

Housing and Planning Bill

FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 11th April 2016, as follows –

Clauses 118 to 122	Schedule 15
Schedule 10	Clauses 164 to 169
Clauses 123 to 133	Schedule 16
Schedule 11	Clauses 170 to 176
Clauses 134 to 136	Schedules 17 and 18
Schedule 12	Clauses 177 to 182
Clauses 137 to 142	Schedule 19
Schedule 13	Clauses 183 to 186
Clauses 143 to 159	Schedule 20
Schedule 14	Clauses 187 to 193
Clauses 160 to 163	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

After Clause 118

BARONESS GARDNER OF PARKES

98 Insert the following new Clause –

“Overcrowding in shared residential buildings

- (1) Local authorities may set limits for the number of residents that may lawfully reside in each rented property in a shared residential building.
- (2) Local authorities may set limits under subsection (1) for each relevant rented property whenever the contract for renting the property changes at any point after the day on which this section is brought into effect.
- (3) If a complaint is made to a local authority about overcrowding in a rented property for which a limit has been set under subsection (1), the local authority may investigate whether the limit is being exceeded and, if so, order the landlord of the property to take action to end the overcrowding.

- (4) Where the local authority orders a landlord to take action under subsection (3), the local authority may charge the landlord a fee to cover the reasonable costs of the investigation and action undertaken by the local authority.”

99 Insert the following new Clause—

“Overcrowding and subletting in shared residential buildings

The head lessee, freeholder or members of the right to manage company in a shared residential block may investigate whether any leaseholder within that block is allowing overcrowding in his or her property, or is allowing any subletting contrary to the terms of the lease, or is permitting a continuing nuisance to be made or a risk to the security of the block to be posed by those residing in the property.”

After Clause 120

LORD YOUNG OF COOKHAM

99ZA★ Insert the following new Clause—

“Tenants’ associations: power to request information about tenants

After section 29 of the Landlord and Tenant Act 1985 insert—

“29A Tenants’ associations: power to request information about tenants

- (1) The Secretary of State may by regulations impose duties on a landlord to provide the secretary of a relevant tenants’ association with information about relevant qualifying tenants.
- (2) The regulations may—
 - (a) make provision about the tenants about whom information must be provided and what information must be provided;
 - (b) require a landlord to seek the consent of a tenant to the provision of information about that tenant;
 - (c) require a landlord to identify how many tenants have not consented.
- (3) The regulations may—
 - (a) authorise a landlord to charge costs specified in or determined in accordance with the regulations;
 - (b) impose time limits on a landlord for the taking of any steps under the regulations;
 - (c) make provision about the form or content of any notices under the regulations (including provision permitting or requiring a person to design the form of a notice);
 - (d) make other provision as to the procedure in connection with anything authorised or required by the regulations.
- (4) The regulations may confer power on a court or tribunal to make an order remedying a failure by a landlord to comply with the regulations.
- (5) The regulations may include supplementary, incidental, transitional or saving provision.
- (6) Regulations under this section are to be made by statutory instrument.
- (7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section—

“relevant tenants’ association”, in relation to a landlord, means an association of tenants of the landlord at least one of whom is a qualifying tenant of a dwelling in England;

“relevant qualifying tenant” means –

a person who is a qualifying tenant of a dwelling in England and a member of the relevant tenants’ association, or

a person who is a qualifying tenant of a dwelling in England by virtue of being required to contribute to the same costs as a qualifying tenant who is a member of the relevant tenants’ association;

“qualifying tenant” means a tenant who, under the terms of the lease, is required to contribute to the same costs as another tenant by the payment of a service charge.”

99A★ Insert the following new Clause –

“Limitation of administration charges: costs of proceedings

In Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (administration charges), after paragraph 5 insert –

“Limitation of administration charges: costs of proceedings

- 5A(1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant’s liability to pay a particular administration charge in respect of litigation costs.
- (2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.
- (3) In this paragraph –
 - (a) “litigation costs” means costs incurred, or to be incurred, by the landlord in connection with proceedings of a kind mentioned in the table, and
 - (b) “the relevant court or tribunal” means the court or tribunal mentioned in the table in relation to those proceedings.

