These notes relate to the Lords Amendments to the Deregulation Bill, as brought from the House of Lords on 4 March 2015

DEREGULATION BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

INTRODUCTION

1. These explanatory notes relate to the Lords Amendments to the Deregulation Bill as brought from the House of Lords on 4 March 2015. They have been prepared by the Cabinet Office in order to assist the reader of the Bill and to help inform debate on the Lords Amendments. They do not form part of the Bill and have not been endorsed by Parliament.

2. These notes need to be read in conjunction with the Lords Amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the effect of the Lords Amendments.

3. These notes, like the Lords Amendments themselves, refer to HL Bill 33, the Bill as first printed for the Lords.

4. Apart from those amendments which are asterisked (Lords Amendments 3, 38, 47 and 48), all the Lords Amendments were tabled in the name of the Minister. Lords Amendments 3, 47 and 48 were supported by the Government. Lords Amendment 38 was opposed by the Government.

COMMENTARY ON LORDS AMENDMENTS

Lords Amendment 1

5. This amendment would amend clause 1. It would insert a new subsection (2A) into section 3 of the Health and Safety at Work etc. Act 1974. The new subsection would set out the ways in which undertakings may be described in regulations made under section 3(2) of the Health and Safety at Work etc. Act 1974 for the purposes of retaining duties on self-employed persons. Paragraph (a) covers descriptions based on the type of activities carried out by the undertaking or on other features of the undertaking, such as its involvement with a specific hazard. Paragraph (b) ensures that the regulations could include a general description covering any undertaking the conduct of which may expose others to risks to their health or safety.

Lords Amendment 2

6. This amendment would amend clause 1. It would change the parliamentary procedure for regulations made under section 3(2) of the Health and Safety at Work etc. Act 1974 from the negative to the affirmative procedure. This would give effect to a recommendation made by the Delegated Powers and Regulatory Reform Committee.

***Lords Amendment 3**

7. This amendment would leave out clause 10 (private hire vehicles: circumstances in which driver's licence required).

Lords Amendment 4

8. This amendment is consequential on Lords Amendment 79.

Lord Amendment 5

9. This amendment would insert a new clause after clause 30. The new clause would make retrospective amendments to the Housing (Tenancy Deposits) (Prescribed Information) Order 2007 ("the prescribed information order"). The prescribed information order was made under section 213 of the Housing Act 2004 and prescribes the information which must be provided to tenants when a deposit has been protected. Failure to send the correct information to the tenant within 30 days of the deposit being received can result in penalties for the landlord and/or letting agent.

10. The amendments would rectify a problem which has been identified with the prescribed information order which is that it does not clearly allow (as the Government intended) for a letting agent's details to be provided in the prescribed information *instead of* the landlord's. The amendments to article 2 of the order would make it clear that each of the references to "the landlord" in the order are to be read as references to either the landlord or the letting agent where relevant.

11. The amendments would also insert a new article – article 3 – into the prescribed information order. Article 3(1) would provide that the amendments to the order are to be treated as having had effect since 6 April 2007, the date on which the tenancy deposit provisions in the 2004 Act came into force. However, article 3(2) would provide that they do not have effect in relation to legal proceedings under section 214 of the 2004 Act or section 21 of the Housing Act 1988 in which this point has been argued and which have either been finally determined by a court (see article 3(6)) or settled between the parties prior to the date on which this clause would come into force, i.e. the date on which the Deregulation Bill is passed (article 3(8)).

12. If legal proceedings have been instituted but have not been finally determined or settled before the date on which this clause would come into force, article 3(3) to (5) would apply so as to protect the tenant from liability for the landlord's legal costs where, as a consequence of the amendments to article 2 of the order, the court decides against the tenant's claim under section 214 of the 2004 Act and/or decides to grant the landlord a possession order under section 21 of the Housing Act 1988. In those circumstances a court would not be able to order the tenant to pay any part of the landlord's costs in the proceedings which it reasonably considers are attributable to the tenant's claim under section 214 of the 2004 Act and/or the possession proceedings under section 21 of the Housing Act 1988. This provision recognises that the court proceedings involving the landlord and tenant may also comprise claims and/or counter-claims (for instance in respect of rent arrears) which are not directly affected by the amendments to article 2 of the order.

13. Subsection (4) would ensure that the changes made by this amendment to the prescribed information order do not affect the power to use further subordinate legislation to amend or revoke that order.

14. Subsection (5) would define subordinate legislation as having the same meaning as in the Interpretation Act 1978.

15. The new clause would form part of the law of England and Wales. It would come into force on the day on which the Bill is passed.

Lords Amendment 6

16. This amendment would insert a further new clause after clause 30. The new clause would make amendments to sections 214 (proceedings relating to tenancy deposits) and 215 (sanctions for non-compliance) of the Housing Act 2004 to clarify the legal position following the Court of Appeal's decision in December 2014 in the case of *Charalambous and another v Ng and another* [2014] EWCA Civ 1604. In that case the Court decided that section 215(1)(a) of the 2004 Act applies even where the landlord received the deposit prior to the coming into force of the tenancy deposit legislation on 6 April 2007 in respect of a tenancy which began before that date and which has continued without renewal since before that date. The Court of Appeal's decision means that, even though the deposit could not be said to have been "paid" after the coming into force of the tenancy deposit legislation, landlords in this situation will need to protect such deposits if they wish to be able to rely on the no-fault ground for possession in section 21 of the Housing Act 1988 at the end of the tenancy.

17. Although it was never the Government's intention – either in 2007 or following amendments made to the tenancy deposit legislation in 2012 by the Localism Act 2011 – that the tenancy deposit legislation should apply to such deposits, the amendments would enshrine the Court of Appeal's decision in the legislation. However, they would also make it absolutely clear that, since the tenancy deposit requirements in section 213 of the 2004 Act have never applied to such deposits, the other sanctions and penalties provided for in sections 214 and 215 do not apply in such cases. Subsection (2) would amend section 214(1) to make it clear that section 214 does not apply in relation to such deposits. Section 214 (proceedings relating to tenancy deposits) enables tenants to apply to the court for a mandatory financial penalty where a landlord has failed to comply with the tenancy deposit requirements in section 213.

18. Subsection (3) would replace the current subsection (1) in section 215 (sanctions for non-compliance) with two new subsections. The new subsection (1) would give legislative effect to the Court of Appeal's judgment by making it clear that no matter when a tenancy deposit was last "paid" the landlord will need to protect that deposit if he or she wishes to serve a valid notice under section 21 of the Housing Act 1988 on the tenant (unless the deposit has already been returned to the tenant in full or with agreed deductions).

19. The new subsection (1A) would replicate the effect of the current section 215(2)(b), making it clear that it applies only where a deposit has been received on or after 6 April 2007 (the commencement date of the tenancy deposit provisions).

20. The new clause would form part of the law of England and Wales. It would come into force on the day on which the Bill is passed.

Lords Amendments 7 to 17

21. Lords Amendments 7 to 17 would amend clause 31 (tenancy deposits).

22. Lords Amendments 7 and 8 (which would amend new section 215A inserted by clause 31) would prevent section 215A from applying to a landlord who had complied with the tenancy deposit protection requirements at the time the tenancy rolled over into a statutory periodic tenancy.

23. Lords Amendment 9 would make a minor drafting change which would simply replace the words "respect of" with "relation to". The intention is simply to use consistent language throughout the legislation.

24. Lords Amendments 10 and 17 would provide for references to "the commencement date" in new sections 215A and 215D to mean the date on which the Deregulation Bill receives Royal Assent. These amendments would be consequential on Lords Amendment 56 which would bring clause 31 into force on Royal Assent (instead of by commencement order).

25. Lords Amendment 11 would replace new sections 215B and 215C with a single, simpler section, namely new section 215BA (shorthold tenancies: deposit received on or after 6 April 2007). Previously clause 31 dealt separately with, on the one hand, cases where at the end of the fixed term the tenancy rolled over into a statutory periodic tenancy and, on the other, cases where tenancies were expressly renewed at the end of the initial tenancy. The original approach had the potential to be unclear with respect to tenancies which became statutory periodic but only after some intervening renewed fixed term or contractual periodic tenancy.

26. New section 215BA would cover all situations in which deposits have been protected and the necessary information sent to the tenant and the tenancy is subsequently renewed or rolls over into a statutory periodic tenancy. The new section would also deal more clearly with the scenario where there are multiple tenancy renewals, which could include a mixture of fixed term tenancies and periodic tenancies. It would make it clear that, in all cases where the deposit has been protected by the landlord and the tenant has been given the necessary information, then so long as the deposit remains protected in accordance with the same authorised scheme from one tenancy to the next, there is no requirement for the landlord to re-send the same information to the tenant each time the tenancy is renewed.

