert—
- “(3A) In England, where subsection (3) applies in respect of non-compliance with a direction by a traffic authority other than a strategic highways company—
- (a) a strategic highways company may execute the work required by the direction with the consent of the Secretary of State, and 5
- (b) the expense incurred by the company in doing so is recoverable by the company from the authority summarily as a civil debt.” 10
- 89 (1) Section 93 (powers of Secretary of State in relation to functions under s 92) is amended as follows.
- (2) In subsection (2), for “a local” substitute “another”.
- (3) In subsection (3), omit “local”.
- 90 (1) Section 94 (bollards and other constructions in Greater London) is amended as follows. 15
- (2) In subsection (1)—
- (a) after the first “Secretary of State” insert “or a strategic highways company”;
- (b) after “he”, wherever occurring, insert “or it”; 20
- (c) in paragraph (a), after “Secretary of State” insert “or the company”.
- (3) In subsection (2), after “Secretary of State” insert “nor a strategic highways company”.
- (4) In subsection (4)—
- (a) after the first “Secretary of State” insert “, a strategic highways company”; 25
- (b) after the second “Secretary of State” insert “, the company”;
- (c) in paragraph (a)—
- (i) after “Secretary of State” insert “or a strategic highways company”; 30
- (ii) after the first “he” insert “or it”;
- (iii) for “he might under subsection (1)(a) above require” substitute “might under subsection (1)(a) be required”.
- (5) In subsection (5)—
- (a) after the first “Secretary of State” insert “, the strategic highways company”; 35
- (b) after the second “Secretary of State” insert “, the company”.
- 91 In section 100 (interim disposal of vehicles removed under section 99), in subsection (3A), after “Secretary of State” insert “or a strategic highways company”. 40
- 92 In section 101 (ultimate disposal of vehicles abandoned and removable under this Act), in paragraph (d) of the definition of “competent authority” in subsection (8), after “Secretary of State” insert “or a strategic highways company”.

- 93 (1) Section 102 (charges for removal, storage and disposal of vehicles) is amended as follows.
- (2) In subsection (2ZA) –
- (a) in the substituted paragraph (b) –
- (i) after “Secretary of State” insert “or a strategic highways company”; 5
- (ii) after “his” insert “or its”;
- (b) in the substituted paragraph (c) –
- (i) after “Secretary of State” insert “or a strategic highways company”; 10
- (ii) after “him” insert “or it”.
- (3) In subsection (4A) –
- (a) after the first “Secretary of State” insert “or a strategic highways company”;
- (b) after the second “Secretary of State” insert “or the company”. 15
- (4) In subsection (8), in paragraph (c) of the definition of “appropriate authority”, after “Secretary of State” insert “or a strategic highways company”.
- 94 (1) Section 121A (traffic authorities) is amended as follows.
- (2) After subsection (1AA) insert – 20
- “(1AB) A strategic highways company is the traffic authority for every highway for which it is the highway authority within the meaning of the Highways Act 1980.”
- (3) In subsections (2), (3) and (5)(a), after “Secretary of State” insert “or a strategic highways company”. 25
- 95 (1) Section 122 (exercise of functions by local authorities) is amended as follows.
- (2) In subsection (1), after “every” insert “strategic highways company and”.
- (3) In subsection (2)(d), after “appearing to” insert “the strategic highways company or”.
- (4) In the heading, after “functions by” insert “strategic highways companies or”. 30
- 96 In section 124A (GLA side roads), in subsection (4), after “Secretary of State” insert “or a strategic highways company”.
- 97 In section 124B (orders of the Authority changing what are GLA side roads), in subsection (2)(a), after “Secretary of State” insert “or a strategic highways company”. 35
- 98 In section 142 (general interpretation of Act), in subsection (1), at the appropriate place insert –
- ““strategic highways company” means a company appointed under section 1 of the Infrastructure Act 2014;”. 40
- 99 (1) Schedule 9 (special provision as to certain orders) is amended as follows.
- (2) In paragraph 1, after “consultation with” insert “a strategic highways company or”.

- (3) In paragraph 7, omit sub-paragraph (3).
- (4) In paragraph 13 –
- (a) after sub-paragraph (1)(b) insert –
    - “(ba) applying to a road for which a strategic highways company is the traffic authority, or”.
  - (b) in sub-paragraph (1), for “or sub-paragraph (3)” substitute “, (3) or (4)”;
  - (c) after sub-paragraph (3) insert –
    - “(4) This sub-paragraph applies where it is proposed to include in the order provision mentioned in sub-paragraph (1)(ba), in which case the order must not be made without the consent of the strategic highways company.”
- (5) In paragraph 14 –
- (a) the existing provision becomes sub-paragraph (1);
  - (b) in sub-paragraph (1), after “except” insert “in a case to which sub-paragraph (2) applies or”;
  - (c) after sub-paragraph (1) insert –
    - “(2) This sub-paragraph applies where it is proposed to include in the order provision mentioned in paragraph 13(1)(ba), in which case the order must not be made without the consent of the strategic highways company.”
- (6) After paragraph 14 insert –
- “14A(1) This paragraph applies where a strategic highways company proposes, other than further to a direction under paragraph 2, to include provision mentioned in paragraph 13(1)(b) or (c) to (f) in an order made by it under sections 1, 6, 9, 83(2) or 84.
  - (2) Where this paragraph applies, the order must not be made without the consent of the Secretary of State.”
- (7) In paragraph 15(1) –
- (a) for “and 14” substitute “to 14A”;
  - (b) for “local” substitute “traffic”.
- (8) In paragraph 16(2), for “local” substitute “traffic”.
- (9) In paragraph 20(1) –
- (a) after “and 84,” insert “a strategic highways company,”;
  - (b) after the second “of this Act,” insert “the company,”.
- (10) In paragraph 21, after “orders of” insert “a strategic highways company or”.

*Transport Act 1985 (c. 67)*

- 100 In section 112G of the Transport Act 1985 (representations following an investigation by the Passengers’ Council), in subsection (1), for paragraph (d) substitute –
- “(d) a strategic highways company for the time being appointed under Part 1 of the Infrastructure Act 2014;”.

*Dartford-Thurrock Crossing Act 1988 (c. 20)*

101 In the Dartford-Thurrock Crossing Act 1988, after section 46 (interpretation) insert –

**“46A Appointment of a strategic highways company**

- (1) This section applies in any period in which, by virtue of an appointment under section 1 of the Infrastructure Act 2014, a strategic highways company is the highway authority for the highways comprised in the tunnel crossing or the bridge. 5
- (2) The reference to the Secretary of State in section 12(4) (crossing operator) is to be read as a reference to the strategic highways company. 10
- (3) References to the Secretary of State in the following provisions are to be read as references to the strategic highways company –
  - (a) section 24(1)(a) and (b) (special traffic restrictions);
  - (b) section 27(1) and (2) (bicycles); 15
  - (c) section 37 (powers in relation to River Thames);
  - (d) section 38 (restriction on works on crossing);
  - (e) Schedule 7 (protective provisions), except –
    - (i) paragraph 2 of Part 1, and
    - (ii) paragraph 2 of Part 3.” 20

*Road Traffic Act 1988 (c. 52)*

102 In section 44 (authorisation of use on roads of special vehicles not complying with regulations under section 41) of the Road Traffic Act 1988, after subsection (3) insert –

- “(4) The function of the Secretary of State under subsection (1) in the case of orders applying only to –
  - (a) specified vehicles, or
  - (b) vehicles of specified persons,may be delegated to a strategic highways company. 25
- (5) A delegation under subsection (4) may specify –
  - (a) the extent to which the function is delegated;
  - (b) any conditions to which the delegation is subject.” 30

*Town and Country Planning Act 1990 (c. 8)*

103 (1) Section 247 of the Town and Country Planning Act 1990 (highways affected by development: orders by Secretary of State) is amended as follows. 35

- (2) In subsection (3) –
  - (a) in paragraph (b), after “Secretary of State,” insert “a strategic highways company,”;
  - (b) in paragraph (c), after “Secretary of State” insert “or a strategic highways company”. 40

(3) In subsection (3A) –



- (a) after paragraph (a) insert –  
     “(aa) a strategic highways company,”;
- (b) after the second “Secretary of State,” insert “the strategic highways company,”.
- 104 In section 248 (highways crossing or entering route of proposed new highway etc), in subsection (1)(a), after “Secretary of State” insert “or a strategic highways company”. 5
- 105 In section 254 (compulsory acquisition of land in connection with highways), in subsection (1), after “local highway authority” insert “or a strategic highways company”. 10
- 106 In section 256 (electronic communications apparatus: orders by Secretary of State), in subsection (3) omit “local”.
- 107 In section 336 (interpretation), in subsection (1) –
- (a) in the definition of “local highway authority”, after “Secretary of State” insert “or a strategic highways company”; 15
- (b) at the appropriate place insert –  
     ““strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2014;”.
- 108 (1) Schedule 13 (blighted land) is amended as follows. 20
- (2) In paragraph 16, for “if he” substitute “or a strategic highways company if he or it”.
- (3) In paragraph 18 –
- (a) after “Secretary of State” insert “or a strategic highways company”; 25
- (b) after “him” insert “or it”;
- (c) after “he” insert “or it”.

