

# BUSINESS AND PLANNING BILL

## EXPLANATORY NOTES ON LORDS AMENDMENTS

### What these notes do

- 1 These Explanatory Notes relate to the Lords Amendments to the Business and Planning Bill, as brought from the House of Lords on 20 July 2020 (Bill 166).
- 2 These Explanatory Notes have been prepared by the Department for Business, Energy and Industrial Strategy in order to assist the reader of the Bill and the Lords amendments, and to help inform debate on the Lords amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Explanatory Notes, like the Lords amendments themselves, refer to HL Bill 119, the Bill as first printed for the Lords.
- 4 These Explanatory 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 Lords amendments.
- 5 Lords Amendments 1 to 21, 25, 26, 31, 32 and 35-42 were tabled in the name of the Minister.
- 6 There are no Lords Amendments that were tabled by Peers and opposed by the Government.
- 7 There are nine Amendments that were tabled by Peers and supported by the Government. The paragraph in these notes containing these is marked with an asterisk.
- 8 There are no Amendments that were tabled by Peers, and the Government was neutral.

## Commentary on Lords amendments

### Lords Amendments to Clause 3: Pavement Licences: Accessibility

#### Lords Amendment 1

- 9 This amendment would provide that the local authority must have regard in particular to two specific matters when deciding whether furniture on the pavement is, or would be, an obstruction. Those are the needs of disabled people, and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State. The local authority must have regard to these matters when considering whether to grant a licence and whether to use its enforcement powers.

### Lords Amendments to Clause 5: Conditions

#### Lords Amendments 2 and 3

- 10 These amendments would insert on the face of the Bill a “smoke-free seating condition”.
- 11 These amendments would define the “smoke-free seating condition” as a requirement that a licence-holder who places seating on the highway for the purpose of the consumption of food or drink must make reasonable provision for seating where smoking is not permitted.
- 12 In addition, local authorities would have to have regard to guidance issued by the Secretary of State when considering whether reasonable provision has been made for seating where smoking is not permitted for the purposes of their functions in relation to the grant of licences and enforcement.

#### Lords Amendment 4

- 13 This amendment would replace the power for the Secretary of State to publish national conditions with a power to make provision about national conditions by regulations.

### Lords Amendments to Clause 8: Guidance

#### Lords Amendment 5

- 14 This amendment would secure that, where a local authority has executive arrangements, functions relating to pavement licences are not the responsibility of the executive.

### Lords Amendments to Clause 9: Interpretation

#### Lords Amendment 6

- 15 This amendment would define “smoking” for the purposes of the “smoke-free seating condition” by reference to the definition in Part 1 of the Health Act 2006.

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## **Lords Amendments to Clause 10: Expiry of pavement licence provisions**

### **Lords Amendment 7**

- 16 This amendment would provide that the Secretary of State power's to extend the date on which Clauses 1 to 9 expire, and certain other dates in those clauses, could only be exercised if the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus.

### **Lords Amendment 8**

- 17 This amendment would define "coronavirus" for the purpose of the Secretary of State's power to extend certain dates in Clauses 1 to 9, and it is consequential on Lords Amendment 7.

## **Lords Amendments to Clause 11: Modification of premises licences to authorise off-sales for a limited period**

### **Lords Amendments 9 to 16**

- 18 These amendments would provide for off-sales made under the new permissions to end at 11pm. Off-sales could not then be made under the new permissions until the premises first opens the following day for the purposes of selling alcohol for consumption on the premises. In the case of premises with 24 hour licences, off-sales can begin when the premises are first open the following day.

### **Lords Amendment 17**

- 19 This amendment would ensure that the new permissions for off-sales do not apply to times when the premises licence does not allow sales of alcohol for consumption in outdoor areas of the premises.

### **Lords Amendment 18**

- 20 This amendment would provide that the Secretary of State's powers to extend the date on which the alcohol licensing provisions expire, and certain other dates in those clauses, could only be exercised if the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus.

### **Lords Amendment 19**

This amendment would define "coronavirus" for the purpose of the Secretary of State's power to extend certain dates in the alcohol licensing provisions, and it is consequential on Lords Amendment 18.

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## **Lords Amendments to Clauses 16-19 and 21: Construction working hours; extensions of duration of certain planning permissions; extensions in connection with outline planning permission; extension of duration of certain listed building consent; and Mayor of London's spatial development strategy: electronic inspection**

### **Lords Amendments 20, 25, 31, 35, 37**

- 21 These amendments would provide that the Secretary of State's power to extend the date on which Clauses 16 to 19 and 21 expire could only be exercised if the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus.

### **Lords Amendments 21, 26, 32, 36, 38**

- 22 These amendments would define "coronavirus" for the purpose of the Secretary of State's power to extend certain dates in Clauses 16 to 19 and 21, and they are consequential on amendments 20, 22, 24, 26, and 28.

## **\*Lords Amendments to Clauses 17, 18, and 19: Extensions of duration of certain planning permissions**

### **\*Lords Amendments 22-24, 27-30, 33 and 34**

- 23 These amendments to clauses 17, 18 and 19 have the effect that time limits in planning permissions and listed building consents which are extended under these provisions will be extended to 1 May 2021, rather than 1 April 2021.

## **Lords Amendment New Clause (After Clause 21): Power to make provision relating to local authority meetings**

### **Lords Amendment 39**

- 24 This new clause amends section 78 of the Coronavirus Act 2020, which provides that regulations can make provision relating to requirements for local authorities to hold meetings, the timing and frequency of such meetings, the places at which such meetings must be held, and the way in which people may attend, speak and vote. Section 78 also enables regulations to make provision relating to public admission and access to meetings and the availability of documents relating to meetings. This amendment adds a number of bodies (Mayoral Development Corporations, Transport for London, Urban Development Corporations and Parish Meetings) to the definition of a "local authority" about which such regulations may be made in England.

## **Lords Amendment to Clause 22: Regulations**

### **Lords Amendment 40**

- 25 This amendment is consequential on Lords Amendment 4, which would provide a power to make provision about national conditions by regulations subject to the negative procedure.

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## **Lords Amendments to Clauses 23 and 24: Extent and commencement**

### **Lords Amendments 41 and 42**

- 26 These amendments are consequential on Lords Amendment 39, which amends the power to make regulations under section 78 of the Coronavirus Act 2020. These amendments provide that the extent of the amendment is the same as the extent of the provision that it is amending, and that it will commence on Royal Assent.

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