27. Lords Amendments 12 to 16 would make amendments to clause 31 which are consequential on Lords Amendment 11.

Lords Amendments 18 to 26

28. These amendments would insert 9 new clauses which form a group.

Overview

29. The new clauses would provide protection for assured shorthold tenants in the private rented sector against retaliatory eviction, where such tenants are suffering from poor or unsafe property conditions. This would be done by providing that, where a relevant notice is served on the landlord in relation to the dwelling, the landlord is prevented from evicting a tenant or tenants by giving a notice under section 21 of the Housing Act 1988 for six months, from the date of service of the relevant notice. For the purposes of these clauses, a relevant notice is defined as an improvement notice served under section 11 or section 12 of the Housing Act 2004, or a notice of emergency remedial action served under section 40(7) of the Housing Act 2004. Section 21 of the Housing Act 1988 currently provides a 'no-fault' eviction procedure in the case of assured shorthold tenancies, whereby provided the landlord gives tenants the prescribed amount of notice, they do not need to rely on any grounds for eviction.

30. The clauses would also provide the power for the Secretary of State to prescribe legal requirements, so that if a landlord of an assured shorthold tenant is in breach of those requirements, the landlord is prevented from serving a section 21 notice. The Secretary of State would also be provided with the power to prescribe certain information that a landlord must provide to their tenant(s), and a breach of this requirement would prevent the landlord from being able to serve a section 21 notice. Finally, the clauses would make changes to the procedure under section 21 of the Housing Act 1988, by introducing the power to prescribe the form of section 21 notices, by removing the requirement for notices served under section 21(4) of the Housing Act 1988 to end on the last day of a period of the tenancy and by introducing time restrictions in relation to the giving of section 21 notices and the time period for bringing possession proceedings, following the service of a section 21 notice.

31. The policy rationale for the changes that would be introduced by these clauses is to prevent tenants from feeling unable to complain about poor property conditions because they fear eviction. The Government also intends that the clauses should encourage landlords to keep their property in a decent condition and to comply with all legal obligations placed upon them, in order not to lose their right to rely on section 21. The changes that would be made to the section 21 procedure aim to make the eviction process more straightforward for both landlords and tenants. The clauses would not make any changes to the eviction procedure contained in section 8 of the Housing Act 1988, which provides for the eviction of tenants where there are grounds to do so, for example because a tenant has not been paying rent or has been engaging in anti-social behaviour.

32. The clauses would form part of the law of England and Wales. However, given that housing matters are now devolved to Wales, the amendments made by the clauses will apply to England only.

33. The clauses would come into force by order made by the Secretary of State.

34. The remainder of the notes for these amendments discusses each new clause in more detail.

Lords Amendment 18 (Preventing retaliatory eviction)

35. The effect of this clause would be to provide six months' protection from eviction under the section 21 procedure, for a tenant occupying a dwelling under an assured shorthold tenancy, where a relevant notice has been served by a local housing authority in relation to a dwelling. Subsection (1) would provide that a landlord may not give a section 21 notice in relation to a dwelling within six months following the date of service of a relevant notice in respect of that dwelling. Subsection (2) would provide that a section 21 notice given in relation to an assured shorthold tenancy of a dwelling is invalid if, before the section 21 notice was given the tenant had made a complaint about the condition of the dwelling to the landlord, the landlord did not provide an adequate or timely response to the complaint or served a section 21 notice on the tenant, and the tenant then contacted the local housing authority about the matters raised with the landlord, who served a relevant notice in relation to the dwelling. When a landlord has been prevented from obtaining possession by virtue of the clause, the landlord would be required to serve a fresh section 21 notice to regain possession of the dwelling.

36. Subsection (3) would provide an explanation of what is to be considered an adequate response for the purposes of this provision. Subsection (4) would set out that the requirement for a tenant's complaint to be in writing does not need to be met where the tenant does not know the postal or email address of the landlord. Subsection (5) would set out that the requirement for the tenant to complain to the landlord in the first instance and to allow the landlord 14 days to respond, does not apply where the tenant made reasonable efforts to contact the landlord to complain but was unable to do so.

37. Subsection (6) would provide that the court must strike out proceedings for an order for possession under section 21 if a section 21 notice has become invalid due to subsection (2), which means that the tenant must have complained to the landlord and local housing authority, then a relevant notice is served by the local housing authority before the order for possession is made. However, subsection (7) sets out that the service of a relevant notice after an order for possession has been made shall not provide grounds for the setting aside of the possession order.

38. Subsection (8) would set out that the protection from eviction provisions do not apply where a relevant notice has been revoked as a result of being served in error, or quashed, or where the decision of the local authority to take the action to which the notice relates has been reversed.

39. Subsections (10) and (11) would provide that a relevant notice includes a notice that is served in relation to any common parts of the building of which the dwelling forms part, where the landlord has a controlling interest in those common parts and the condition of the common parts is such as to affect the tenant's enjoyment of the dwelling or any common parts which they are entitled to use.

Lords Amendment 19 (Further exemptions to section (Preventing retaliatory eviction))

40. This clause would provide for certain exemptions from the measures to prevent retaliatory eviction contained in the clause inserted by Lords Amendment 18. These would include an exemption where the condition of the dwelling which resulted in the serving of the relevant notice was due to the tenant's breach of their duty to use the dwelling in a tenant-like manner, or breach of an express term of the tenancy to the same effect. There would also be an exemption where the landlord has a genuine intention to sell their interest in the dwelling to a person that they are not associated with. Examples of where the landlord would not have a genuine intention to sell include where the landlord intends to sell to a family member or business partner. Furthermore, there would also be exemptions where the landlord is a private registered provider of social housing and where a mortgagee (including a receiver who has been appointed by the mortgagee to act on behalf of the landlord) is in possession of the landlord's interest in the dwelling and the mortgagee needs to be able to exercise their power of sale with vacant possession.

Lords Amendment 20 (Notice to be provided in relation to periodic assured shorthold tenancies)

41. The effect of this clause would be to remove the requirement in relation to a periodic tenancy whereby a notice served under section 21(4)(a) of the Housing Act 1988 requires the date specified in the notice to be the last day of a period of the tenancy.

Lords Amendment 21 (Time limits in relation to section 21 notices and proceedings)

42. This clause would make changes to the timing for service of section 21 notices and the bringing of possession proceedings in relation to section 21 notices. The effect of the clause would be that a notice under section 21(1) or section 21(4) cannot be brought during the first four months of a tenancy, with the exception of replacement tenancies, as defined in section 21(7) of the Housing Act 1988, or tenancies arising under section 5(2) of the Housing Act 1988 (periodic tenancies arising at the end of a fixed-term tenancy). The clause would also provide that proceedings for an order for possession may not be begun later than six months from the date of service of a notice under section 21(1) or section 21(4) of the Housing Act 1988, with an exception where a notice given under section 21(4) requires more than two months' notice to be given, in which case proceedings for possession may not be begun later than four months from the date specified in the notice.

Lords Amendment 22 (Prescribed form of section 21 notices)

43. This clause would provide the Secretary of State with the power to prescribe a form for the serving of notices under section 21(1) or section 21(4) of the Housing Act 1988. Regulations made under this provision would be subject to the negative resolution procedure.

Lords Amendment 23 (Compliance with prescribed legal requirements)

44. This clause would provide the Secretary of State with the power to prescribe legal requirements imposed on landlords by any enactment, so that if a landlord fails to comply with those requirements, the landlord shall be prevented from giving a section 21 notice until the landlord has complied with the relevant legal obligation. These requirements would include those requirements in relation to the condition of dwellings or their common parts, the health and safety of occupiers of dwellings, and the energy performance of dwellings.

Lords Amendment 24 (Requirement for landlord to provide prescribed information)

45. This clause would provide the Secretary of State with the power to make regulations requiring a landlord, or a person acting on a landlord's behalf, under an assured shorthold tenancy, to provide a tenant with such information as may be prescribed, regarding the rights and responsibilities of a landlord and tenant. No section 21 notice may be given where a landlord has failed to comply with this requirement, until such time as the prescribed information is provided to the tenant.

Lords Amendment 25 (Repayment of rent where tenancy ends before end of a period)

46. The effect of this clause would be to provide for the repayment of rent in the situation where a tenancy is brought to an end under section 21 before the end of a period of the tenancy and the tenant has paid rent in advance for this period, during which they will now not be occupying the property for one or more days. The tenant is entitled to repayment of an amount of the rent they have paid to the landlord, calculated in accordance with a formula. The clause would provide that if the repayment of rent has not been made when the court considers whether to make a possession order under section 21, the court shall order the landlord to pay the amount of rent to which the tenant is entitled.

Lords Amendment 26 (Application of sections (Preventing retaliatory eviction) to (Repayment of rent where tenancy ends before end of a period))

47. This clause sets out that the clauses that would be inserted by Lords Amendments 18 to 25 would apply to assured shorthold tenancies granted on or after the day the clauses would come into force (but excluding assured shorthold tenancies that arose under section 5(2) of the Housing Act 1988 after the coming into force of the clauses, where the original tenancy was granted before the clauses came into force). The clauses would come into force on such day as the Secretary of State may appoint by order. However, once a provision has been brought into force it will apply to all assured shorthold tenancies, whether granted before or after the commencement day, three years after the provision comes into force. This is with the exception of the new clause that would be inserted by Lords Amendment 24 (requirement for landlord

to provide prescribed information) which would continue to apply only to new tenancies entered into after the coming into force of the clauses.