Proceedings to which costs relate	“The relevant court or tribunal”
Court proceedings	The court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, the county court
First-tier Tribunal proceedings	The First-tier Tribunal
Upper Tribunal proceedings	The Upper Tribunal

Arbitration proceedings	The arbitral tribunal or, if the application is made after the proceedings are concluded, the county court.”
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After Clause 124

BARONESS HAYTER OF KENTISH TOWN
LORD KENNEDY OF SOUTHWARK
LORD PALMER OF CHILDS HILL
LORD FOSTER OF BATH

100

Insert the following new Clause –

“Client money protection for lettings agents

- (1) Subject to the provisions of this section, a person may not accept money from another person (“T”) in the course of lettings agency work unless there are in force authorised arrangements under which, in the event of his or her failing to account for that money to the person entitled to it, his or her liability will be made good by another.
- (2) In this section “T” is any person who seeks residential accommodation which is to let, or who has a tenancy of, or other right or permission to occupy, residential premises; and a “relevant payment” means any sum of money which is received from T in the circumstances described in subsection (1).
- (3) In this section “lettings agency work” has the same meaning as in section 83 of the Enterprise and Regulatory Reform Act 2013 (redress schemes: lettings agency work) and a “lettings agent” is a person who engages in lettings agency work.
- (4) The Secretary of State may by regulations made by statutory instrument –
 - (a) specify any persons or classes of persons to whom subsection (1) does not apply;
 - (b) specify arrangements which are authorised for the purposes of this section including arrangements to which an enforcement authority nominated for the purpose by the Secretary of State or any other person so nominated is a party;
 - (c) specify the terms and conditions upon which any payment is to be made under such arrangements and any circumstances in which the right to any such payment may be excluded or modified;
 - (d) provide that any limit on the amount of any such payment is to be not less than a specified amount; and
 - (e) require a person providing authorised arrangements covering any person carrying on lettings agency work to issue a certificate in a form specified in the regulations certifying that arrangements complying with the regulations have been made with respect to that person.
- (5) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.

- (6) Every guarantee entered into by a person who provides authorised arrangements covering a lettings agent shall tenure for the benefit of every person from whom the lettings agent has received a relevant payment as if the guarantee were contained in a contract made by the insurer with every such person.”

BARONESS GARDNER OF PARKES

101 Insert the following new Clause –

“Changes to leases: qualifying threshold for right to manage

- (1) Where leaseholders in a shared building have the right to manage and a beneficial change or modification is proposed to the terms of the leases in relation to communal services or general safeguards held in that shared building, the change shall be agreed and made if a simple majority of the eligible leaseholders vote in favour of the proposal.
- (2) In respect of a vote under subsection (1), a leaseholder shall –
- (a) have the right to appoint a proxy to vote on his or her behalf; and
 - (b) be given adequate notice of when the vote will take place.
- (3) A change to the terms of the leases under subsection (1) may include leasehold enfranchisement.
- (4) If a leaseholder or his or her proxy fails to participate in the vote held under subsection (1) and reasonable arrangements have been made to enable him or her to do so, he or she shall be deemed to have voted in favour of the proposal.”

102 Insert the following new Clause –

“Sinking funds for repairs: leaseholds

- (1) The buyer of a leasehold in a shared residential building with common parts is required to make periodic deposits of sums into a fund to be maintained and used for the purpose of making repairs to the building in which the leasehold property is situated.
- (2) The fund shall be held and administered by the person designated to fulfil that role by the leaseholders.
- (3) The sums to be deposited and the timetable for their deposit shall be determined by those holding rights in the shared building, and the collection of those sums may be incorporated into the building’s service charge arrangements.
- (4) The requirement provided for by subsection (1) applies to any buyer of a leasehold who completes the purchase of that leasehold at any point after the day on which this section is brought into effect.”

After Clause 128

BARONESS PARMINTER
LORD KENNEDY OF SOUTHWARK
LORD TAYLOR OF GOSS MOOR

102ZA★ Insert the following new Clause—

“Neighbourhood right of appeal

(1) After section 78 of the Town and Country Planning Act 1990 (“the 1990 Act”) insert—

“78ZA Neighbourhood right of appeal

(1) Where—

- (a) a planning authority grants an application for planning permission,
- (b) the application does not accord with policies in an emerging or made neighbourhood plan in which the land to which the application relates is situated, and
- (c) the neighbourhood plan under paragraph (b) contains proposals for the provision of housing development,

certain persons as specified in subsection (2) may by notice appeal to the Secretary of State.