*Environmental Protection Act 1990 (c. 43)*

- 109 The Environmental Protection Act 1990 is amended as follows.
- 110 (1) Section 89 (duty to keep land and highways clear of litter etc) is amended as follows. 30
- (2) In subsection (1) –
- (a) in paragraph (b), after “special road” insert “(other than one to which paragraph (ba)(i) applies)”;
- (b) after paragraph (b) insert –  
     “(ba) a strategic highways company as respects – 35
- (i) any trunk road which is a special road for which it is the highway authority, and
- (ii) any relevant highway for which it is responsible,”.
- (3) In subsection (2) – 40
- (a) in paragraph (b), after “special road” insert “(other than one to which paragraph (c)(i) applies)”;
- (b) after paragraph (b) insert –  
     “(c) a strategic highways company as respects –

- (i) any trunk road which is a special road for which it is the highway authority, and  
(ii) any relevant highway for which it is responsible.”.
- 111 (1) Section 98 (definitions) is amended as follows. 5  
 (2) In subsection (5), after “public expense”),” insert ““highway authority”,”.  
 (3) After subsection (5A) insert –  
 “(5B) “Strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2014.”
- New Roads and Street Works Act 1991 (c. 22)* 10
- 112 The New Roads and Street Works Act 1991 is amended as follows.  
 113 In section 6 (toll orders), in subsection (2) –  
 (a) after the second “provided by” insert “a strategic highways company or”;  
 (b) after the second “made by” insert “the company or”. 15
- 114 (1) Section 12 (extension toll orders) is amended as follows.  
 (2) In subsection (2) –  
 (a) after “highway authority is” insert “a strategic highways company or”;  
 (b) after the second “made by” insert “that company or”. 20  
 (3) In subsection (5), after the third “made by” insert “a strategic highways company or”.
- 115 (1) Section 26 (interpretation) is amended as follows.  
 (2) After subsection (1) insert –  
 “(1A) In this Part, “strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2014.” 25  
 (3) In subsection (3) –  
 (a) in the first column of the table, at the appropriate place insert “strategic highways company”;  
 (b) in the second column opposite that entry insert “section 26(1)”. 30
- 116 In section 49 (the street authority and other relevant authorities), in subsection (2) –  
 (a) after “Secretary of State” insert “or a strategic highways company”;  
 (b) after “his” insert “or its”.
- 117 In section 63 (streets with special engineering difficulties), in subsection (3), after “Where” insert “a strategic highways company or”. 35
- 118 In section 74 (charge for occupation of the highway where works unreasonably prolonged), in subsection (7A)(a), after “application by” insert “strategic highways companies or”.
- 119 (1) Section 74A (charge determined by reference to duration of works) is amended as follows. 40

	(2) In subsection (2), after “paid to” insert “a strategic highways company or”.	
	(3) In subsection (10)(a), after “application by” insert “strategic highways companies or”.	
120	In section 86 (highway authorities, highways and related matters), after subsection (1) insert –	5
	“(1A) In this Part, “strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2014.”	
121	In section 106 (index of defined expressions) –	
	(a) in the first column of the table, at the appropriate place insert “strategic highways company”;	10
	(b) in the second column opposite that entry insert “section 86(1A)”.	
122	(1) Schedule 2 (procedure in connection with toll orders) is amended as follows.	
	(2) In paragraph 1 –	
	(a) in sub-paragraph (2) –	
	(i) after “Secretary of State by” insert “a strategic highways company or”;	15
	(ii) after “local highway authority,” insert “the company or”.	
	(b) in sub-paragraph (3), after “Secretary of State” insert “, the strategic highways company”.	
	(3) In paragraph 2(1), 3 and 4(1) after “Secretary of State” insert “, the strategic highways company”.	20
123	In Schedule 3 (street works licences), in paragraph 9 –	
	(a) in sub-paragraph (1) –	
	(i) after “is made to” insert “a strategic highways company or”;	
	(ii) in paragraph (a), after “refusal of” insert “the company or”;	25
	(b) in sub-paragraph (3) –	
	(i) after “decision of” insert “the strategic highways company or”;	
	(ii) after “duty of” insert “that company or”.	
	<i>Transport Act 2000 (c. 38)</i>	30
124	The Transport Act 2000 is amended as follows.	
125	In section 167 (trunk road charging schemes), in subsection (1)(a), after “he” insert “or a strategic highways company”.	
126	In section 176 (equipment etc), after subsection (1) insert –	
	“(1A) In relation to a charging scheme under section 167 (trunk road charging schemes), a strategic highways company may –	35
	(a) install and maintain, or authorise the installation and maintenance of, any equipment, or	
	(b) construct and maintain, or authorise the construction and maintenance of, any buildings or other structures,	40
	used or to be used for or in connection with the operation of a charging scheme under that section.”	
127	(1) Section 177 (traffic signs) is amended as follows.	

(2) After subsection (3) insert –

“(3A) The Secretary of State may direct a strategic highways company to place and maintain traffic signs, or cause traffic signs to be placed and maintained, in connection with a trunk road charging scheme.”

(3) In subsection (4), after “an authority” insert “or a strategic highways company”. 5

*Traffic Management Act 2004 (c. 18)*

128 The Traffic Management Act 2004 is amended as follows.

129 (1) Section 1 (traffic officers: introduction) is amended as follows.

(2) In subsection (2)(b), after “national authority” insert “or a strategic highways company”. 10

(3) In subsection (5), after “Secretary of State” insert “or a strategic highways company”.

130 (1) Section 11 (uniform) is amended as follows.

(2) The existing provision becomes subsection (1) of section 11. 15

(3) After subsection (1) insert –

“(2) The Secretary of State may delegate his or her function under subsection (1) to a strategic highways company.

(3) A delegation under subsection (2) may specify – 20  
 (a) the extent to which the function is delegated;  
 (b) any conditions to which the delegation is subject.”

131 In section 12 (power to charge for traffic officer services provided on request), after “national authority” insert “or, as respects England, a strategic highways company”.

132 In section 15 (interpretation of Part 1), at the appropriate place insert – 25  
 ““strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2014;”.

133 In the heading to Part 2, after “local traffic authorities” insert “and strategic highways companies”.

134 (1) Section 16 (the network management duty) is amended as follows. 30

(2) In subsection (1), after “local highway authority” insert “or a strategic highways company (“the network management authority”)”.

(3) In subsection (3), for “local traffic” substitute “network management”.

135 In section 17 (arrangements for network management), in subsection (1), for “local traffic” substitute “network management”. 35

136 In section 18 (guidance to local authorities), in subsections (1) and (2), and in the heading, for “local traffic” substitute “network management”.

137 In section 19 (power to require information relating to network management), in subsections (1), (2) and (3), for “local traffic”, wherever occurring, substitute “network management”. 40

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- 138 In section 20 (intervention notices), in subsections (1), (2)(b) and (3), for “local traffic” substitute “network management”.
- 139 In section 21 (intervention orders), in subsections (1), (4), (5), (6), (8) and (9), for “local traffic”, wherever occurring, substitute “network management”.
- 140 In section 22 (appointment of traffic director: supplementary), in subsections (1) and (3), for “local traffic”, wherever occurring, substitute “network management”. 5
- 141 In section 23 (monitoring and reporting), in subsections (1), (2)(b) and (3), for “local traffic” substitute “network management”.
- 142 In section 24 (intervention in activities of local traffic authority), in subsection (2), and in the heading, for “local traffic” substitute “network management”. 10
- 143 (1) Section 25 (exercise of local traffic authority functions) is amended as follows.
- (2) In subsection (2), after “from the” insert “network management”. 15
- (3) In the heading, for “local traffic” substitute “network management”.
- 144 In section 26 (application of sections 20 to 25 to local traffic authorities exercising functions jointly), in subsection (1), and in the heading, for “local traffic” substitute “network management”.
- 145 In section 30 (recovery of costs from local traffic authorities), in subsections (1) and (2), and in the heading, for “local traffic” substitute “network management”. 20
- 146 (1) Section 31 (interpretation of Part 2) is amended as follows.
- (2) In the definition of “local traffic authority”, after “Secretary of State” insert “, a strategic highways company”. 25
- (3) In the definition of “road network” –
- (a) after “in relation to” insert “a strategic highways company or”;
- (b) after “for which” insert “the company or”.
- (4) Before the definition of “network management duty” insert –
- ““network management authority” has the meaning given in section 16(1);”.
- 147 In section 33 (preparation of permit schemes), in subsections (1) and (2), omit “local”. 30
- 148 (1) Section 60 (strategic roads in London: initial designation by Secretary of State) is amended as follows. 35
- (2) In subsection (1), after the second “Secretary of State” insert “, a strategic highways company”.
- (3) After subsection (4)(a) insert –
- “(aa) “strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2014;”. 40

- 149 In section 61 (orders of the Greater London Authority changing what are strategic roads), in subsection (1), after “Secretary of State” insert “, a strategic highways company”.
- 150 (1) Section 65 (duty of local highway authority to keep records of objects in highway) is amended as follows. 5
- (2) In subsection (1) –
- (a) after “require” insert “a strategic highways company or”;
- (b) after “placed by” insert “that company or”.
- (3) In subsection (4) –
- (a) in paragraph (a) of the definition of “appropriate national authority”, after “in relation to” insert “strategic highways companies or”; 10
- (b) after that definition insert –
- ““local highway authority” has the same meaning as in the 1980 Act;
- “strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2014;” 15
- (4) In the heading, after “Duty of” insert “strategic highways company or”.