Lords Amendment 27

48. This amendment would insert a new clause after clause 33. This would create a new section 25A of the Greater London Council (General Powers) Act 1973 (the '1973 Act') which would provide that the use as temporary sleeping accommodation of any residential premises in Greater London does not constitute a change of use (for which planning permission would be required) if certain conditions are met (the 'Exception'). The conditions are set out in subsections (2) and (3) of section 25A. The first condition is that the sum of (a) the number of nights of use, and (b) the number of nights of any previous use of the same premises as temporary sleeping accommodation in the same calendar year, does not exceed ninety days. The second condition is that, for each night counted under (a), the person who provided the sleeping accommodation must be liable to pay council tax (which would therefore include people who are liable to council tax but are in receipt of a discount).

49. The new clause would also create a new section 25B of the 1973 Act which would provide that either the local planning authority or the Secretary of State may direct that the Exception created by section 25A of the 1973 Act is not to apply to certain residential premises or residential premises in certain areas. Such a direction may only be given if it is necessary to protect the amenity of the locality. Subsection (3) would provide that the local planning authority may only give a direction with the consent of the Secretary of State. Subsection (4) would provide that the direction can be revoked by the person who gave the direction. Subsections (5) and (6) would provide that the Secretary of State may delegate his power to give or revoke a direction, and direct that a local planning authority does not require the Secretary of State's consent to give a direction.

50. Subsection (7) would contain regulation making powers, subject to the negative procedure, providing that the Secretary of State can make regulations in relation to the information which must be provided by a local planning authority when it is seeking consent to give a direction, as well as the procedure which should be followed in connection with the making or revocation of a direction.

51. The new clause, although part of the law of England and Wales, would apply only to Greater London. It would come into force by order made by the Secretary of State.

Lords Amendments 28 to 30

52. This set of amendments would amend clause 34 which confers a regulation-making power to create exceptions to section 25(1) of the Greater London Council (General Powers) Act 1973. This could be used to create exceptions to section 25(1) in addition to the exception which would be created by the new section 25A of that Act inserted by Lords Amendment 27.

53. Lords Amendment 28 would remove the words "make provision for circumstances in which the use as temporary sleeping accommodation of any residential premises in Greater London does not involve a material change of use by virtue of section 25(1) of the Greater London Council (General Powers) Act 1973" from clause 34(1) and replace them so that clause 34(1) would read "The Secretary of State may by regulations made by statutory instrument provide that section 25(1) of the Greater London Council (General Powers) Act 1973 does not apply if conditions specified by the regulations are met." This is a drafting change which would ensure that the regulation-making power in clause 34 is expressed in a way which is consistent with how the exception under the new section 25A of the 1973 Act would be created by Lords Amendment 27.

54. Lords Amendment 29 would replace clause 34(2) with the new subsection "*Regulations under subsection (1) must include provision corresponding to section 25B of that Act*". This means that, if regulations are made under clause 34(1) to create a new exception to section 25 of the 1973 Act, the regulations must include a provision equivalent to section 25B of the 1973 Act which permits the local planning authority or the Secretary of State to make a direction that the new exception will not apply to particular residential premises or residential premises situated in a particular area.

55. Lords Amendment 30 would remove clause 34(6) which defines the meaning of 'local planning authority'. This definition is unnecessary in consequence of the other Lords Amendments to clause 34.

Lords Amendments 31 and 32

56. These amendments would insert two new clauses into the Bill after clause 34. The new clauses would modify sections 134 (urban development areas) and 135 (urban development corporations) of the Local Government, Planning and Land Act 1980.

57. The first new clause would modify the application of section 134 of the Local Government, Planning and Land Act 1980 in respect of any area of land in England designated as an urban development area by an order contained in an instrument laid before Parliament on or before 31 March 2016.

58. The first modification is made by subsection (2). It would insert a new subsection (1A) after section 134(1) of the Local Government, Planning and Land Act 1980. New subsection (1A) would provide that, before the Secretary of State can make an order designating an area as an urban development area, he must consult: persons representing those living within or in the vicinity of the proposed urban development area; persons representing businesses with premises within or in the vicinity of the proposed urban development area; local authorities for an area falling within the proposed urban development area; and any other person considered appropriate.

59. The second modification would substitute a new subsection (4) for section 134(4) of the Local Government, Planning and Land Act 1980. This would provide for the instrument to be subject to the negative resolution procedure (instead of the affirmative resolution procedure).

60. Subsection (4) of the new clause would provide that the consultation duty under the modified section 134(1A) of the Local Government, Planning and Land Act 1980 may be satisfied by consultation before the modification comes into force. (The clause would come into force on the day on which the Bill is passed.)

61. The second new clause makes equivalent provision in respect of the establishment of urban development corporations for urban development areas.

62. It would modify the application of section 135 of the Local Government, Planning and Land Act 1980 in respect of an order establishing an urban development corporation for an urban development area in England that is contained in an instrument laid before Parliament on or before 31 March 2016.

63. The first modification would insert a new subsection (1A) after section 135(1) of the Local Government, Planning and Land Act 1980. New subsection (1A) would provide that, before the Secretary of State can make an order under subsection (1) establishing an urban development corporation, he must consult: persons representing those living within or in the vicinity of the proposed urban development area; persons representing businesses with premises within or in the vicinity of the proposed urban development area; local authorities for an area falling within the proposed urban development area; and any other person considered appropriate.

64. The second modification would substitute a new subsection (3) for section 135(3) of the Local Government, Planning and Land Act 1980. This would provide for the instrument to be subject to the negative resolution procedure (instead of the affirmative resolution procedure).

65. Subsection (4) of the new clause would provide that the consultation duty under section 134(1A) of the Local Government, Planning and Land Act 1980 may be satisfied by consultation before the modification comes into force. (The new clause would come into force on the day on which the Bill is passed.)

66. The 1980 Act forms part of the law of England and Wales and Scotland but the modifications made by the two new clauses would apply only to orders relating to areas in England.

67. The new clauses would come into force on the day on which the Bill is passed. The modifications made by the two new clauses would not affect orders contained in instruments laid before Parliament after 31 March 2016.

Lords Amendment 33

68. This amendment would insert a new clause after clause 34. The new clause would amend the Housing Act 1996 to allow the Secretary of State to provide financial assistance to any person in relation to that person's giving of advice, information or training about any matter relating to residential licences in England. The Secretary of State would also be able to provide financial assistance to any person in relation to that person's provision of a dispute resolution service in connection with any matter relating to residential licences in England.

69. The Secretary of State already has power, under section 94 of the Housing Act 1996, to provide financial assistance to a person in relation to that person's giving of advice, information or training, or their provision of a dispute resolution service, in connection with any matter relating to residential tenancies. However, some people occupy land under arrangements that are not residential tenancies. The purpose of the amendment would be to enable the Secretary of State to give financial assistance in relation to residential licences in the same way as for residential tenancies.

70. In particular, this amendment would allow financial assistance to be made available where advice is provided in connection with the law concerning mobile homes, where residents usually own their own home but occupy their pitch on a mobile home site under an agreement which is a type of residential licence. Following the changes made by the Mobile Homes Act 2013 the Government considers that it is particularly important that there is advice and information available to mobile homes residents and site owners to help them understand how their rights and obligations have changed.

71. The clause would form part of the law of England and Wales. However, the amendments made by the clause would apply to England only. The clause would come into force by order made by the Secretary of State.

Lords Amendments 34 and 82

72. These amendments would insert a new clause after clause 35 and a new Schedule after Schedule 8 which together would amend various pieces of road traffic legislation, to remove potential restrictions on the effective response to emergencies by NHS ambulance services. Road traffic legislation contains a number of provisions which provide that vehicles used for specified purposes (for example, fire and rescue authority, ambulance or police purposes) are not subject to certain restrictions.

73. The restrictions this clause and Schedule would remove relate to speed, double parking, parking on dropped footways, parking in darkness, leaving a vehicle unattended with the engine running, stopping on double white lines, width of load, fitting and use of lamps, reflectors and sirens, pedestrian crossings, keep left/right signs, light signals, white lines, box junctions, zig zag lines, bus stop and bus stands clearways.

74. The amendments would enable a wider range of vehicles than traditional ambulances to be used to respond to an emergency when they are providing a response to an emergency at the request of the NHS ambulance service. For the

purposes of this clause and Schedule, NHS ambulance service means (a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services; (b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services; and (c) the Scottish Ambulance Service Board.

75. The amendments made by the clause and Schedule would have the same extent as the legislation amended. This means that the amendments would form part of the law of England and Wales and Scotland, with the exception of the amendments in the Schedule to the Traffic Management Act 2004 which would form part of the law of England and Wales only.

76. The clause and Schedule would come into force at the end of the period of two months beginning with the day on which the Bill becomes an Act.

Lords Amendments 35 to 37

77. This set of amendments would insert three new clauses after clause 57. These relate to the holding of races and trials of speeds between motor vehicles on public ways.