(2) Persons who may by notice appeal to the Secretary of State against the approval of planning permission in the circumstances specified in subsection (1) are any parish council or neighbourhood forum, as defined in section 61F of the 1990 Act (authorisation to act in relation to neighbourhood areas), whose made or emerging neighbourhood plan includes all or part of the area of land to which the application relates, by two-thirds majority voting.

(3) In this section an “emerging” neighbourhood plan means a neighbourhood plan that—

- (a) has been examined,
- (b) is being examined, or
- (c) is due to be examined, having met the public consultation requirements necessary to proceed to this stage.”

(2) Section 79 of the 1990 Act is amended as follows—

- (a) in subsection (2), omit “either”, and after “planning authority” insert “or the applicant (where different from the appellant)”;
- (b) in subsection (6), after “the determination” insert “(except for appeals as defined in section 78ZA (as inserted by section (*Neighbourhood right of appeal*) of the Housing and Planning Act 2016) and where the appellant is as defined in subsection (2) of that section)”.

Clause 129

BARONESS WILLIAMS OF TRAFFORD

102A Page 62, line 41, leave out “in subsection (4)” and insert “before subsection (4) insert—

“(3A) If a local planning authority have not prepared a local development scheme, the Secretary of State or the Mayor of London may—

- (a) prepare a local development scheme for the authority, and
- (b) direct the authority to bring that scheme into effect.”

() In subsections (4) and (8AA) of that section”

102B Page 62, line 43, at end insert –

“() In subsections (4A)(a), (5), (6), (6A) and (6B)(a) of that section, after “under subsection” insert “(3A) or”.”

Clause 136

BARONESS WILLIAMS OF TRAFFORD

103 Page 67, line 7, at end insert –

“() But permission in principle may not be granted for development consisting of the winning and working of minerals.”

104 Page 67, line 28, leave out “plan, register or other”

105 Page 67, leave out lines 30 to 32 and insert –

“() falls within subsection (2A),”

106 Page 67, line 37, at end insert –

“(2A) The following documents fall within this subsection –

- (a) a register maintained in pursuance of regulations under section 14A of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”);
- (b) a development plan document within the meaning of Part 2 of the 2004 Act (see section 37 of that Act);
- (c) a neighbourhood development plan within the meaning given by section 38A of the 2004 Act.”

106A Page 67, line 43, leave out from beginning to end of line 21 on page 68 and insert –

“(4) Subject to subsection (7)(a), permission in principle granted by a development order takes effect –

- (a) when the qualifying document takes effect, if the land in question is allocated for development in the document at that time;
- (b) otherwise, when the qualifying document is revised so that the land in question is allocated for development.

(5) For the purposes of subsection (4)(a) –

- (a) a register maintained in pursuance of regulations under section 14A of the 2004 Act takes effect when it is first published;
- (b) a development plan document takes effect when it is adopted or approved under Part 2 of the 2004 Act;
- (c) a neighbourhood development plan takes effect when it is made by the local planning authority.

(6) Subject to subsection (7)(b), permission in principle granted by a development order is not brought to an end by the qualifying document ceasing to have effect or being revised.

(7) A development order –

- (a) may provide that permission in principle does not take effect until such date as the local planning authority may direct;

- (b) may make provision for permission in principle to cease to have effect;
 - (c) may contain transitional provision and savings in relation to cases where permission in principle ceases to have effect;
 - (d) may make provision in relation to an application for planning permission for development of land in respect of which permission in principle has been granted;
 - (e) may require the local planning authority to prepare, maintain and publish a register containing prescribed information as to permissions in principle granted by a development order.
- (8) The provision that may be made under subsection (7)(b) includes provision for permission in principle to cease to have effect –
- (a) at the end of a prescribed period, or
 - (b) at the end of such other period (whether longer or shorter) as the local planning authority may direct.
- (9) In exercising a power of direction conferred by virtue of subsection (7)(a) or (8)(b), a local planning authority must have regard to the provisions of the development plan and any other material considerations.
- (10) In exercising any other function exercisable by virtue of this section, or in exercising any function in relation to an application for planning permission for development of land in respect of which permission in principle has been granted, a local planning authority must have regard to any guidance issued by the Secretary of State.”

LORD KENNEDY OF SOUTHWARK
LORD BEECHAM

107 Page 68, line 5, leave out “not”

LORD BEECHAM
BARONESS ANDREWS

107ZZA★ Page 69, line 2, at end insert –

“(2ZZD) An application for technical details consent in relation to permission in principle will be subject to section 61W (consultation before applying for planning permission) and section 65 (notice etc of applications for planning permission) of this Act.”