*Civil Contingencies Act 2004 (c. 36)*

- 151 In Part 3 of Schedule 1 to the Civil Contingencies Act 2004 (category 2 responders: transport), in paragraph 28 – 20
- (a) the existing provision becomes sub-paragraph (1);
- (b) after sub-paragraph (1) insert –
- “(2) A strategic highways company for the time being appointed under Part 1 of the Infrastructure Act 2014.” 25

*Planning Act 2008 (c. 29)*

- 152 (1) Section 22 of the Planning Act 2008 (highways) is amended as follows.
- (2) In subsections (2)(b), (3)(b) and (5)(b), after “Secretary of State” insert “or a strategic highways company”.
- (3) In subsection (9), at the appropriate place insert – 30
- ““strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2014.”

SCHEDULE 2

Section 3

ROAD INVESTMENT STRATEGY: PROCEDURE

PART 1

SETTING A ROAD INVESTMENT STRATEGY

<i>Introductory</i>	5
<p>1 (1) This Part specifies the procedure by which a Road Investment Strategy is set.</p> <p>(2) It does not apply to the first Road Investment Strategy under section 3 where it is published and laid before Parliament by the Secretary of State within a year of that section coming into force.</p>	
<i>Step 1: the Secretary of State’s proposals</i>	10
<p>2 (1) The Secretary of State must provide a strategic highways company with proposals for a Road Investment Strategy.</p> <p>(2) The proposals must include details of –</p> <p style="padding-left: 20px;">(a) the objectives to be achieved by the company,</p> <p style="padding-left: 20px;">(b) the financial resources to be provided by the Secretary of State for the purpose of achieving those objectives, and</p> <p style="padding-left: 20px;">(c) the period to which the proposals relate.</p> <p>(3) The Secretary of State must –</p> <p style="padding-left: 20px;">(a) specify a date before which the company is to respond, and</p> <p style="padding-left: 20px;">(b) provide the company with –</p> <p style="padding-left: 40px;">(i) a statement of his or her general strategy in respect of highways for which the company is the highway authority, and</p> <p style="padding-left: 40px;">(ii) such other information in support of the proposals as the Secretary of State considers appropriate.</p>	<p>15</p> <p>20</p> <p>25</p>
<i>Step 2: the strategic highways company’s response</i>	
<p>3 (1) Having been provided with proposals under paragraph 2, the strategic highways company must respond to the Secretary of State –</p> <p style="padding-left: 20px;">(a) agreeing to the proposals, or</p> <p style="padding-left: 20px;">(b) making counter-proposals.</p> <p>(2) The company must respond before the date specified by the Secretary of State in accordance with paragraph 2(3)(a).</p>	<p>30</p>
<i>Step 3: where the strategic highways company has agreed to the proposals</i>	
<p>4 (1) Where the strategic highways company has agreed to proposals under paragraph 2, the Secretary of State may publish those proposals as the Road Investment Strategy.</p> <p>(2) The Secretary of State may only publish proposals under sub-paragraph (1) if satisfied that appropriate consultation has taken place.</p>	<p>35</p>

- (3) Publication under sub-paragraph (1) may be in such manner as the Secretary of State considers appropriate.

*Step 4: where the strategic highways company has made counter-proposals or failed to respond*

- 5 (1) Where the strategic highways company has made counter-proposals to the Secretary of State’s proposals under paragraph 3, or has failed to respond before the date specified, the Secretary of State may – 5
- (a) provide the company with revised proposals under paragraph 2, or
  - (b) publish as the Road Investment Strategy –
    - (i) the Secretary of State’s proposals, or
    - (ii) the company’s counter-proposals. 10
- (2) The Secretary of State may only publish proposals under sub-paragraph (1)(b) if satisfied that appropriate consultation has taken place.
- (3) Publication under sub-paragraph (1)(b) may be in such manner as the Secretary of State considers appropriate.

PART 2 15

VARYING A ROAD INVESTMENT STRATEGY

- 6 (1) This paragraph applies where the Secretary of State is considering varying a Road Investment Strategy.
- (2) Paragraphs 2 to 5 apply to proposals for a varied Road Investment Strategy as they apply to proposals for a Road Investment Strategy. 20
- (3) In performing their functions under this Part of this Schedule, the Secretary of State and the strategic highways company must have regard to the desirability of maintaining certainty and stability in respect of Road Investment Strategies.

SCHEDULE 3 Section 13 25

TRANSFER SCHEMES

*Application and commencement of scheme*

- 1 (1) The property, rights and liabilities to be transferred may be specified or described by a scheme.
- (2) A scheme comes into force on the date it appoints. 30

*Property, rights and liabilities that may be transferred*

- 2 (1) The property, rights and liabilities that may be transferred by a scheme include –
- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned; 35
  - (b) property acquired in the period after the making of the scheme and before it comes into force;
  - (c) rights and liabilities arising in that period;



- (d) rights and liabilities arising after the scheme comes into force in respect of matters occurring before it comes into force;
  - (e) rights and liabilities under an enactment or EU instrument.
- (2) A scheme may provide that transfers are to take effect irrespective of –
- (a) any requirement to obtain a person’s consent or concurrence, 5
  - (b) any liability in respect of a contravention of another requirement, or
  - (c) any interference with an interest or right,
- which would otherwise apply.
- (3) Sub-paragraph (4) applies where a person would otherwise be entitled, in consequence of anything done, or likely to be done, in connection with a scheme – 10
- (a) to terminate, modify, acquire or claim an interest or right to which the transferor is entitled or subject, or
  - (b) to treat such an interest or right as modified or terminated.
- (4) That entitlement is enforceable in relation to the interest or right – 15
- (a) in consequence of what is done or likely to be done, and
  - (b) in corresponding circumstances arising after the transfer,
- to the extent only that the scheme provides for it to be so enforceable.

*Dividing and modifying transferor’s property, rights and liabilities*

- 3 (1) A scheme may contain provision – 20
- (a) for the creation, in favour of a transferor or transferee, of an interest or right in, or in relation to, property to be transferred in accordance with the scheme;
  - (b) for giving effect to a transfer to a person by the creation, in favour of that person, of an interest or right in, or in relation to, property to be retained by a transferor; 25
  - (c) for the creation of new rights and liabilities, including rights of indemnity and duties to indemnify, as between a transferee and a transferor.
- (2) A scheme may contain provision for the creation of rights and liabilities for the purpose of converting arrangements between different parts of a transferor’s undertaking which exist immediately before the coming into force of the scheme into a contract between – 30
- (a) different transferees, or
  - (b) a transferee and a transferor. 35
- (3) A scheme may contain provision –
- (a) for rights and liabilities to be transferred so as to be enforceable by or against –
    - (i) more than one transferee, or
    - (ii) both the transferee and the transferor, and 40
  - (b) for rights and liabilities enforceable against more than one of those people to be enforceable in different or modified respects by or against each or any of them.
- (4) A scheme may contain provision for interests, rights or liabilities of third parties in relation to anything to which the scheme relates to be modified in the manner set out in the scheme. 45

- (5) Paragraph 2(2) applies to the creation of interests and rights in accordance with a scheme as it applies to the transfer of interests and rights.

*Obligation to effect transfers etc under a scheme*

- 4 (1) A scheme may contain provision for imposing on a transferee or a transferor an obligation – 5
- (a) to enter into such agreements with another person on whom a corresponding obligation is, could be or has been, imposed by virtue of this paragraph (whether in the same or a different scheme), or
  - (b) to execute such instruments in favour of any such person, as may be specified or described in the scheme. 10
- (2) That other person may enforce an obligation imposed on a transferor or a transferee by virtue of sub-paragraph (1) in civil proceedings.

*Effect of scheme*

- 5 (1) Where a scheme provides for the transfer of property, rights or liabilities, or for the creation of interests, rights or liabilities – 15
- (a) the property or interests, rights or liabilities vest, without further assurance, in the transferee at that time, and
  - (b) the provisions of that scheme in relation to that property or those interests, rights or liabilities have effect from the time when the scheme comes into force. 20
- (2) Sub-paragraph (1) is subject to provision under a scheme for –
- (a) the transfer of property, rights or liabilities, or
  - (b) the creation of interests, rights and liabilities,
- to be effected by or under an agreement or instrument entered into or executed in pursuance of an obligation imposed by virtue of paragraph 4(1). 25
- (3) A certificate issued by the Secretary of State that any property, rights or liabilities have been transferred under a scheme is conclusive evidence of the transfer.

*Powers and duties under statutory provisions*

- 6 (1) A scheme may make provision for some or all of the powers and duties to which this paragraph applies – 30
- (a) to be transferred to a transferee,
  - (b) to become powers and duties that are exercisable, or must be performed, concurrently by two or more transferees, or
  - (c) to become powers and duties that are exercisable, or must be performed, concurrently by a transferor and a transferee. 35
- (2) The powers and duties to which this paragraph applies are the powers and duties conferred or imposed upon a transferor by or under an enactment so far as they relate to –
- (a) property to be transferred in accordance with the scheme, 40
  - (b) carrying out works designed to be used in connection with such property, or
  - (c) acquiring land for the purpose of carrying out such works.

- (3) This paragraph does not require a restrictive construction to be given to what may be transferred by virtue of paragraph 2(1)(e).