78. Lords Amendment 35 would insert a new clause which amends the Road Traffic Act 1988 (motor racing on public ways) to allow races and trials of speed to be held on public ways in Great Britain. Section 12(1) of the Road Traffic Act 1988 currently provides that it is an offence to promote or take part in a race or trial of speed between motor vehicles on a public way.

79. The clause would make separate provision for England and Wales (by inserting new sections 12A to 12F in the Road Traffic Act 1988) and Scotland (by inserting new sections 12G to 12I in the Road Traffic Act 1988).

England and Wales

80. Subsection (3) would insert after section 12 of the Road Traffic Act 1988 new sections 12A to 12F, which would allow highway authorities to make orders relating to the holding of a race or trial of speed between motor vehicles on a highway in England and Wales. The effect of the new provisions may be summarised as follows:

- a person wishing to promote a race or trial of speed between motor vehicles on a highway may apply to a motor sport governing body for the issue of a permit (new section 12B(1)).

- the motor sport governing body must consult specified persons before issuing a permit (new section 12B(2)).

- the motor sport governing body must issue the permit if satisfied that specified criteria apply (new section 12B(3)).

- the permit must specify the route, arrangements for the approval of the participating drivers, arrangements for the approval of the participating vehicles and arrangements for insurance in connection with the event (new section 12B(4)).

- permits may set out other conditions that the motor sport governing body thinks should be included (new section 12B(5)).

- the appropriate national authority (defined in new section 12B(9)) must by regulations list motor sport governing bodies that are authorised to issue permits (new section 12B(6)).

- these regulations may specify the kinds of races or trials of speed in respect of which each motor sport governing body may issue permits (new section 12B(7)) and may provide that a motor sport governing body ceases to be authorised to issue permits if the rules of the body include (or do not include) specified provisions (new section 12B(8)).

- if a permit is issued by a motor sport governing body, the promoter of the event may make an application (not less than six months before the event) to the highway authority for the area in which the event is to take place, which must be accompanied by the permit, details of any road closure orders required under section 16A of the Road Traffic Regulation Act 1984 (prohibition or restriction on roads in connection with certain events), a risk assessment and any fee required by the highway authority (new section 12C).

- the highway authority must consider specified criteria when deciding whether or not to make an order and may make an order if satisfied that specified criteria apply; whilst an order must specify or include details of the event and other information specified by the relevant national authority and may include conditions which must be satisfied (new section 12D).

- if the conditions imposed on the promoter have been complied with (and if the promoter has taken reasonable steps to ensure that any other conditions are complied with), section 12(1) of the Road Traffic Act 1988 does not apply to the promoter; and, if participants and officials have been approved or authorised and complied with conditions imposed on them, section 12(1) and specified provisions of other road traffic legislation (listed in a table set out in new section 12E(3)) do not apply to them or vehicles used by them (new sections 12E(1) to (3)).

- the appropriate national authority (defined in new section 12E(8)) may by regulations amend the list of legislation that is disapplied but may not add to the list (so as to disapply) sections 3A to 11 of the Road Traffic Act 1988 (motor vehicles: drink and drugs) (new sections 12E(4) and (5)).

- the promoter is liable in damages for personal injury or damage to property, unless it is proved that the promoter has taken reasonable steps to prevent the occurrence of the injury or damage (new section 12E(6)).

- provision is made for the procedure applicable to regulations made by the appropriate national authority for the purposes of new sections 12A to 12E (new section 12F).

Scotland

81. Subsection (3) would insert (after new section 12F of the Road Traffic Act 1988) new sections 12G to 12I which set out a different procedure for authorising races and trials of speed on public roads in Scotland. The effect of the new provisions may be summarised as follows:

- Scottish Ministers may by regulations authorise, or make provision for authorising, the holding of races or trials of speed between motor vehicles on public roads (new section 12G(1)).

- regulations made by Scottish Ministers may specify the persons by whom authorisations may be given, limit the circumstances in which and places in respect of which authorisations may be given, provide for authorisations to be subject to conditions or to cease to have effect in specified circumstances and provide for the procedure to be followed in connection with applications for authorisations (new section 12G(2)).

- if the conditions imposed on the promoter are complied with (and if the promoter has taken reasonable steps to ensure that any other conditions are complied with) section 12(1) does not apply to the promoter; and, if participants have complied with conditions imposed on them, section 12(1) does not apply to the participants, respectively (new sections 12H(1) and (2))

- if participants (and other persons specified by regulations made by Scottish Ministers) comply with conditions imposed on them, sections 1 to 3 of the Road Traffic Act 1988 (offences which arise from dangerous, careless and inconsiderate driving) do not apply to them (new section 12H(3)).

- Scottish Ministers may by regulations provide that specified provisions of other legislation, described generically (for example, legislation restricting the speed of vehicles), will not apply to participants or vehicles or will apply subject to modifications but the regulations may not disapply sections 3A to 11 of the Road Traffic Act 1988 (motor vehicles: drink and drugs) (new sections 12H(4) to (6)).

- Scottish Ministers may by regulations amend section 16A of the Road Traffic Regulation Act 1984 (prohibition or restriction on roads in connection with certain events) so as to enable orders under that section to suspend statutory provisions additional to those specified in section 16A(11) of that Act (new section 12H(7)).

- the promoter is liable in damages for personal injury or damage to property, unless it is proved that the promoter took reasonable steps to prevent the occurrence of the injury or damage (new section 12H(8)).

- provision is made for the procedure applicable to regulations made by the Scottish Ministers for the purposes of new sections 12G and 12H (new section 12I).

82. Lords Amendment 36 would insert a new clause which would amend section 16A of the Road Traffic Regulation Act 1984 (prohibition or restriction on roads in connection with certain events). Section 16A allows a traffic authority to impose by order restrictions or temporary prohibitions on the use of roads in connection with certain events but does not currently apply to races or trials of speed between motor vehicles on public ways. The amendments would:

- facilitate a road closure for the purpose of a race or trial of speed which is permitted by the new clause that would be inserted by Lords Amendment 35; and

- extend the list of statutory provisions which may be suspended by orders under section 16A.

83. Lords Amendment 37 would insert a new clause which would make consequential amendments to the Road Traffic Act 1988.

84. This clause would also provide that (in England and Wales) the Secretary of State and (in Scotland) Scottish Ministers may by regulations repeal any prior local Act which makes provision for authorising races or trials of speed between motor vehicles on (in England and Wales) highways and (in Scotland) public roads, consulting such persons as (in England and Wales) the Secretary of State considers or (in Scotland) the Scottish Ministers consider appropriate. It would also make provision for the procedures applicable to such regulations.

85. The new clauses inserted by Lords Amendments 35 to 37 would form part of the law of England and Wales and Scotland, with the exception of subsections (6) to (9) of the third new clause (which would form part of the law of England and Wales only) and subsections (10) to (13) of the third new clause (which would form part of the law of Scotland only).

86. The new clauses would come into force by order made by the Secretary of State.

***Lords Amendment 38**

87. This amendment would provide that regulations under clause 60(1) cannot take effect before 1 April 2017. Clause 60(1) would enable the Secretary of State to make regulations providing for alternatives to criminal sanctions for offences under section 363(2) or 363(3) of the Communications Act 2003. The offence under section 363(2) is the offence of installing or using a television receiver without a licence. The offence under section 363(3) is the offence of having a television receiver in one's possession or under one's control with the intention of installing or using it without a licence or knowing, or having reasonable grounds for believing, that another person intends to install or use it without a licence.

Lords Amendments 39 and 40

88. These amendments would make amendments to clause 66. Clause 66(2) contains a consequential amendment to section 43 of the Prison Act 1952. Section 43 is now prospectively amended by section 38 of the Criminal Justice and Courts Act 2015. In consequence of this, it is necessary to make an additional amendment to section 43 in the form in which it will be in when the amendments made by section 38 of the Criminal Justice and Courts Act 2015 come into force.

Lords Amendment 41

89. This amendment would insert a new clause which would amend the Administration of Justice Act 1985 ("the AJA 1985") so that the Council for Licensed Conveyancers ("CLC") may recognise a new type of body as suitable to do certain legal services.

90. The CLC's role as regards legal services is controlled by the Legal Services Act 2007 ("the LSA 2007"). The LSA 2007 governs the regulation of legal services in England and Wales. Under the LSA 2007, only a person who is authorised by an approved regulator or who is exempt from the requirement to be authorised (see section 19 of, and Schedule 3 to, the LSA 2007) may carry on a reserved legal activity (see section 12 of the LSA 2007). Approved regulators are responsible for ensuring that the persons authorised by them act in a way that is consistent with the regulatory objectives set out in the LSA 2007 (see section 1 of the LSA 2007).

91. Part 2 of the LSA 2007 established the Legal Services Board ("the LSB") as the oversight regulator with responsibility for approved regulators. The approved regulators and the reserved legal activities in relation to which they are designated are set out in Part 1 of Schedule 4 and in designation orders made under Schedule 4. Part 2 of Schedule 4 allows for bodies to apply to the LSB to be recommended to the Lord Chancellor for designation as an approved regulator in relation to one or more of the reserved legal activities. The CLC is now an approved regulator for reserved instrument activities, the administration of oaths and probate activities.