LORD KENNEDY OF SOUTHWARK
BARONESS ANDREWS

107ZZB★ Leave out Clause 136

Schedule 12

BARONESS ANDREWS

107ZA Page 161, line 27, leave out sub-paragraph (3) and insert –

“() In subsection (1), for the words from “modify” to “the authority” substitute “modify –

- (a) any permission (including permission in principle) to develop land granted on an application made under this Part, or

(b) any permission in principle granted by a development order,
the authority”.

107ZB Page 161, line 43, leave out “and in subsection (1)”

107ZC Page 162, line 1, leave out “subsection (4), for” and insert “subsection (1) –
(a) after “planning permission” insert “or permission in principle”;
(b) for “section 97” substitute “section 97(1)(a)”.

() In subsections (2) and (3), for “this section” substitute “subsection (1)”.

() In subsection (4) –
(a) for “this section” substitute “subsection (1)”;
(b) for”

107ZD Page 162, line 2, at end insert –

“() After that subsection insert –

“(4A) A development order may make provision for the payment of compensation, in such circumstances and subject to such conditions as may be prescribed in the order, where permission in principle is revoked or modified by an order under section 97(1)(b).”

Clause 137

LORD KENNEDY OF SOUTHWARK
BARONESS ANDREWS

107ZE★ Page 70, line 8, at end insert “, and in particular the achievement of sustainable development and good design”

After Clause 139

LORD LUCAS
LORD KERSLAKE

107A Insert the following new Clause –

“Planning freedoms: right for local areas to request alterations to planning system

- (1) A local planning authority in England shall have the right to submit a proposal to the Secretary of State for the disapplication or modification of any legislation to do with planning (“planning freedoms”) if the authority considers those planning freedoms would contribute to a significant increase in housing delivery in the authority’s area.
- (2) An authority’s area under subsection (1) may comprise the area of one local planning authority, or the area of more than one local planning authority where those authorities are working together to increase housing delivery.
- (3) Where the Secretary of State is satisfied that the planning freedoms requested in a proposal under subsection (1) will contribute to a significant increase in housing delivery in that authority’s (or group of authorities’) area, he or she may make regulations to disapply or modify any legislation to do with planning which apply to that area as he or she considers necessary to enable those authorities to increase housing delivery.

- (4) The Secretary of State may by regulation specify the maximum number of authorities in which the Secretary of State may implement planning freedoms at any one time, and that the planning freedoms provided for each area may last no more than 10 years.
- (5) The Secretary of State may by regulations end the planning freedoms in an area where—
 - (a) the local planning authority concerned requests that he or she do so;
 - (b) the Secretary of State considers the local planning authority is failing to deliver the increase in housing delivery committed to in their proposals; or
 - (c) there are any exceptional circumstances.
- (6) Regulations made under subsection (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (7) If a draft of regulations made by the Secretary of State under subsection (6) would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.”

Clause 141

BARONESS GARDNER OF PARKES

LORD FOSTER OF BATH

108 Page 72, line 20, at end insert—

- “(1) Local planning authorities may make provision for the payment of fees or charges to them in respect of the performance of their functions and anything done by them which is calculated to facilitate or is conducive or incidental to the performance of their functions, and may vary such fees or charges according to the value of the project concerned or any other material concerns.
- (2) Fees or charges under subsection (1) may exceed the costs incurred by the local planning authority in performing functions relating to the relevant project.
- (3) Local planning authorities shall retain any fees or charges paid in accordance with subsection (1), and use them as they see fit.”

After Clause 141

LORD DUBS

109 Insert the following new Clause—

“Code of practice for subterranean development works

- (1) A local planning authority may promulgate a code of practice on the excavation and construction of a subterranean development with a view to lessening the adverse impact of the excavation and construction on adjacent properties and their owners and occupiers and on the wider neighbourhood.
- (2) The code may include, but need not be limited to, the provisions listed in Schedule (Provisions in local authority code of practice for subterranean development).
- (3) Local planning authorities shall take account of any guidance issued by the Secretary of State in drawing up such a code of practice.

- (4) If a local planning authority has promulgated such a code, it may make the granting of planning consent for a subterranean development conditional on the developer undertaking to abide by the code or specified elements of it.”