*Supplementary provisions of schemes*

- 7 (1) A scheme may –
- (a) make such incidental, supplemental, consequential and transitional provision in connection with the scheme as the Secretary of State thinks fit; 5
  - (b) make different provision for different cases.
- (2) In particular, a scheme may make provision –
- (a) for the transferee to be treated as the same person in law as the transferor; 10
  - (b) for agreements made, transactions effected or other things done by or in relation to the transferor to be treated, so far as may be necessary for the purposes of or in connection with the transfer, as made, effected or done by or in relation to the transferee; 15
  - (c) for references in an agreement, instrument or other document to the transferor, or to an employee or office holder of the transferor, to have effect, so far as may be necessary for the purposes of or in connection with a transfer, with such modifications as are specified in the scheme; 20
  - (d) for proceedings commenced by or against the transferor to be continued by or against the transferee.
- (3) Sub-paragraph (2)(c) does not apply to references in an enactment.

*Modification of a scheme by agreement*

- 8 (1) Where the transferor and transferee under a scheme that has come into force so agree, the scheme is to be treated for all purposes as having come into force with such modifications as may be agreed. 25
- (2) An agreement under this paragraph which relates to rights and liabilities under a contract of employment may be entered into only if the employee is a party to the agreement. 30
- (3) An agreement under this paragraph that adversely affects the property or rights of a person other than the transferor, the transferee or such an employee may be entered into only if that person is a party to the agreement.
- (4) An agreement under this paragraph may include –
- (a) any provision that could have been contained in the scheme; 35
  - (b) incidental, supplemental, consequential and transitional provision in connection with any such provision.

*Continuity of employment etc*

- 9 (1) Where in accordance with a scheme a person employed by a transferor becomes an employee of a transferee – 40
- (a) that person is not to be regarded for the purposes of Part 11 (redundancy payments etc) of the Employment Rights Act 1996 as having been dismissed by virtue of the transfer,

- (b) that person's period of employment with the transferor counts for the purposes of that Act as a period of employment with the transferee, and
  - (c) the change of employment does not break the continuity of the period of employment for the purposes of that Act. 5
- (2) Where a transfer scheme contains provision for the transfer of rights and liabilities relating to a person's contract of employment but, before the transfer takes effect, the person informs the transferor or the transferee that the person objects to the transfer –
  - (a) those rights and liabilities are not transferred under the transfer scheme, 10
  - (b) the person's contract of employment is terminated immediately before the day on which the transfer would occur, and
  - (c) the person is not, for any purpose, to be regarded as having been dismissed. 15
- (3) Nothing in sub-paragraph (2) affects the person's right to terminate the contract of employment if, apart from the change of employer, a substantial change is made to the person's detriment in the person's working conditions.
- (4) Where a transfer scheme contains provision for the transfer of rights and liabilities relating to a person's contract of employment, it may include provision with respect to –
  - (a) the person's eligibility to become a member of a pension scheme by virtue of employment with the transferee;
  - (b) the rights of, or rights or liabilities in respect of, the person under a pension scheme of which the person may become a member by virtue of employment with the transferee; 25
  - (c) the rights of, or rights or liabilities in respect of, the person under a pension scheme of which the person is a member by virtue of employment immediately before the transfer. 30

*Compensation for third parties*

- 10 (1) A third party is entitled to compensation in respect of the extinguishment of that party's entitlement where –
  - (a) the entitlement is to an interest or right which would, apart from a provision of a scheme and paragraph 2(3) and (4), have become enforceable in respect of the transfer or creation of any property, rights or liabilities in accordance with the scheme, 35
  - (b) the provisions of that scheme or of paragraph 2(3) and (4) have the effect of preventing that party's entitlement to that interest or right from being enforced in respect of anything for which the scheme provides, and 40
  - (c) provision is not made by the scheme for securing that an entitlement to that interest or right, or to an equivalent interest or right, is preserved or created so as to arise and be enforceable in respect of the first occasion when corresponding circumstances next occur after the coming into force of the transfers for which the scheme provides. 45
- (2) The amount of compensation to which a third party is entitled under this paragraph is the amount necessary for securing, to the extent that it is just to

do so, that the third party does not suffer financial loss from the extinguishment of the entitlement.

(3) A liability to pay compensation under this paragraph falls on the Secretary of State.

(4) This paragraph has effect in relation to – 5

(a) the provisions of an agreement or instrument entered into or executed in pursuance of an obligation imposed by a scheme, and

(b) the provisions of an agreement under paragraph 8 relating to property, rights or liabilities transferred or created in accordance with a scheme, 10

as it has effect in relation to the scheme but as if, in the case of an agreement under paragraph 8, only persons who are not parties to the agreement were third parties.

*Provision of information to Secretary of State for the purposes of making a scheme*

11 (1) The Secretary of State may direct a strategic highways company, or a former strategic highways company, to provide such information as he or she may consider necessary for the purposes of making a scheme. 15

(2) The direction must specify the period within which the information is to be provided.

(3) The period specified in the direction must be not less than 28 days beginning with the day on which the direction is given. 20

(4) If the company fails to comply with the direction, the Secretary of State may serve a notice on the company requiring –

(a) production to the Secretary of State of any documents which are specified or described in the notice and are in the custody or under the control of that company, or 25

(b) provision to the Secretary of State of such information as may be specified or described in the notice.

(5) Documents or information to be produced or provided in accordance with such a notice must be produced or provided at the time and place, and in the form and manner, specified in the notice. 30

(6) A direction or notice under this paragraph may not require –

(a) production of a document which a person could not be compelled to produce in civil proceedings, or

(b) provision of information which a person could not be compelled to give in evidence in such proceedings. 35

(7) If a strategic highways company fails to comply with a notice under sub-paragraph (4), the court may, on the application of the Secretary of State, make such order as the court thinks fit for requiring the failure to be made good. 40

(8) Any order under sub-paragraph (7) may include provision requiring all the costs or expenses of, or incidental to, the application to be borne by one or more of the following –

(a) the strategic highways company in default;

(b) any officers of that company who are responsible for its default. 45

- (9) In this paragraph, reference to the production of a document includes reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form.

*Interpretation*

- 12 (1) In this Schedule – 5
- “third party”, in relation to a scheme, means a person other than a transferor and a transferee;
- “transferee” –
- (a) in relation to a scheme, means a person to whom property, rights or liabilities are transferred in accordance with the scheme, and 10
- (b) in relation to particular property, rights or liabilities transferred or created in accordance with a scheme, means the person –
- (i) to whom that property or those rights or liabilities are transferred, or 15
- (ii) in whose favour, or in relation to whom, they are created;
- “transferor” –
- (a) in relation to a scheme, means the person from whom property, rights or liabilities are transferred in accordance with the scheme, and 20
- (b) in relation to particular property, rights or liabilities transferred or created in accordance with a scheme, means the person – 25
- (i) from whom that property or those rights or liabilities are transferred,
- (ii) who, or whose property, is subject to the interest or right created, or
- (iii) for whose benefit the liability is created; 30
- “scheme” means a scheme under section 13.
- (2) In this Schedule, reference to employment includes reference to employment in the civil service of the State and, in respect of such employment –
- (a) reference to a contract of employment is to be treated as a reference to the terms of employment in the civil service of the State, and 35
- (b) reference to a dismissal is to be treated as a reference to the termination of the employment.
- (3) References in this Schedule –
- (a) to a right or to an entitlement to a right include references to an entitlement to exercise a right, and 40
- (b) to a right’s arising include references to its becoming exercisable.

SCHEDULE 4

Section 29

TRANSFER OF RESPONSIBILITY FOR LOCAL LAND CHARGES TO LAND REGISTRY

PART 1

AMENDMENTS TO THE LOCAL LAND CHARGES ACT 1975

- |   |  |    |
|---|--|----|
| 1 | The Local Land Charges Act 1975 is amended as follows.   | 5  |
| 2 | In the italic heading before section 3 for “registers” substitute “register”.  |    |
| 3 | For section 3 (registering authorities, local land charges registers, and indexes) substitute –  |    |
|   | <b>“3 The local land charges register</b>  |    |
|   | (1) The Chief Land Registrar must keep the local land charges register.  | 10 |
|   | (2) The local land charges register is a register of –   |    |
|   | (a) each local land charge registered in a local land charges register for a local authority’s area immediately before this section first had effect in relation to that area, and |    |
|   | (b) each local land charge subsequently registered under section 5 or 6 or another relevant enactment in respect of land which is wholly or partly within that area.               | 15 |
|   | (3) Subsection (2) is subject to any later variation or cancellation of the registration of the local land charge.   |    |
|   | (4) The local land charges register may be kept in electronic form.  | 20 |
|   | (5) In this section –  |    |
|   | “local authority” means –  |    |
|   | (a) a district council,  |    |
|   | (b) a county council in England for an area for which there is no district council,  | 25 |
|   | (c) a county council in Wales,   |    |
|   | (d) a county borough council,  |    |
|   | (e) a London borough council,  |    |
|   | (f) the Common Council of the City of London, or   |    |
|   | (g) the Council of the Isles of Scilly;  | 30 |
|   | “relevant enactment” means a provision which is made by or under an Act and which provides for the registration of a charge or other matter as a local land charge.                |    |
|   | (6) For the purposes of this section the area of the Common Council of the City of London includes the Inner Temple and the Middle Temple.”  | 35 |
| 4 | Omit section 4 (the appropriate local land charges register).  |    |
| 5 | (1) Section 5 (registration) is amended as follows.  |    |
|   | (2) Omit subsection (1).   |    |