92. Schedule 10 to the LSA 2007 provides that an approved regulator may also be designated by the Lord Chancellor as a licensing authority. Licensing authorities may authorise (license) bodies, known as alternative business structures, which are partly or wholly owned or controlled by non-lawyers to carry on reserved legal activities. Part 5 of the LSA 2007 sets out arrangements under which licensing authorities may regulate such bodies. The CLC is now a licensing authority for reserved instrument activities, the administration of oaths and probate activities.

93. The CLC is governed by provisions in the AJA 1985, the Courts and Legal Services Act 1990 and the LSA 2007.

94. The new clause would amend section 32 of the AJA 1985. Section 32 empowers the CLC to recognise bodies to carry on legal services. The amendments of section 32 would alter the CLC's powers to make rules about:

a) the management and control of conveyancing services bodies (see section 32(1)(a) of the AJA 1985);
b) the circumstances in which bodies may be recognised (see section 32(1)(b) of the AJA 1985);
c) the CLC's arrangements for authorising recognised bodies to carry on specific legal services (see section 32(1)(ba) of the AJA 1985); and
d) the requirements which must at all times be satisfied by recognised bodies if they are to remain recognised (see section 32(1)(c) of the 1985 Act).

95. At present, section 32 only allows the CLC to recognise a body known as a conveyancing services body (as defined in section 32A of the AJA 1985). (In essence, a conveyancing services body is a body that must have a licensed conveyancer as part of its management or control.)

96. As amended by subsection (3)(a), the CLC's powers in section 32(1)(a) would relate to conveyancing services bodies and also to a new kind of body that would be known as a CLC practitioner services body.

97. As amended by subsection (3)(b) and (c*)*, section 32(1)(b) would still relate only to the recognition of conveyancing services bodies, but it would allow the CLC to make rules under section 32 prescribing the circumstances in which those bodies may be recognised in relation to a wider range of services. At present, rules under section 32(1)(b) may be made that relate to the provision of conveyancing services or other relevant legal services. The amendments would add the exercise of a right of audience, the conduct of litigation, probate activities and the administration of oaths to the list of services covered by section 32(1)(b).

98. Subsection (3)(d) would insert section 32(1)(bza). Paragraph (bza) would allow the CLC to make rules on the circumstances in which it may recognise a new kind of body, to be known as a CLC practitioner services body. The services provided by this new kind of body would not include conveyancing services (see comments on inserted section 32B below).

99. Subsection (3)(e) would amend section 32(1)(ba) so that it would cover both conveyancing services bodies and CLC practitioner services bodies and would allow the CLC to prescribe its arrangements for authorising, for the purposes of the LSA 2007, the following reserved legal activities:

a) the exercise of a right of audience;
b) conduct of litigation;
c) reserved instrument activities (but only where the recognised body is a conveyancing services body);

d) probate activities; and
e) the administration of oaths.

100. Reserved instrument activities arise only in the context of conveyancing services which CLC practitioner services bodies would not provide.

101. Subsection (3)(f) would amend section 32(1)(c) to include a reference to requirements that may be imposed by the CLC as regards activities that are not reserved legal activities under the LSA 2007.

102. Subsection (7) would insert section 32(8A) which would make clear that nothing in section 32 of the 1985 Act affects the rule that authorisation to carry on reserved legal activities is governed by the LSA 2007. Provision in the amended section 32 about rights of audience and the conduct of litigation would be subject to the need for the CLC to become an approved regulator as regards those activities.

103. Subsection (8) would insert section 32B of the AJA 1985. Section 32B would describe CLC practitioner services bodies, and would correspond to section 32A of the AJA 1985 which describes conveyancing services bodies. Section 32B(5) would make clear that a CLC practitioner services body must not provide conveyancing services. Section 32B(6) would contain a condition that does not have an equivalent in section 32A. The condition would relate to the authorised person by reference to whom the management and control condition is satisfied for the CLC practitioner services body. That person would have to be an authorised person in respect of at least one of the reserved legal activities falling within the CLC practitioner services in respect of which the body is to be recognised. The effect of section 32B(7)(a) would be that the CLC must be an approved regulator in relation to the listed activities before that activity becomes a CLC practitioner service. This would mean that the CLC must be designated in relation to the exercise of a right of audience or the conduct of litigation before it can exercise its new powers in relation to those matters. The CLC has already been designated for the administration of oaths (see Part 1 of Schedule 4 to the LSA 2007) and probate activities (see the amendment of Part 1 of Schedule 4 to the LSA 2007 by the Legal Services Act 2007 (Approved Regulators) Order 2009 (S.I. 2009/3233)).

104. Rules made by the CLC under section 32(3)(e) of the AJA 1985 may make provision for the keeping by the CLC of a register containing the names and principal places of business of all the bodies which are for the time being recognised under section 32 of the AJA 1985 and such other information relating to those bodies as may be specified in the rules. Subsection (4) would amend this power to provide that the rules may provide that information about disciplinary measures taken be included on the register.

105. Section 32 of the AJA 1985 provides a power for the CLC to make rules concerning recognised bodies relating to the matters listed in section 32(3). For

example, rules may be made on the manner and form of applications, the payment of fees and the names that may be used by recognised bodies. Section 32(3A) of the AJA 1985 provides that rules made by the CLC may provide for the CLC to grant a body recognition under section 32 subject to one or more conditions in circumstances prescribed under section 32(3B). Section 32(3C) gives examples of conditions that may be imposed under section 32(3A) and (3B). Subsection (5) would amend section 32(3C) to include CLC practitioner services bodies so that conditions may be placed on the kinds of CLC practitioner services that may be provided by such a body.

Lords Amendment 42

106. This amendment would insert a new clause which would amend section 53 of the Courts and Legal Services Act 1990 ("the CLSA 1990") so that the CLC can give licences under section 53 to individuals to be known as licensed CLC practitioners.

107. Section 53 of the CLSA 1990 relates to the powers of the CLC to issue licenses in relation to the exercise of a right of audience, the conduct of litigation and probate activities (and these terms have the meanings given in the LSA 2007: see section 53(10)). The CLC will only have the powers under section 53 that relate to the exercise of a right of audience and the conduct of litigation if the CLC is made an approved regulator under the LSA 2007 for those activities (see the definition of "relevant activity" in section 53(10)). At present, the CLC can only give licences to individuals known as licensed conveyancers. Subsection (2) would amend section 53(2) to remove the restriction that licences under section 53 may only be given to licensed conveyancers.

108. Subsection (3) would amend section 53(3) to extend it to cover all persons that may be given licenses under section 53, not just licensed conveyancers. Section 53(3) provides that if the CLC authorises a person to carry on an activity covered by section 53 it must do so by issuing a licence to that person. A licence under section 53 will be either an advocacy licence (which authorises a person to exercise a right of audience); a litigation licence (which authorises a person to carry on activities which constitute the conduct of litigation); or a probate licence (which authorises a person to carry on activities that constitute probate activities). Subsection (8) would insert section 53(11) which would set out the definitions of the different licences.

109. Subsection (4) would limit the effect of section 53(4) to licensed conveyancers and subsection (5) would insert section 53(4A) to cover licensed CLC practitioners. Section 53(4) provides, and section 53(4A) would provide, that if a person is issued with more than one licence by the CLC that person may be granted separate licences or a composite licence. A licensed CLC practitioner is not intended to provide conveyancing services. Subsection (5) would insert a new section 53(4B) which would, accordingly, provide that a licence under section 53 granted to a person who is not a licensed conveyancer ceases to have effect if that person becomes a licensed conveyancer. Section 53(9) applies Part 2 of the AJA 1985, with modifications, to

licences issued under section 53 and subsection (6) would amend section 53(9) to cover licensed CLC practitioners as well as licensed conveyancers.

110. Subsection (7) would insert section 53(9A) and (9B). Inserted section 53(9A) would provide that the modifications that are to be made to Part 2 of the AJA 1985 under section 53(9) may differ depending on whether the person holding a licence under section 53 is a licensed conveyancer or a licensed CLC practitioner. For example, because a licensed CLC practitioner is not intended to provide conveyancing services, there may be certain parts of Part 2 of the 1985 that relate to conveyancing services that are not relevant to licensed CLC practitioners. Inserted section 53(9B) would specifically provide that the section 53(9) does not apply to section 34 of the AJA 1985. This is because section 34 modifies legislation relating to conveyancing and such legislation is not relevant to licensed CLC practitioners.

Lords Amendments 43 and 109

111. The amendment would insert a new clause which would introduce a new Schedule inserted by Lords Amendment 109. The new Schedule would make amendments to the AJA 1985, the CLSA 1990 and the LSA 2007 that are consequential on the creation of CLC practitioner services bodies and licensed CLC practitioners by the new clauses inserted by Lords Amendments 41 and 42. Paragraph 13(6) would insert paragraph 6A into Schedule 8 to the CLSA 1990. Paragraph 6A would require the CLC to establish a register of licensed CLC practitioners. Paragraph 6A is in like terms to section 19 of the AJA 1985, which requires the CLC to keep a register of licensed conveyancers. Paragraph 6A would include the possibility of including in the register information on disciplinary measures taken.