110 Insert the following new Clause—

“Presumption against subterranean development

- (1) A local planning authority may not grant planning permission on an application to the authority under section 58 of the Town and Country Planning Act 1990 (granting of planning permission: general) in respect of subterranean development which is either—
 - (a) in a flood zone classified by the Environment Agency as subject to a high probability of flooding;
 - (b) within a terrace; or
 - (c) such that the local planning authority has reasonable grounds to believe that the subterranean development is likely to cause unreasonable interference to the use or enjoyment of the land of others either during its construction or after its completion;unless it can be demonstrated that the development will achieve substantial public benefits.
- (2) For the purposes of subsection (1)(b), a “terrace” means a row of adjoining buildings where each building has a wall built at the line of juncture between itself and the adjoining property which provides structural support to itself and a building on the adjoining property.”

111 Insert the following new Clause—

“Notice to adjoining owners

- (1) Any owner of a property intending to undertake subterranean development works shall serve notice for any subterranean development in the manner set out in section 6(5) (adjacent excavation and construction) of the Party Wall etc Act 1996 (“the 1996 Act”) as if the distance of six metres is replaced by a distance of 12 metres.
- (2) For the purposes of section 6 of the 1996 Act, where the buildings or structures of different owners are above the site of the subterranean development, the owners of those buildings or structures shall be deemed to be adjoining owners.
- (3) If a building owner fails to serve notice in accordance with this section and with the 1996 Act before commencing subterranean development works, he or she shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or 10 per cent of the contract value reasonably to be expected in relation to the notifiable works, whichever shall be the greater and which, in the absence of agreement, shall be determined by surveyors appointed in accordance with the 1996 Act or as otherwise directed by the court.”

112 Insert the following new Clause –

“Expenses and losses

- (1) Where an adjoining owner does not notify the building owner in writing within 14 days that the works notified under section (notice to adjoining owners) are agreed, or agreed subject to conditions that are acceptable to the building owner, and a dispute is deemed to have arisen, the surveyors appointed in accordance with the 1996 Act shall –
 - (a) determine a sum to be held as security for expenses and losses which reasonably reflects –
 - (i) the risk of damage to the adjoining owner’s building likely to occur in consequence of the works;
 - (ii) the likely cost of completing the works, sufficiently to safeguard the adjoining owner’s building and to leave it weather tight if those works are suspended or left incomplete;
 - (iii) the cost of any loss to the adjoining owner as a result of the adjoining owner being unable to sell or lease his or her property for the normal market value as a result of the subterranean development works; and
 - (iv) the cost of appropriate alternative accommodation if the surveyors determine that the adjoining owner or any member of his or her household who normally undertakes remunerative work in their building is unable to do so because of the disturbance caused by the subterranean development works, or that alternative accommodation is required for a member of the household seriously affected by the disturbance by reason of his or her physical condition; and
 - (b) hold and administer the determined sum.
- (2) Any liability arising from works shall remain with the owner or owners of the land or buildings where the subterranean works are taking or took place, and may be registered as a charge against the property for the purposes of the Land Registration Act 2002.”

113 Insert the following new Clause –

“Other works taking place on the subterranean development site

Non-subterranean works taking place on the building owner’s building during the period of the works on the subterranean development shall be treated –

- (a) as part of the subterranean development works for the purposes of sections 2 and 4 of this Act; and
- (b) as part of the works described in section 6(1) and (2) of the 1996 Act (adjacent excavation and construction) for the purposes of section 7(1) and (2) of that Act (compensation etc).”

114 Insert the following new Clause –

“Subterranean development: definitions

For the purposes of this Act –

“subterranean development” means development which comprises excavation or building below the prevailing ground level other than for the purposes of repairing, strengthening or supporting an existing building or structure; and

“owner”, “adjoining owner” and “building owner” have the same meanings as under the Party Wall etc Act 1996.”

115 Insert the following new Clause –

“Development not exempt from planning permission: subterranean development

- (1) Schedule 2, Part 1, of the Town and Country Planning (General Permitted Development) Order 1995 (development within the curtilage of a dwellinghouse) is amended as follows.
- (2) In Class A, after paragraph A.1 (h), insert –

“(ha) the enlargement, improvement or other alteration would be subterranean.”
- (3) After “For the purposes of Part 1– ” insert ““subterranean” in relation to the enlargement, improvement or other alteration of a dwellinghouse, means excavation or building below the prevailing ground level other than for the purposes of repairing, strengthening or supporting an existing building or structure.”