- 
- (3) For subsections (2) and (3) substitute –
- “(2) Subject to subsection (6) below, the originating authority as respects a local land charge must apply to the Chief Land Registrar for its registration in the local land charges register; and on the application being made the Chief Land Registrar must register the charge accordingly. 5
- (3) The registration in the local land charges register of a local land charge, or of any matter which when registered becomes a local land charge, must be carried out by reference to the land affected.”
- (4) In subsection (6) for “a local land charges register” substitute “the local land charges register”. 10
- 6 (1) Section 6 (local authority’s right to register a general charge against land in certain circumstances) is amended as follows.
- (2) For subsection (2) substitute –
- “(2) At any time before the specific charge comes into existence, the Chief Land Registrar must register a general charge against the land, without any amount being specified, in the local land charges register if the originating authority make an application for that purpose.” 15
- (3) In subsection (3) for “5(1) and (2)” substitute “5(2)”. 20
- (4) In subsection (4) –
- (a) for “pursuant to an application by the originating authority, they” substitute “the originating authority”, and
- (b) for “registering authority” substitute “Chief Land Registrar”.
- 7 (1) Section 8 (personal searches) is amended as follows. 25
- (2) In subsection (1) –
- (a) for “any local land charges register” substitute “the local land charges register”, and
- (b) after “fee” insert “(if any)”.
- (3) In subsection (1A) – 30
- (a) for “a local land charges register is kept otherwise than in documentary” substitute “the local land charges register is kept in electronic”, and
- (b) for “registering authority” substitute “Chief Land Registrar”.
- (4) In subsection (2) – 35
- (a) for “a registering authority” substitute “the Chief Land Registrar”, and
- (b) omit “authority’s”.
- 8 (1) Section 9 (official searches) is amended as follows.
- (2) In subsection (1) – 40
- (a) omit “appropriate”, and
- (b) for “registering authority” substitute “Chief Land Registrar”.
- (3) Omit subsection (2).



- 
- (4) For subsections (3) and (3A) substitute –
- “(3) The prescribed fee (if any) shall be payable in the prescribed manner in respect of any requisition made under this section.”
- (5) In subsection (4) –
- (a) for “a registering authority” substitute “the Chief Land Registrar”, 5
- (b) omit “or (3A)”, and
- (c) for “the registering authority” substitute “the Chief Land Registrar”.
- (6) In consequence of the amendment made by sub-paragraph (5)(b), in Schedule 4 to the Constitutional Reform Act 2005 omit paragraph 84(3)(b).
- 9 (1) Section 10 (compensation for non-registration or defective official search certificate) is amended as follows. 10
- (2) In subsection (1) –
- (a) omit “appropriate” in each place,
- (b) in paragraph (aa) for “in a case where” substitute “if”, and
- (c) in that paragraph for “otherwise than in documentary” substitute “in electronic”. 15
- (3) Omit subsection (2).
- (4) In subsection (4) for “registering authority in whose area the land affected is situated” substitute “Chief Land Registrar”.
- (5) In subsection (5) – 20
- (a) for the words from “a registering authority” to “not the originating authority” substitute “the Chief Land Registrar”, and
- (b) for “the registering authority” in each place substitute “the Chief Land Registrar”.
- (6) After that subsection insert – 25
- “(5A) An amount equal to any compensation paid under this section by the Chief Land Registrar in respect of a local land charge is also recoverable from the originating authority in a case where the matter within subsection (1) giving rise to the Chief Land Registrar’s liability is a consequence of – 30
- (a) an error made by the originating authority in applying to register the local land charge, or
- (b) an error made by the originating authority in applying for the registration of the local land charge to be varied or cancelled.” 35
- (7) In subsection (6) –
- (a) for “a registering authority” substitute “the Chief Land Registrar”,
- (b) for “that authority” substitute “the Chief Land Registrar”,
- (c) after “(5)” in each place insert “or (5A)”, and
- (d) for “the registering authority” substitute “the Chief Land Registrar”. 40
- (8) After subsection (6) insert –
- “(6A) The Chief Land Registrar may insure against the risk of liability to pay compensation under this section.”

- (9) In subsection (7) for “Limitation Act 1939” substitute “Limitation Act 1980”.
- (10) In subsection (9) for “registering authority’s” substitute “Chief Land Registrar’s”.
- 10 In section 12 (office copies as evidence) for “any local land charges register” substitute “the local land charges register”. 5
- 11 In section 13 (protection of solicitors, trustees etc) for “a local land charges register” substitute “the local land charges register”.
- 12 (1) Omit section 13A (specification of fees by registering authorities in England).
- (2) In consequence of the amendment made by sub-paragraph (1), in Schedule 4 to the Constitutional Reform Act 2005 omit paragraph 83. 10
- 13 (1) Section 14 (rules) is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (a) for “registering authorities” substitute “the Chief Land Registrar”, 15
- (b) after paragraph (f) insert –
- “(fa) as to the variation without an order of the court of the registration of a local land charge –
- (i) on the application or with the consent of the person by whom it is enforceable, or 20
- (ii) of the Chief Land Registrar’s own motion;”,
- (c) for paragraph (g) substitute –
- “(g) as to the cancellation without an order of the court of the registration of a local land charge –
- (i) on its cesser, 25
- (ii) on the application or with the consent of the person by whom it is or was enforceable, or
- (iii) of the Chief Land Registrar’s own motion;”, and
- (d) for paragraph (h) substitute – 30
- “(h) for prescribing the fees to be paid to the Chief Land Registrar for services relating to local land charges provided by the Chief Land Registrar.”
- (3) In subsection (2) –
- (a) in paragraph (a) for “any local land charges register” substitute “the local land charges register”, 35
- (b) after paragraph (a) insert –
- “(aa) power to make rules –
- (i) prescribing different fees for different services or descriptions of service; 40
- (ii) prescribing services or descriptions of service for which no fees are payable;”, and
- (c) for paragraph (b) and the “and” at the end of that paragraph substitute –
- “(b) power to make rules about communications for the purposes of this Act, or any statutory provision by 45

	virtue of which any matter is registrable in the local land charges register, including rules as to –	
	(i) the particular means of communication which may or must be used for such purposes (which may include an electronic means of communication),	5
	(ii) the circumstances in which a particular means of communication may or must be used (which may be all circumstances, subject to exceptions);	10
	(iii) the form or contents of anything sent using a particular means of communication;	
	(ba) power to make rules requiring or enabling anything which is provided to or by the Chief Land Registrar for the purposes of this Act, or any statutory provision by virtue of which any matter is registrable in the local land charges register, to be provided in electronic form;	15
	(bb) power to make rules enabling the Chief Land Registrar, or a person providing services to the Chief Land Registrar, to determine –	20
	(i) any matter within paragraph (b), or	
	(ii) whether anything of the kind referred to in paragraph (ba) may or must be provided in electronic form; and”.	25
(4)	Sub-paragraphs (5) and (6) apply to the function of the Lord Chancellor under section 14(1) of the Local Land Charges Act 1975 as amended by this paragraph so far as it relates to the power to make rules for prescribing fees and the manner of payment of fees (“the new function”).	
(5)	The new function is to be treated as having been transferred to the Welsh Ministers by –	30
	(a) the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044), and	
	(b) Schedule 11 to the Government of Wales Act 2006,	
	in the same way as the equivalent function of the Lord Chancellor under that section as it had effect apart from this paragraph (“the old function”).	35
(6)	A provision made by that Order or that Act in respect of the old function continues to apply to the new function.	
14	In section 15(b) (expenses) for “a registering authority” substitute “the Chief Land Registrar”.	40
15	(1) Section 16 (interpretation) is amended as follows.	
	(2) In subsection (1) omit the definitions of “the appropriate local land charges register” and “the registering authority”.	
	(3) In subsection (1A) for “otherwise than in documentary” substitute “in electronic”.	45
16	In section 19(4) (transitional provision) omit the words from “In so far as” to “so made, but”.	

PART 2

AMENDMENTS TO THE LAND REGISTRATION ACT 2002

- 17 The Land Registration Act 2002 is amended as follows.
- 18 In section 100 (conduct of business) after subsection (2) insert—
- “(2A) Subsections (1) and (2) apply to all functions of the registrar, whether or not conferred by this Act.” 5
- 19 In section 106(1) (incidental powers of registrar in relation to companies) after “Schedule 5,” insert “or under the Local Land Charges Act 1975,”.
- 20 In paragraph 4 of Schedule 7 (indemnity for members of the land registry in relation to functions relating to land registration) after “land registration” insert “or local land charges”. 10

PART 3

AMENDMENTS TO OTHER ACTS

*Law of Property Act 1925 (c. 20)*

- 21 In section 198(1) of the Law of Property Act 1925 (registration in local land charges register to be notice) for “any local land charges register” substitute “the local land charges register”. 15

*Requisitioned Land and War Works Act 1948 (c. 17)*

- 22 In section 14 of the Requisitioned Land and War Works Act 1948 (registration of rights as to government oil pipelines)— 20
- (a) in subsections (1) and (4)(b) omit “appropriate”,
- (b) in subsection (1) for “authority keeping that register that authority” substitute “Chief Land Registrar, the Chief Land Registrar”, and
- (c) in subsection (4) for “a local land charges register” substitute “the local land charges register”. 25

*Cheshire County Council Act 1953 (c. xl)*

- 23 In section 25(3) of the Cheshire County Council Act 1953 (notice preventing building next to proposed street to be void unless registered as a local land charge) omit the words from “Provided that” to “local land charge”.