Lords Amendments 44 and 110

112. This amendment would insert a new clause which would introduce a new Schedule inserted by Lords Amendment 110. The new Schedule would make amendments to the AJA 1985.

113. Paragraph 2 would amend section 15 of the AJA 1985 to allow the CLC to prescribe in rules the period which is to apply for the purposes of section 15(3)(b) (time within which an application for a licence is deemed to be refused). This would replace the current fixed period of 42 days.

114. Paragraph 3 would amend section 18 of the AJA 1985 (suspension and termination of licences) to provide certain circumstances in which the licence of a licensed conveyancer would be suspended because of action being taken against the recognised body of which the licensed conveyancer is a manager or, in certain cases, an employee. Paragraph 3 would also amend section 18 to provide certain circumstances in which the licence of a licensed conveyancer will be suspended because of action being taken against the licensed body of which that person is a manager or employee.

115. Inserted section 18(2CA) and (2CB) would relate to the powers in paragraph 6(1) and 9(1) of Schedule 5 to the AJA 1985. Paragraph 6(1) of Schedule 5 to the AJA 1985 allows the CLC to take control of money held by recognised bodies. Paragraph 9(1) allows the CLC to require the production of documents by a recognised body. Those powers may be exercised if the CLC is satisfied that a recognised body or a manager of such a body has failed to comply with rules applicable by virtue of section 32 of the AJA 1985 (paragraph 10(1)(a) of Schedule 6 to that Act). If the powers in paragraph 6(1) or 9(1) are exercised for this reason, inserted section 18(2CA) would operate automatically to suspend the licence under Part 2 of the AJA 1985 of any manager of the body. Those powers may also be exercised if the CLC has reason to suspect dishonesty on the part of a manager or employee of a recognised body in connection with the body's business, any trust of which the body is or was a trustee or any trust of which the manager or employee is or was a trustee (paragraph 10(1)(d) of Schedule 6 to the AJA 1985). If the powers in paragraph 6(1) or 9(1) are exercised for this reason, inserted section 18(2CB) would operate automatically to suspend the licence under Part 2 of the AJA 1985 of any manager or employee of the recognised body.

116. Inserted section 18(2CC) would relate to the powers in paragraphs 3(1) and 8(1) of Schedule 14 to the LSA 2007. Paragraph 3(1) is about a licensing authority taking control of money held by a licensed body and paragraph 8(1) is about a licensing authority requiring the production of documents. Like paragraph 10(1)(d) of Schedule 6 to the AJA 1985, paragraph 1(2)(d) of Schedule 14 to the LSA 2007 allows the powers in paragraph 3(1) or 8(1) to be exercised if the licensing authority has reason to suspect dishonesty on the part of a manager or employee of a licensed body. If those powers are exercised for that reason, inserted section 18(2CC) would operate automatically to suspend the licence under Part 2 of the AJA 1985 of any manager or employee of the licensed body.

117. Under inserted section 18(2CD) the CLC would be able to direct that a suspension is not to apply. Inserted section 18(2CE) would set out the permitted grounds for giving such a direction (in essence, that the person is not implicated in the wrongdoing or was not a manager or employee at the time of the wrongdoing). Inserted section 18(2CF) would allow the CLC to direct that a licensed conveyancer may continue to act in relation to a specified matter.

118. Paragraph 3(4) would amend section 18(2G) of the AJA 1985 so that the right of appeal to the High Court would become a right of appeal to the First-tier Tribunal. Paragraph 3(5) would repeal section 18(2H), which relates to High Court orders as to costs, because there is provision elsewhere for First-tier Tribunal costs.

119. Paragraph 4 would amend section 19 of the AJA 1985 to allow the CLC to include information on disciplinary measures taken on the register of licensed conveyancers.

120. Paragraph 5 would repeal section 20(2) of the AJA 1985 because it is no longer needed.

121. Paragraphs 6, 7, 8 and 10 would amend provisions in sections 24, 24A and 26 of, and Schedule 6 to, the AJA 1985 concerning appeals. The venue for appeals under those provisions is changed from the High Court to the First-tier Tribunal and provisions relating to appeals that are no longer needed are omitted. Section 26(7) and paragraph 6 of Schedule 6 would be amended so that the CLC would also be able to appeal.

122. Paragraph 9 would amend paragraph 4(2) of Schedule 3 to the AJA 1985 so that the number of the lay majority on the Council would not need to exceed the number of the other members of the Council by exactly one.

Lords Amendment 45

123. This amendment would add an additional consequential amendment to the list of consequential amendments in clause 71(2). The list in clause 71(2) specifies amendments that are consequential on the repeal of section 4(10) of the Care Standards Act 2000 by clause 71(1).

Lords Amendment 46

124. This amendment would insert a new clause after clause 73. The new clause would amend sections 56A, 57 and 65LA of the National Health Service Act 2006. These provisions are all concerned with the transfer of property and liabilities between NHS bodies.

125. Subsection (2) would amend section 56A so as to give Monitor an order-making power to make provision for the transfer of staff where it is proposing to grant an application for an acquisition under section 56A. Under section 56A, a joint application by the acquiring trust and the trust to be acquired ("the target trust") is made to Monitor which is required to grant the application if it is satisfied that the necessary preparatory steps have been taken. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) make provision for staff, and their contracts of employment, to transfer from their current employer to a new employer in circumstances where a 'relevant transfer' takes place. However, it is not certain that TUPE will apply to protect staff in every transaction that arises in consequence of section 56A. The Cabinet Office Statement of Practice on staff transfers in the public sector (COSOP) says broadly, that if TUPE does not apply to a staff transfer in the public sector, then the staff should nevertheless be transferred, with appropriate protections, as a matter of practice. Subsection (2) would enable Monitor to make an order putting TUPE like protection in place should TUPE not apply.

126. Subsection (3) would insert a new section 56AA, a supplementary provision that clarifies what happens where an application for an acquisition is granted under

section 56A. The new section 56AA provides that Monitor's grant of the application has the effect that all property and liabilities of the acquired trust transfer to the acquiring trust and that the target trust is dissolved. Section 56AA(4) makes it clear that "liabilities" include "criminal liabilities" and "property" includes "trust property". Section 56AA(1) also provides that any order made by Monitor under the new section 56A(4A) (inserted by subsection (2) of the new clause) takes effect.

127. Subsection (4) would amend section 57, a provision that supplements substantive powers set out in sections 56 (mergers) and section 56B (separations). It would extend Monitor's existing order making power to make provision for the transfer of staff. Section 56 enables an NHS foundation trust to merge with another NHS foundation trust or an NHS trust. The two NHS foundation trusts, or the NHS foundation trust and the NHS trust, applying for the merger are dissolved in order to create a new NHS foundation trust. Section 56B enables a foundation trust to separate into two or more NHS foundation trusts.

128. As mentioned above, the Transfer of Undertakings (Protection of Employment Regulations) 2006 (TUPE) make provision for staff, and their contracts of employment, to transfer from their current employer to a new employer in circumstances where a 'relevant transfer' takes place. However, it is not certain that TUPE will apply to protect staff in every transaction that arises in consequence of section 56 or 56B. COSOP states broadly, that if TUPE does not apply to a staff transfer in the public sector, then the staff should nevertheless be transferred, with appropriate protections, as a matter of practice. This amendment would enable Monitor to make an order putting TUPE like protection in place should TUPE not apply.

129. Subsection (6) would amend section 65LA to extend the types of NHS organisation to which Monitor can transfer the property and liabilities of an NHS foundation trust dissolved following special administration. Currently, Monitor is only able to transfer the property and liabilities of a dissolved NHS foundation trust to another NHS foundation trust or the Secretary of State. This clause would amend section 65LA to give Monitor powers to make a transfer to an NHS body, or to the Secretary of State, or between more than one NHS body, or between one or more NHS bodies and the Secretary of State. An order could include provision to transfer the dissolved NHS foundation trust's criminal liabilities to an NHS body.

130. The new clause would form part of the law of England and Wales. It would come into force by order made by the Secretary of State.

***Lords Amendments 47 and 48**

131. These amendments would insert two new clauses dealing with access to civil registration records relating to births, deaths, marriages and civil partnerships.

Overview

132. Civil registration records, which include records of birth, death and marriage, date back to 1837. The Registrar General for England and Wales (RG) is responsible in statute for the system of civil registration, and through the General Register Office for England and Wales (GRO), maintains custody of the national record set.

133. Regardless of their age, the only way to access information from the records is to buy a certified copy (a certificate) at a cost of between £9 and £10, depending on whether the certificate is purchased from GRO or from the local register office for the district where the event occurred. For those who do not require a watermarked certificate, for example family historians, this is seen to be an inefficient and expensive method of providing access to civil registration information.