BARONESS GARDNER OF PARKES

116 Insert the following new Clause –

“Retrospective planning permission

- (1) Where there has been a breach of planning control under section 171A of the Town and Country Planning Act 1990 (“the 1990 Act”), the person or body who has caused the breach must make a retrospective planning application for planning permission under section 73A of the 1990 Act.
- (2) In respect of a retrospective planning application, the person or body who has caused the breach of planning control is liable for the payment of fees or charges to the local planning authority in respect of the costs incurred in carrying out the functions connected with the retrospective planning application.
- (3) The person or body who has caused the breach of planning control is liable for the payment of a significant additional charge, connected to the retrospective nature of the planning application, in addition to the fees and charges the person or body is liable for under subsection (2).
- (4) In carrying out the functions connected with a retrospective planning application, the local planning authority must consult the people residing in the local area to which the retrospective planning application relates.”

LORD TRUE
LORD TOPE

116A Insert the following new Clause—

“Compensation to businesses expelled from premises to enable conversion from office to residential use

Any property owner, developer, or agent, who gives notice to a solvent and active business in order to enable the conversion of office premises to residential use, shall be required to—

- (a) meet the full costs of the planning authority in advising on and determining such an application;
- (b) make a contribution to the local planning authority of not less than 20% of the net profit gained from the difference between the office and residential value of the property concerned; and
- (c) share not less than 50% of the net profit gained from the difference between the office and residential value of the property concerned with any business or businesses expelled from the premises to enable the change of use.”

LORD TRUE
LORD KENNEDY OF SOUTHWARK
LORD KERSLAKE
LORD TOPE

116B Insert the following new Clause—

“Local determination of the application of prior approval for conversion from office to residential use

- (1) Notwithstanding paragraphs O.1, O.2 and W of Schedule 2, Part 3, of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any other section of that or any other order or regulation purporting to convey a right to developers to automatic prior approval of the conversion of office (Class B1(a)) premises to residential use (Class C3), consent may be refused by the local planning authority for the conversion of any such office premises to residential use, if the local planning authority has by a majority vote passed a formal resolution stating that the purported right to approval without full planning consideration shall no longer apply within that local authority planning area, or any part of it.
- (2) In reaching any decision on the conversion of offices to residential use the local planning authority shall be able to take account of all representations from the public or businesses, and all aspects of an approved local plan, neighbourhood plan or supplementary local planning document incorporated within its approved plan, provided that it has passed a resolution under subsection (1).
- (3) A resolution under subsection (1) may be adopted if—
 - (a) the local authority can demonstrate that active businesses within its area are being expelled from office space to enable conversion to residential use, or
 - (b) the local authority has concluded that the retention of office space is necessary for the future economic development of its area.”

LORD KENNEDY OF SOUTHWARK
BARONESS ANDREWS

116BA★ Insert the following new Clause—

“Local authorities and development control services

- (1) A local planning authority may set a charging regime in relation to their development control services to allow for the cost of providing the development control service to be recouped.
- (2) Any such charging regime must be subject to consultation prior to implementation.”

Clause 142

LORD TRUE
LORD BEECHAM

116C Leave out Clause 142

Before Schedule 13

LORD DUBS

117 Insert the following new Schedule—

“SCHEDULE

**PROVISIONS IN LOCAL AUTHORITY CODE OF PRACTICE FOR
SUBTERRANEAN DEVELOPMENT**

In constructing or excavating in respect of a subterranean development, a developer must, if the planning authority so directs, have regard to—

- (a) the studies and investigations to be carried out in advance of the application for planning consent in relation to the stability of structures and the minimising of adverse effects on adjoining owners;
- (b) the adequacy of technical skills for investigations to be carried out and for the design and execution of the works;
- (c) the methods, materials and equipment to be used;
- (d) the standards and monitoring arrangements to be observed in relation to noise and vibration levels;
- (e) the hours of construction and excavation, and of particularly noisy types of construction and excavation;
- (f) the provision of information to adjoining owners;
- (g) the protection of adjoining owners from the risks associated with defective investigation or design and the interruption of the contract of works once commenced;
- (h) the limitation of the effects of ground movements on third party property to damage capable of repair by decoration and the repair of minor cracking;
- (i) the protection of the subsoil environment including hydrological and hydrogeological conditions;
- (j) the adequacy of a contractor’s third party liability insurance; and
- (k) the adequacy of standards of post-construction monitoring.”