*Land Powers (Defence) Act 1958 (c. 30)* 30

- 24 The Land Powers (Defence) Act 1958 is amended as follows.
- 25 In section 12 (extension of provisions of Requisitioned Land and War Works Acts) in each of subsections (2) and (5) for “appropriate register of local land charges” substitute “local land charges register”.
- 26 In section 17 (registration of wayleave orders and restrictions under section 16)— 35
- (a) in subsections (2)(a), (2A) and (3)(b) omit “appropriate”,

- (b) in subsection (2A) for “authority keeping that register” substitute “Chief Land Registrar”, and
- (c) in subsection (3) for “a local land charges register” substitute “the local land charges register”.

*Rights of Light Act 1959* 5

- 27 The Rights of Light Act 1959 is amended as follows.
- 28 (1) Section 2 (registration of notice in lieu of obstruction of access of light) is amended as follows.
- (2) In subsection (1) for “local authority in whose area the dominant building is situated” substitute “Chief Land Registrar”. 10
  - (3) In subsection (2) omit “be in the prescribed form and shall”.
  - (4) In subsection (3) after “accompanied by” insert “ a copy of”.
  - (5) In subsection (4) –
    - (a) for “a local authority” substitute “the Chief Land Registrar”,
    - (b) for “that authority” substitute “the Chief Land Registrar”, 15
    - (c) omit “appropriate”, and
    - (d) in paragraph (b) for “5(1) and (2)” substitute “5(2)”.
- 29 In section 3(2)(c) (period for which notice has effect) –
- (a) after “expires without” insert “a copy of”, and
  - (b) for “local authority” substitute “Chief Land Registrar”. 20
- 30 In section 7(1) (interpretation) –
- (a) for the definition of “prescribed” substitute –
    - ““prescribed” means prescribed by rules under section 14 of the Local Land Charges Act 1975;”, and
  - (b) omit the definition of “local authority”. 25
- 31 In consequence of the amendment made by paragraph 30(b), in Schedule 1 to the Local Land Charges Act 1975 omit paragraph (c) of the amendments to the Rights of Light Act 1959.

*Leasehold Reform Act 1967 (c. 88)*

- 32 In section 19(10) of the Leasehold Reform Act 1967 (registration of scheme or certificate under section 19 in appropriate local land charges register) in the opening words omit “appropriate”. 30

*Land Compensation Act 1973 (c. 26)*

- 33 In section 52(9) of the Land Compensation Act 1973 (registration of advance payment of compensation in appropriate local land charges register) omit “appropriate”. 35

*Interpretation Act 1978 (c. 30)*

- 34 In Schedule 1 to the Interpretation Act 1978 (words and expressions defined) in the entry containing definitions of “local land charges register” and “the appropriate local land charges register” – 40

- (a) for “a register” substitute “the register”, and
- (b) omit the words from “and “the appropriate local land charges register”” to the end of that entry.

*Highways Act 1980 (c. 66)*

- 35 In paragraph 9(a) of Schedule 9 to the Highways Act 1980 (notification of revocation of improvement line or building line) for the words from “the council” to “is situated” substitute “the Chief Land Registrar”. 5

*Disused Burial Grounds (Amendment) Act 1981 (c. 18)*

- 36 In section 2(4) of the Disused Burial Grounds (Amendment) Act 1981 (requirement to deposit copy of order of Secretary of State dispensing with requirements as to human remains with registering authority) for the words from “deposited with” to “1975)” substitute “sent to the Chief Land Registrar.” 10

*Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)*

- 37 In section 3(4) of the Compulsory Purchase (Vesting Declarations) Act 1981 (registration of preliminary notice) for the words from “registered” to the end of the subsection substitute “sent to the Chief Land Registrar, and the notice shall be a local land charge”. 15

*Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)*

- 38 In section 70(12) of the Leasehold Reform, Housing and Urban Development Act 1993 (consequence of registration of scheme in appropriate local land charges register) in the opening words omit “appropriate”. 20

*Local Government (Wales) Act 1994 (c. 19)*

- 39 In Schedule 17 to the Local Government (Wales) Act 1994 (savings and transitional provision) omit paragraph 11 (local land charges registers). 25

## PART 4

## TRANSITIONAL PROVISION

*Power for Parts 1 and 3 to be applied gradually to local authority areas*

- 40 (1) Parts 1 and 3 of this Schedule have effect in relation to the area of a local authority if (and only if) – 30
- (a) the Chief Land Registrar gives notice in writing to the local authority that, on and after the date specified in the notice, those Parts will have effect in relation to that area, and
  - (b) before that date, the notice is publicised in such manner as the Chief Land Registrar thinks is likely to bring the arrangements under the Local Land Charges Act 1975 as amended by Part 1 of this Schedule to the attention of persons who are likely to want to apply to register local land charges in, or to search, the register of local land charges after that Part has effect in relation to that area. 35

- 
- (2) The Chief Land Registrar may withdraw a notice under sub-paragraph (1) (“the original notice”) by a notice in writing which—
- (a) is given before the date specified in the original notice to the authorities to whom the original notice was given, and
  - (b) is publicised before that date in such manner as the Chief Land Registrar thinks is likely to bring the withdrawal to the attention of the persons to whom the original notice was publicised. 5
- (3) If, in accordance with this paragraph, the Chief Land Registrar gives a notice under sub-paragraph (1) which is not withdrawn, Parts 1 and 3 have effect in relation to the area specified in the notice on and after the date specified in it. 10
- (4) This paragraph does not prevent the making of rules under section 14 of the Local Land Charges Act 1975 as amended by Part 1 of this Schedule—
- (a) in relation to the operation of that Act as amended by that Part, or
  - (b) in relation to the operation of any other statutory provision by virtue of which any matter is registrable in the local land charges register, 15
- but such rules have effect in relation to the area of a local authority if (and only if) that Part has effect in relation to that area in accordance with this paragraph.
- Duty of local authorities to assist Chief Land Registrar* 20
- 41 A local authority must provide the Chief Land Registrar with such information or other assistance as the Chief Land Registrar reasonably requires for the purposes of enabling Part 1 of this Schedule to have effect in relation to the area of that authority.
- Continuity of functions* 25
- 42 (1) This paragraph and paragraph 43 apply where Parts 1 and 3 of this Schedule have effect in relation to the area of a local authority by virtue of paragraph 40.
- (2) Anything done or omitted to be done by or in relation to the local authority and in relation to the old register which is in force or effective immediately before the relevant date is to be treated as done or omitted to be done by or in relation to the Chief Land Registrar and in relation to the new register. 30
  - (3) There may be continued by or in relation to the Chief Land Registrar anything (including legal proceedings) that relates to the old register and is in the process of being done by or in relation to the local authority immediately before the relevant date. 35
- Compensation*
- 43 (1) The amendments in Part 1 of this Schedule to section 10(1) and (2) of the Local Land Charges Act 1975 (compensation for non-registration or defective official search certificate) and to section 16(1) of that Act so far as it applies to that section do not have effect in relation to a search of the old register made before the relevant date. 40
- (2) Subject to sub-paragraphs (4) and (5), the Chief Land Registrar may recover from the local authority an amount equal to any compensation which the

- Chief Land Registrar is liable to pay under section 10 of the Local Land Charges Act 1975 in consequence of –
- (a) the authority’s failure before the relevant date to register, or register correctly, a local land charge in the old register,
  - (b) the authority’s failure before the relevant date to satisfy an entitlement to search in the old register conferred by section 8 of that Act as mentioned in subsection (1A) of that section, or
  - (c) the omission of a local land charge from an official search certificate issued by the authority before the relevant date.
- (3) Subject to sub-paragraphs (4) and (5), the Chief Land Registrar may recover from the local authority an amount equal to any compensation which the Chief Land Registrar is liable to pay under section 10 of the Local Land Charges Act 1975 where –
- (a) an act or omission of the Chief Land Registrar gives rise to that liability, but
  - (b) that act or omission is in consequence of a failure by the authority to provide any information about a charge registered in the old register.
- (4) Sub-paragraph (5) applies where –
- (a) the Chief Land Registrar’s liability arises as a result of the local authority’s failure before the relevant date –
    - (i) to register, or register correctly, a local land charge in the old register, or
    - (ii) to provide any information about a local land charge registered in the old register to the Chief Land Registrar,
  - (b) the local authority is not the originating authority in relation to the charge, and
  - (c) the originating authority –
    - (i) did not apply for registration of the charge in time for it to be practicable for the local authority to register it before the relevant date, or
    - (ii) made an error in applying to register the charge, or in applying for the registration of the charge to be varied or cancelled.
- (5) Where this sub-paragraph applies, the Chief Land Registrar may recover an amount equal to the compensation from the originating authority (and may not recover such an amount from the local authority).
- (6) Sub-paragraph (7) applies where compensation for loss under section 10 of the Local Land Charges Act 1975 is paid by the Chief Land Registrar in the circumstances described in any of sub-paragraphs (2) to (4).
- (7) No part of the amount paid, or of any corresponding amount paid to the Chief Land Registrar by the local authority or originating authority under any of those sub-paragraphs, is to be recovered by the Chief Land Registrar, the local authority or originating authority from any other person except as provided by any of sub-paragraphs (2) to (4) or under a policy of insurance or on grounds of fraud.
- (8) Subsections (5) and (6) of section 10 of the Local Land Charges Act 1975 do not apply where compensation for loss under that section is paid by the Chief Land Registrar in the circumstances described in any of sub-paragraphs (2) to (4).