134. The Lords Amendments would provide regulation-making powers to introduce new products and services relating to birth, death, marriage and civil partnership records. As an illustration, new products could include plain paper extracts or PDFs as an alternative to watermarked paper certificates or online access to older records following precedent set by Scotland and Northern Ireland (where birth, marriage and death records are considered 'historic' at 100, 75 and 50 years respectively, at this point becoming more openly accessible).

135. The amendments of the Births and Deaths Registration Act 1953 and the Marriage Act 1949 would specify that the provisions relate to the certified copies of entries in registers sent to the RG under the relevant Acts and kept in the General Register Office. Entries in the original registers of events held locally by registrars are therefore excluded from these provisions; in addition, the RG cannot by virtue of these clauses provide any additional products or services relating to entries in any original registers held solely at GRO, such as the Adoption register or register of Presumed Death.

136. The clauses would not affect any current entitlement to a certified copy of an entry in the record.

137. The new clauses would form part of the law of England and Wales. They would come into force by order made by the Secretary of State.

Lords Amendment 47: information contained in entries of births and deaths

138. Subsection (2) would insert a new provision after section 34 of the Births and Deaths Registration Act 1953 that would allow the Minister to make regulations that will enable the RG to carry out searches on behalf of customers in order to locate an entry within the records, or to provide information from a birth or death entry in different ways, not just in the form of a certificate. It would also allow regulations to be made that specify a fee for, and define how the customer may request, a search or product, and what form of product is to be offered.

139. Subsections (3) and (4) would make minor consequential amendments to the Births and Deaths Registration Act 1953.

Lords Amendment 48: Information contained in entries of marriages and civil partnerships

140. Subsection (1) would amend the Marriage Act 1949 by inserting a new provision after section 65 that would allow the Secretary of State to make regulations that will enable the RG to carry out searches on behalf of customers in order to locate an entry within the marriage records, or to provide information from a marriage entry in different ways, not just in the form of a certificate. It would also allow regulations to be made that specify a fee for, and define how the customer may request, a search or product, and what form of product is to be offered.

141. Subsection (2) would amend the Civil Partnership Act 2004 to allow additional products and services to be provided as described above by the RG from the records of civil partnership.

142. Subsection (3) would allow additional products and services to be provided as described above by the RG from the conversion register, which is the register of civil partnerships that have been converted into marriages.

Lords Amendments 49 and 50

143. These amendments would amend clause 87 to provide that the Parliamentary procedure for an order made by statutory instrument which 'modifies' any provision of primary legislation in consequence of the Bill is subject to the affirmative, rather than the negative, procedure.

144. The effect of this amendment would be to bring the power to modify primary legislation into line with the power to repeal, revoke or amend such legislation, in relation to which the affirmative procedure applies.

145. This amendment would give effect to a recommendation of the Delegated Powers and Regulatory Reform Committee.

Lords Amendments 51 to 55

146. These amendments would amend clause 89 dealing with extent.

147. Lords Amendments 51 and 52 would amend the extent of certain provisions of Schedule 20 so that the repeals made by paragraph 4 and by the new paragraph 28B(b) and (c) which would be inserted by Lords Amendment 122, and amendments consequential on those repeals, would not extend to Scotland.

148. Lords Amendment 53 would provide for the new clauses inserted by Lords Amendments 18, 19 and 26 to form part of the law of England and Wales.

149. Lords Amendment 54 would provide for subsections (6) to (9) of the new clause inserted by Lords Amendment 37 to form part of the law of England and Wales and Lords Amendment 55 would provide for subsections (10) to (13) of that clause to form part of the law of Scotland.

Lords Amendments 56 to 72

150. These amendments would amend clause 90 which deals with commencement.

151. Lords Amendment 56 would insert a new subsection setting out the clauses which come into force on the day on which the Bill is passed. This would include the new clauses inserted by Lords Amendments 5, 6, 31 and 32.

152. It would also insert a new subsection (1A) which would bring specified provisions into force on the day on which the Bill is passed for the limited purpose of enabling secondary legislation to be made.

153. Lords Amendments 57 to 63 would amend clause 90(2) which lists those clauses which are to come into force at the end of 2 months beginning with the day the Bill is passed.

154. Lords Amendment 65 would provide for the Welsh Ministers to have the power by order to commence paragraphs 31, 32 and 37 of Schedule 20 (as respects Wales).

155. Lords Amendment 67 would provide for the Lord Chancellor to have the power by order to commence the new clauses and Schedule that would be inserted by Lords Amendments 41 to 44, 109 and 110.

156. The remaining Lords Amendments in this group would make changes connected to the other Lords Amendments discussed above.

Lords Amendment 73

157. This amendment would remove an unnecessary reference to a counterpart licence from the amendment made by paragraph 17(9) of Schedule 2.

Lords Amendments 74 to 76

158. These amendments would amend paragraph 5 of Schedule 7 which makes provision for the modification by consent of definitive maps and statements showing rights of way.

159. Lords Amendment 74 would replace the new subsection (3) of section 54C (Modifications of definitive map and statement by consent: supplemental) of the Wildlife and Countryside Act 1981 which is inserted by paragraph 5 of Schedule 7. Subsection (3) provides for a surveying authority to be responsible for maintenance of a path or way shown on a definitive map and statement as a result of a modification of the map and statement that is made by consent. The replacement of subsection (3) would mean that the path or way would be "maintainable at the public expense". This would ensure consistency with similar provisions in other legislation governing rights of way.

160. Lords Amendments 75 and 76 would make amendments consequential on Lords Amendment 74.

Lords Amendments 77 and 78

161. These amendments would amend paragraph 8(3) of Schedule 7. They would make a correction by replacing the word "modifications" with the word "parts" in the new paragraph 2(2ZB) of Schedule 6 to the Highways Act 1980.

Lords Amendment 79

162. This amendment would add a further amendment to the amendments made by Part 4 of Schedule 7 to Schedule 6 to the Highways Act 1980 which deals with the procedure for the creation, extinguishment and diversion of rights of way. It would mean that the Secretary of State may, instead of affording a person an opportunity of being heard in person at an inquiry or otherwise, afford the person an opportunity of making representations (or further representations) to a person appointed by him for the purpose. This would ensure consistency with the amendments made by Parts 2 and 3 of Schedule 7 to the procedure set out in the Wildlife and Countryside Act 1981 dealing with the modification of definitive maps and statements showing rights of way.

Lords Amendments 80 and 81

163. These amendments would amend Schedule 8. They would make minor amendments to sections 9 and 16 of, and Schedule 5 to, the Transport Act 1968.

164. The amendment to section 9(1)(c) of the Transport Act 1968 is in consequence of the establishment of certain Combined Authorities in April 2014 under powers set out in Part 6 of the Local Democracy, Economic Development and Construction Act 2009. It would clarify how section 9 applies in relation to the recently established Combined Authorities. The amendments to section 16(2A) of, and Schedule 5 to, the Transport Act 1968 correct minor errors and omissions in the amendments made to those provisions by the secondary legislation establishing the new Combined Authorities.

Lords Amendments 83 to 92, 94 and 97

165. These amendments would make amendments to Schedule 9. They are necessary to take into account the amendments made by Schedule 1 to the Infrastructure Act 2015 to the Traffic Management Act 2004 and the Highways Act 1980. The provisions in Schedule 1 to the Infrastructure Act 2015, which are consequential on Part 1 of that Act (strategic highways companies), will come into force before the relevant provisions in Schedule 9 to the Bill.

Lords Amendments 93, 95 and 96

166. These amendments would amend Part 3 of Schedule 9 which deals with road humps. There are two sections of roads in Wales for which the Secretary of State is the highway authority (forming parts of the two Severn crossings). These amendments would ensure that the amendments made by Part 3 of Schedule 9 do not have the effect of conferring powers on the Welsh Ministers in relation to those sections of roads.

Lords Amendments 98 to 101

167. These amendments would amend the consequential amendments made by Part 3 of Schedule 12 (which removes the power to establish joint waste authorities in England). The amendments are necessary in consequence of changes made by other legislation since the Bill was introduced.

Lords Amendments 102 to 108

168. This set of amendments relate to Schedule 13.

169. Lords Amendment 102 would amend paragraph 9 of Schedule 13 to the Bill. That paragraph amends section 86 (education and training for persons aged 19 over and others subject to adult detention) of the Apprenticeship, Skills, Children and Learning Act 2009. Originally paragraph 9 substituted "Secretary of State" for "Chief Executive" in section 86. The Lords amendment would instead remove the words "The Chief Executive must secure the provision of reasonable facilities" in section 86 and substitute "The Secretary of State must secure the provision of such facilities as the Secretary of State considers appropriate." This amendment, taken together with Lords Amendments 103 and 104, would make the duty in section 86 more suitable for conferral on the Secretary of State. In transferring the duties from the Chief Executive to the Secretary of State the amendment recognises the wider remit and broader discretion of the Secretary of State who, unlike the Chief Executive, is not a creation of statute.

170. Lords Amendment 103 to paragraph 9 of Schedule 13 to the Bill would remove section 86(4) and (8) of the Apprenticeship, Skills, Children and Learning Act 2009. This amendment would be consequential on Lords Amendment 102.