### Interpretation

- 44 (1) In this Part of this Schedule –
- “local authority” means –
- (a) a district council,
  - (b) a county council in England for an area for which there is no district council, 5
  - (c) a county council in Wales,
  - (d) a county borough council,
  - (e) a London borough council,
  - (f) the Common Council of the City of London, or 10
  - (g) the Council of the Isles of Scilly;
- “the old register”, in relation to a local authority, means the local land charges register kept by the authority under the Local Land Charges Act 1975 before the relevant date;
- “the new register” means the local land charges register kept by the Chief Land Registrar under the Local Land Charges Act 1975; 15
- “the relevant date”, in relation to a local authority, means the date on which Parts 1 and 3 of this Schedule first had effect in relation to the authority’s area.
- (2) For the purposes of this Part of this Schedule the area of the Common Council of the City of London includes the Inner Temple and the Middle Temple. 20
- (3) Expressions used in this Part of this Schedule and in the Local Land Charges Act 1975 have the same meaning as in that Act.

## SCHEDULE 5

Section 33 25

### COMMUNITY ELECTRICITY RIGHT REGULATIONS

#### PART 1

#### THE RIGHT TO BUY

#### *“Right to buy regulations”*

- 1 In this Schedule “right to buy regulations” means regulations under subsection (1) of section 33. 30

#### *Kinds of facilities in relation to which right to buy exercisable*

- 2 (1) Right to buy regulations must specify the kind, or kinds, of renewable electricity generation facilities in relation to which the right to buy is to be exercisable. 35
- (2) The regulations must secure that the right to buy is not to be exercisable in relation to a renewable electricity generation facility if the total installed capacity of the facility is expected to be less than 5 megawatts.
- (3) The regulations may specify a kind of renewable electricity generation facility by reference to one or more of the following factors – 40

- (a) the renewable source of energy used at the facility;
- (b) the technology used to generate electricity at the facility;
- (c) the electricity generation capacity of the facility;
- (d) whether the facility is a land-based facility or an offshore facility.

*Identification of qualifying facilities* 5

- 3 (1) Right to buy regulations must make provision enabling those renewable electricity generation facilities which are qualifying facilities to be identified.
- (2) The regulations may make provision enabling the following to be identified –
- (a) different renewable electricity generation facilities located at the same site; 10
  - (b) any facility at that site which is a qualifying facility.
- (3) The regulations may make provision enabling the following to be identified in cases where there is expansion at a site where a renewable electricity generation facility is located – 15
- (a) any new renewable electricity generation facility created by the expansion;
  - (b) any facility at that site which is a qualifying facility (including any existing facility which becomes a qualifying facility because its total installed capacity is expected to be 5 megawatts or more as a result of the expansion). 20
- (4) Right to buy regulations may make provision about cases in which the right to buy is not to be exercisable in relation to a renewable electricity generation facility which would otherwise be a qualifying facility (an “excepted facility”). 25
- (5) The functions that may be conferred by regulations under sub-paragraph (4) (in accordance with section 34(1)) include –
- (a) the function of determining whether or not a renewable electricity generation facility is an excepted facility;
  - (b) the function of specifying that a particular renewable electricity generation facility is an excepted facility. 30
- (6) The regulations may provide for an excepted facility to be identified by reference to one or more of the following factors –
- (a) community ownership of the facility;
  - (b) community ownership of a stake in the facility; 35
  - (c) non-participation in a statutory energy scheme (whether or not there could be participation in the scheme in respect of the facility).

*The promoter*

- 4 (1) Right to buy regulations must make provision enabling the promoter of a qualifying facility to be identified in a case where the promoter is not, or is not expected to become, the facility operator. 40
- (2) In this paragraph “promoter” means a person developing a qualifying facility.

*The community*

- 5 (1) Right to buy regulations must make provision enabling the following to be identified –
- (a) the community in which a land-based facility is located;
  - (b) the community adjacent to which an offshore facility is located. 5
- (2) A community must be a geographical area which is –
- (a) wholly in England, wholly in Wales or wholly in Scotland;
  - (b) partly in England and partly in Wales; or
  - (c) partly in England and partly in Scotland.
- (3) A community may be identified by reference to one or more of the following factors – 10
- (a) distance measured from the facility or some other point (such as a point on a coastline adjacent to an offshore facility);
  - (b) the number of residents;
  - (c) administrative boundaries of any kind. 15

*The members of the community*

- 6 (1) Right to buy regulations must make provision enabling the following to be identified –
- (a) individuals who may exercise the right to buy;
  - (b) groups who may exercise the right to buy. 20
- (2) The individuals who may exercise the right to buy may be identified by reference to one or more of the following factors –
- (a) how old an individual is;
  - (b) how long an individual has been resident in the community;
  - (c) whether the community is an individual’s only (or main) place of residence. 25
- (3) Right to buy regulations may specify the kind, or kinds, of individuals who may not exercise the right to buy.
- (4) Those kinds of individuals may be identified by reference to one or more of the following factors – 30
- (a) whether an individual is, or has been, bankrupt or subject to any other kind of arrangement relating to indebtedness;
  - (b) whether an individual has been convicted of a criminal offence involving fraud;
  - (c) whether an individual is connected with – 35
    - (i) the designated promoter or facility operator, or
    - (ii) bodies or individuals connected with the designated promoter or facility operator.
- (5) The groups who may exercise the right to buy may be identified by reference to one or more of the following factors – 40
- (a) the legal form of the group;
  - (b) the constitution, structure and management of the group;
  - (c) the criteria for membership of the group (including criteria relating to residence);

- (d) the members of the group;
  - (e) the aims of the group;
  - (f) the activities of the group (including economic activities);
  - (g) the geographical area or areas in which, or in relation to which, the group operates; 5
  - (h) the treatment of income and profits of the group;
  - (i) the treatment of assets of the group (including on its dissolution);
  - (j) whether the group is connected with –
    - (i) the designated promoter or facility operator, or
    - (ii) bodies or individuals connected with the designated promoter or facility operator. 10
- (6) The provision that may be made about membership, or members, of the group under sub-paragraph (5)(c) or (d) includes provision of any kind that may be made under sub-paragraph (2) or (4) about individuals.
- (7) Right to buy regulations may specify the kind, or kinds, of groups who may not exercise the right to buy. 15
- (8) Regulations under this paragraph may make provision about which persons are connected with which other persons for the purposes of any such regulations.
- (9) The regulations may provide that one person (“A”) is connected with another person (“B”) by virtue of – 20
  - (a) a direct or indirect connection;
  - (b) connections arising from employment or office-holding, from family relationships, or from financial arrangements;
  - (c) A being the parent of B or another person connected with B; 25
  - (d) A being a subsidiary of B or another person connected with B.

*Kinds of stake which may be bought through the right to buy*

- 7 (1) Right to buy regulations must specify the kinds of stakes in qualifying facilities which may be bought through the right to buy.
- (2) A stake may take any of the following forms – 30
  - (a) one or more shares in a company;
  - (b) any other interest in a body other than a company;
  - (c) an equitable interest;
  - (d) a right to a royalty related to revenues;
  - (e) a loan. 35
- (3) Right to buy regulations may make provision about the rights, obligations, powers and other terms attaching to a stake.

*Particular kind of stake which may be bought in particular facility*

- 8 (1) Right to buy regulations must require the designated promoter or facility operator to choose the kind, or kinds, of stake in a qualifying facility that are to be available through the right to buy. 40
- (2) The regulations must give the designated promoter or facility operator a choice of at least two different kinds of stake in relation to a qualifying facility.

- (3) The regulations must require the designated promoter or facility operator –
- (a) to carry out a consultation before choosing which kind, or kinds, of stake are to be available, and
  - (b) to take the results of that consultation into account in making the choice.

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*The price of the stakes*

- 9 (1) Right to buy regulations must make provision about setting the price of the available stakes in a qualifying facility.
- (2) In making the regulations, the Secretary of State must have regard to the desirability of the prices of available stakes reflecting a measure of fair value.
- (3) In this paragraph “available stakes”, in relation to a qualifying facility, means the stakes in the qualifying facility that are to be offered through the right to buy.

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*Total value of the offer*

- 10 (1) Right to buy regulations must require the offer to consist of stakes whose combined price is –
- (a) equal to, or
  - (b) greater than,
- the minimum amount described in the regulations.
- (2) That minimum amount must be expressed as a percentage of the total capital costs of development of a qualifying facility.
- (3) That percentage must not exceed 5%.
- (4) The regulations may make provision about –
- (a) the kinds of costs that are capital costs of development of a qualifying facility;
  - (b) calculation of the total capital costs of development of a qualifying facility.
- (5) The provision about calculation of the total capital costs may provide for the total –
- (a) to be calculated by reference to a period ending after the time of the calculation (including a period ending with commissioning of the facility);
  - (b) to include costs which have not been incurred at the time of the calculation;
  - (c) to include estimated costs.
- (6) In this paragraph –
- “combined price”, in relation to the stakes offered through the right to buy, means the total which the amounts to be paid for all of those stakes will add up to (assuming those stakes are all bought);
  - “offer” means the offer of stakes in a qualifying facility through the right to buy.