171. Lords Amendment 104 would leave out paragraph 9(4) of Schedule 13 to the Bill, which amends section 86(4) of the Apprenticeship, Skills, Children and Learning Act 2009. This amendment would be consequential on Lords Amendment 103.

172. Lords Amendment 105 to paragraph 10 of Schedule 13 to the Bill would amend the prior amendment to section 87(1) and (3) (learning aims for persons aged 19 or over: provision of facilities) of the Apprenticeship, Skills, Children and Learning Act 2009, which substitutes "Secretary of State" for "Chief Executive" in appropriate places. Instead, the Lords amendment would remove the words in subsection (1) "The Chief Executive must secure the provision of proper facilities" and substitute "The Secretary of State must secure the provision of such facilities as the Secretary of State considers appropriate". In subsection (3) the amendment would continue to omit "Chief Executive" and substitute "Secretary of State." The Lords amendment, taken together with Lords Amendment 106, would make the duty in section 87 more suitable for conferral on the Secretary of State rather than the Chief Executive. In transferring the duties to the Secretary of State the amendment recognises the wider remit and broader discretion of the Secretary of State who, unlike the Chief Executive, is not a creation of statute.

173. Lords Amendment 106 would leave out paragraph 10(3) of Schedule 13 to the Bill which substitutes "Secretary of State" for "Chief Executive" in section 87(5) of the Apprenticeships, Skills, Children and Learning Act 2009. Instead, the amendment would omit subsections (4) and (5) (consequential on Lords Amendment 105).

174. Lords Amendment 107 would leave out paragraphs 35 and 36 of Schedule 13 to the Bill. Those paragraphs are consequential amendments to sections 22ZA and 27C of the Further and Higher Education Act 1992 which are now unnecessary following the passage of the Further and Higher Education (Governance and Information) (Wales) Act 2014.

175. Lords Amendment 108 would insert a new paragraph in Schedule 13 to the Bill which would repeal sections 30(8), 70 and 72 of, and paragraphs 4 and 6 of Schedule 18 to, the Education Act 2011. This would remove spent provisions from the statute book.

Lords Amendments 111 and 112

176. These amendments would provide for the reporting duties in new section 3C of the Poisons Act 1972, inserted by Schedule 18, to apply to the explosives precursors listed in Part 1 of new Schedule 1A to that Act at all concentration levels, in line with Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15th January 2013 on the marketing and use of explosives precursors.

Lords Amendment 113 and 119

177. Lords Amendment 113 would amend the new section 3A of the Poisons Act 1972, inserted by Schedule 18, which requires the supplier of a regulated substance to verify that a member of the general public has a licence and to record details of transactions on the licence. It also requires the supplier to ensure that a warning label is affixed to the packaging in which a regulated substance is supplied. The amendment would provide a power under which the Secretary of State may, by regulations, make provision modifying section 3A insofar as it applies to any supply that involves dispatch of a regulated substance to Northern Ireland or export of the same from the United Kingdom.

178. Lords Amendment 119 would make an amendment consequential on Lords Amendment 113. It would change the definition of 'supply' for the purposes of the Poisons Act 1972 so that it would not automatically exclude exports from the United Kingdom.

Lords Amendment 114

179. This amendment would clarify the extent of the regulation making power in section 7 of the Poisons Act 1972, as substituted by Schedule 18. In particular, it would clarify that the specific matters about which regulations can be made as set out in subsection (1)(b) to (f) of section 7 are not to be taken as limiting provision that can be made under section 7(1)(a). Section 7(1)(a) enables regulations to be made about the importation, supply, acquisition, possession or use of substances by or to any person or class of person.

Lords Amendment 115

180. This amendment would correct a reference in Schedule 18 to "level 5 on the standard scale" of summary offences. As the reference relates to an offence triable either way, the reference should be "the statutory maximum".

Lords Amendment 116

181. This amendment would amend section 8 of the Poisons Act 1972, as substituted by Schedule 18. It would clarify that the 12 month time limit for commencing criminal proceedings for offences under the Poisons Act 1972 applies to summary offences only. There is no limit for offences triable either way.

Lords Amendment 117

182. This amendment would amend Schedule 18 to introduce transitional provisions in relation to sentencing for an offence under the Poisons Act 1972 committed before the commencement of section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Section 85(1) will remove the statutory limit on fines that can be imposed by a magistrate's court.

Lords Amendment 118

183. This amendment would insert the word 'consequential' after the word 'make' so that any power to make regulations under the Poisons Act 1972, as amended by Schedule 18, would include power to make consequential amendments.

Lords Amendment 120

184. This would amend paragraph 14(2) of Schedule 19 to take into account that the amendment made by it will be unnecessary if a repeal made by Schedule 12 to the Local Audit and Accountability Act 2014 comes into force before paragraph 14(1) of Schedule 19.

Lords Amendment 121

185. This amendment would amend Schedule 20 so as to revoke three Orders.

186. The first is the Railways Act 1993 (Extinguishment of Relevant Loans) (Railtrack plc) Order 1996. The background to this is that the Railways Act 1993 (Extinguishment of Relevant Loans) (Railtrack plc) Order 1996 extinguished Railtrack plc's liability in respect of loans set out in the Schedule to the Order. The loans were initially made to the British Railways Board and liability was subsequently transferred to Railtrack plc as part of the privatisation of the railways in the 1990s. Railtrack was a group of companies that owned the railway infrastructure including track, signalling, tunnels, bridges, level crossings and the majority of stations in Great Britain from 1994 to 2002 when its operations were transferred to Network Rail. Railtrack plc was placed into railway administration in October 2001 and acquired by Network Rail in 2002. Since the Order has now served its purpose in extinguishing the loans, and as Railtrack plc no longer exists, the instrument is spent.

187. The Order forms part of the law of England and Wales and Scotland and the revocation would have the same extent.

188. The second is the Railtrack Group PLC (Target Investment Limit) Order 1996. That Order fixed, for the first time, the target investment for the Government's shareholding in Railtrack Group PLC. That limit was expressed as a proportion of the voting rights exercisable in all circumstances at general meetings of Railtrack. Following the entry into administration of Railtrack plc in October 2001, Railtrack Group PLC was placed into members' voluntary liquidation in October 2002 and finally dissolved in June 2010. Since the Order now has no ongoing purpose as Railtrack Group PLC no longer exists, the instrument is spent.

189. The Order forms part of the law of England and Wales and Scotland and the revocation would have the same extent.

190. The third is the Strategic Rail Authority (Capital Allowances) Order 2001 which made provision about expenditure incurred by the Strategic Rail Authority for tax purposes. In particular, it prescribed the expenditure which the Strategic Rail Authority was taken as having incurred from the transfer to it of plant and machinery from the then Franchising Director and the British Transport Police and a mechanism for its calculation. The Strategic Rail Authority was established in 2001 as a non-departmental public body whose main functions were to provide strategic direction for the railway industry and to award and ensure compliance with passenger rail franchises. Following its abolition in 2006, the functions of the Strategic Rail Authority were transferred to the Department for Transport, Network Rail, the Office of Rail Regulation, the devolved administrations and the Greater London Authority. The Order is being revoked because it is spent following the abolition of the Strategic Rail Authority in 2006.

191. The Order forms part of the law of England and Wales, Scotland and Northern Ireland and the revocation would have the same extent.

192. The revocations of the three Orders would come into force at the end of the period of two months beginning with the day on which the Bill is passed.

Lords Amendment 122

193. This amendment would amend Schedule 20 to revoke two spent statutory instruments (S.I. 1988/1241 and S.I. 1994/1002) related to the assessment of the effects on the environment of certain projects for constructing or improving a highway.

194. The Highways (Assessment of Environmental Effects) Regulations 1988 (S.I. 1988/1241) inserted a new Part 5A on Environmental Impact Assessments into the Highways Act 1980 ("the 1980 Act") so as to implement Council Directive 85/337/EEC. These provisions were amended by the Highways (Assessment of Environmental Effects) Regulations 1994 (S.I. 1994/1002). The provisions contained in both sets of regulations were superseded by S.I. 1999/369, which inserted a

replacement Part 5A into the 1980 Act so as to implement Council Directive 97/11/EC (which amended Directive 85/337/EEC).

195. The Regulations form part of the law of England and Wales (as would the revocations). The revocations would come into force at the end of the period of 2 months beginning with the day on which the Bill is passed.

Lords Amendment 123

196. This amendment would repeal the Sea Fisheries Act 1868, the Fisheries Act 1891 and the British Fishing Boats Act 1983 and make consequential amendments. This legislation has been superseded by a combination of directly applicable provisions of EU law and other legislation.

197. The repeals would have the same extent as the legislation amended except that the repeals of the Fisheries Act 1891 and the British Fishing Boats Act 1983 (and the related consequential amendments) would not extend to Scotland.

DEREGULATION BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

These notes refer to the Lords Amendments to the Deregulation Bill as brought from the House of Lords on 4 March 2015 [Bill 183]

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