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*Buying a stake*

- 11 (1) Right to buy regulations must make provision about the procedure for exercising the right to buy in relation to a qualifying facility (the “purchase procedure”).
- (2) The purchase procedure must identify what stake or stakes – 5  
(a) the individuals resident in the community, and  
(b) the groups connected with the community,  
may buy through the right to buy.
- (3) The regulations may require the designated promoter or facility operator to conduct the purchase procedure. 10
- (4) The purchase procedure must identify the period of time during which stakes in a qualifying facility may be applied for (the “application period”).
- (5) The purchase procedure must secure that the application period does not begin until after planning consent has been given for the development of the qualifying facility. 15
- (6) Here “planning consent” means whichever of the following is, or are, needed for that facility to be developed –  
(a) development consent under the Planning Act 2008;  
(b) planning permission under Part 3 of the Town and Country Planning Act 1990; 20  
(c) a marine licence under the Marine and Coastal Access Act 2009;  
(d) consent of the Scottish Ministers under section 36 of the Electricity Act 1989;  
(e) planning permission under the Town and Country Planning (Scotland) Act 1997; 25  
(f) a marine licence under Part 4 of the Marine (Scotland) Act 2010.

*Excessive or insufficient take-up*

- 12 (1) Right to buy regulations may make provision (including provision relating to the allocation of stakes) –  
(a) about cases where applications made in the application period exceed the available stakes, and 30  
(b) about cases where applications made in the application period do not exceed the available stakes.
- (2) Provision about cases where applications made in the application period do not exceed the available stakes may – 35  
(a) provide for the right to buy to be modified or to cease to apply;  
(b) identify a subsequent period of time (a “secondary period”) during which the right to buy is to be exercisable.
- (3) If right to buy regulations identify a secondary period, the regulations may make, in relation to the secondary period, any provision of the kinds mentioned in sub-paragraphs (1) and (2)(a) that may be made in relation to the application period. 40
- (4) The power under section 46 to make different provision in community electricity right regulations for different purposes includes power to make

provision relating to secondary periods that is different from provision relating to application periods.

- (5) The provision that may differ includes provision about—
- (a) the community in which a land-based facility is located or adjacent to which an offshore facility is located; 5
  - (b) the individuals resident in a community or the groups connected with a community who may exercise the right to buy.
- (6) In this paragraph—
- “application period” has the meaning given in paragraph 11;
  - “applications” means applications for stakes in a qualifying facility; 10
  - “available stakes” means the stakes in a qualifying facility that are available to be bought through the right to buy.

*Subsequent disposal of a stake*

- 13 (1) Right to buy regulations may make provision about the disposal of a stake in a qualifying facility after it has been bought through the right to buy (whether the disposal is by a person who bought the stake through the right to buy or by a person who has subsequently acquired it). 15
- (2) The regulations may impose restrictions or prohibitions on the disposal of a stake.
- (3) The regulations may impose duties to dispose of a stake in a case where the holder ceases to be— 20
- (a) an individual resident in a community, or
  - (b) a body connected with a community.
- (4) A restriction or prohibition may limit or prevent the disposal of a stake except to an individual or body who— 25
- (a) would have been able to buy the stake at the time when the right to buy was originally exercisable, or
  - (b) would be able to buy the stake at the time of the disposal, were the right to buy exercisable at that time.

PART 2 30

OPERATORS, OWNERSHIP & RELATED MATTERS

*“Operator and ownership regulations”*

- 14 In this Schedule “operator and ownership regulations” means regulations under subsection (2) of section 33.

*Bodies that may be facility operators* 35

- 15 If operator and ownership regulations specify two or more kinds of bodies which may be a facility operator, the regulations may make provision about which kind of body may own which kind of facility in which circumstances.

*Constitutions of facility operators*

- 16 (1) Operator and ownership regulations may require the constitution of a facility operator to be in accordance with provision specified in the regulations.
- (2) In the case of a facility operator that is a company, the regulations may require the constitution of the company to be in accordance with provision about –
- (a) the voting rights attached to, or other characteristics of, shares in the company;
  - (b) the issuing of new shares in the company.

*Ownership of facility operators*

- 17 (1) Operator and ownership regulations may make provision about the ownership of facility operators.
- (2) The regulations may –
- (a) impose limitations on who may own a facility operator;
  - (b) require the owners of a facility operator to consist of, or include, one or more persons of a kind specified in the regulations.

*Conduct of owners of facility operators*

- 18 (1) Operator and ownership regulations may make provision about the conduct of the owners of facility operators.
- (2) The regulations may impose duties, restrictions or prohibitions in relation to the exercise of rights or powers of owners (including a right or power to exercise a vote attached to a share).

*Revenues*

- 19 (1) Operator and ownership regulations may make provision about the treatment of the revenues earned by a qualifying facility.
- (2) The regulations may restrict or prohibit the making of arrangements affecting the destination of the revenues.

PART 3

INFORMATION 30

*“Information regulations”*

- 20 In this Schedule “information regulations” means regulations under subsection (3) of section 33.

*Particular kinds of information*

- 21 Information regulations may make provision about the supply of –
- (a) financial information relating to a renewable electricity generation facility;



- (b) information relating to electricity generation at a renewable electricity generation facility.

*Possible buyers of stakes*

- 22 Information regulations may make provision about the supply of information by, or to, individuals and groups who are, or may be, interested in exercising the right to buy (were it available to them). 5

*Prospective buyers of stakes*

- 23 Information regulations may make provision about the supply of information by, or to, individuals and groups who are entitled to exercise the right to buy. 10

*Applicants for stakes*

- 24 Information regulations may make provision about the supply of information by, or to, individuals and groups who are exercising the right to buy.

*Owners of stakes* 15

- 25 Information regulations may make provision about the supply of information by, or to, individuals and groups who hold –  
 (a) stakes which they have bought through the right to buy, or  
 (b) stakes which they have acquired after their sale through the right to buy. 20

PART 4

SUPPLEMENTARY

*Interpretation*

- 26 In this Schedule –  
 “body” means an incorporated or unincorporated body of persons; 25  
 “company” includes any other kind of incorporated body;  
 “designated promoter”, in relation to a renewable electricity generation facility, means the promoter identified in accordance with regulations under paragraph 4;  
 “shares” includes any other instrument by which a person holds an interest in the equity of an incorporated body; 30  
 “total installed capacity”, in relation to a renewable electricity generation facility, means the maximum capacity at which the facility could be operated for a sustained period without causing damage to it. 35

SCHEDULE 6

Section 37

THE LICENSING LEVY

*The amount of the levy*

- 1 Regulations may provide for the licensing levy payable in respect of a charging period to increase or decrease over that period. 5

*Basis of amount*

- 2 Regulations may provide for an amount of licensing levy payable by a licence holder to be calculated by reference to the size of an area to which an energy industry licence held by that person relates.

*Amounts payable by different categories of licence holders* 10

- 3 Regulations may provide for different categories of licence holders to pay –  
(a) different amounts of licensing levy, or  
(b) amounts of licensing levy calculated, set or determined in different ways.

*Exemptions* 15

- 4 Regulations may provide for a category of licence holder to be exempt from payment of the licensing levy.

*Unpaid levy*

- 5 (1) Regulations may provide for interest (at a rate specified in, or determined under, the regulations) to be charged in respect of unpaid amounts of licensing levy. 20  
(2) Regulations may provide for unpaid amounts of licensing levy (together with any interest charged) to be recoverable as a civil debt.

*Conferral of functions*

- 6 Regulations may confer a function (including a function involving the exercise of a discretion) on – 25  
(a) the Secretary of State, or  
(b) any other person, apart from the Scottish Ministers or the Welsh Ministers.

*Categories of licence holders* 30

- 7 (1) Regulations (including regulations of the kinds mentioned in paragraphs 3 and 4) may provide for a category of licence holder to consist of persons who hold a kind of energy industry licence specified in the regulations.  
(2) The regulations may (in particular) specify any of the following kinds of energy industry licence – 35  
(a) licences granted under a particular enactment;  
(b) licences of a particular description granted under a particular enactment;

- 
- (c) licences, or licences of a particular description (including a description falling within paragraph (a) or (b)), granted –
- (i) before a particular time,
  - (ii) after a particular time, or
  - (iii) during a particular period.

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*Interpretation*

8 In this Schedule –

“energy industry licence” means a licence falling within section 37(1);

“licence holder” means a person who holds an energy industry licence (whether the person was granted it or has, after its grant, acquired it by assignment or other means);

“regulations” means regulations under section 37(1).

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# Infrastructure Bill [HL]

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## B I L L

To make provision for strategic highways companies and the funding of transport services by land; to make provision for the control of invasive non-native species; to make provision about nationally significant infrastructure projects; to make provision about town and country planning; to make provision about the Homes and Communities Agency and Mayoral development corporations; to make provision about the Greater London Authority so far as it exercises functions for the purposes of housing and regeneration; to make provision about Her Majesty's Land Registry and local land charges; to make provision enabling building regulations to provide for off-site carbon abatement measures; to make provision for giving members of communities the right to buy stakes in local renewable electricity generation facilities; to make provision about maximising economic recovery of petroleum in the United Kingdom; to provide for a levy to be charged on holders of certain energy licences; to enable Her Majesty's Revenue and Customs to exercise functions in connection with the Extractive Industries Transparency Initiative; to make provision for underground access to deep-level land for the purposes of exploiting petroleum or deep geothermal energy; to make provision about renewable heat incentives; and for connected purposes.

*Brought from the Lords*

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