Schedule 13

LORD TRUE
LORD BEECHAM

117A Leave out Schedule 13

After Clause 143

BARONESS PARMINTER
LORD KREBS
BARONESS YOUNG OF OLD SCONE
LORD STUNELL

118 Insert the following new Clause –

“Carbon compliance standard for new homes

- (1) The Secretary of State must within one year of the passing of this Act make regulations under section 1(1) of the Building Act 1984 (power to make building regulations) for the purpose of ensuring that all new homes in England built from 1 April 2018 achieve the carbon compliance standard.
- (2) For the purpose of subsection (1), “carbon compliance standard” means an improvement on the target carbon dioxide emission rate, as set out in the Building Regulations 2006, of –
 - (a) 60% in the case of detached houses;
 - (b) 56% in the case of attached houses; and
 - (c) 44% in the case of flats.”

BARONESS ROYALL OF BLAISDON
LORD BEST
THE LORD BISHOP OF ST ALBANS
BARONESS PARMINTER

119 Insert the following new Clause –

“Affordable housing contributions in small scale development

- (1) Local planning authorities may require sites falling within subsection (2) to make an affordable housing contribution, in cash or kind, determined by the requirements of the housing market of that area.
- (2) Authorities may require contributions from –
 - (a) developments of 10 units or less, and developments which have a maximum combined gross floorspace of no more than 1000sqm (gross internal area), and
 - (b) developments in a rural area where –
 - (i) planning permission for the site was granted wholly or partly on the basis of a policy for the provision of housing on rural exception sites;
 - (ii) the site is in a national park or an area with equal protection to that of a national park; or
 - (iii) the site is in an area designated under section 82 of the Countryside and Rights of Way Act 2000 (designation of areas) as an area of outstanding natural beauty.
- (3) In subsection (2) a rural area is defined as –

- (a) any settlement with a population of fewer than 3,000 people at the most recent national census, or
- (b) any settlement with a population of between 3,000 and 10,000 people at the most recent national census, and designated as a rural area by the Secretary of State following representations from the relevant local authority.”

BARONESS PARMINTER
LORD KREBS
BARONESS YOUNG OF OLD SCONE

119A Insert the following new Clause –

“Sustainable drainage systems

- (1) The Water Industry Act 1991 is amended as follows.
- (2) After section 106(1B) (right to communicate with public sewers) insert –
“(1C) The right under subsection (1) is subject to section 106AB.”
- (3) After section 106A insert –

“106AB Sustainable drainage systems

- (1) A person may only exercise the right under section 106(1) in respect of surface water if the relevant drainage system is designed and constructed according to –
 - (a) the non-statutory technical standards for sustainable drainage systems or any replacement standards as may be published by the Minister from time to time; and
 - (b) the planning permission or development consent order for the development drained by the drainage system in question.
- (2) In this section “drainage system” has the same meaning as in paragraph 1 of Schedule 3 to the Flood and Water Management Act 2010.””

LORD BEECHAM
BARONESS ANDREWS

119AA★ Insert the following new Clause –

“Minimum space standards for new dwellings

In Part M of Schedule 1 to the Building Regulations 2010 (access to and use of buildings), after requirement M4 insert –

“Internal space standards

M5 New dwellings shall meet the minimum standards for internal space set out in the nationally described space standard, March 2015.””

Clause 144

THE EARL OF LYTTON

119B Page 74, line 20, at end insert –

“(7A) Guidance referred to in subsection (7) must include a requirement for the developer to pay development value for land that is compulsorily purchased for housing as part of any nationally significant infrastructure project.”

120 [Withdrawn]

Clause 145

BARONESS WILLIAMS OF TRAFFORD

- 120A** Page 74, line 23, leave out subsections (1) and (2) and insert –
- “(1) The Secretary of State may by regulations provide for temporary arrangements in particular areas to test the practicality and desirability of competition in the processing (but not determining) of applications to do with planning.
- (1A) The regulations may make provision –
- (a) for an application for planning permission that falls to be determined by a specified local planning authority in England to be processed, if the applicant so chooses, not by that authority but by a designated person;
 - (b) for any connected application also to be processed by a designated person and not by that authority.
- (2) The regulations must specify a period after which any such provision ceases to apply.
- That period (whether as originally specified or as subsequently extended) must end no later than five years after the first regulations under this section come into force.”
- 121** Page 74, line 31, at end insert –
- “() The Secretary of State must –
- (a) review the operation and effectiveness of any arrangements made under the regulations;
 - (b) no later than 12 months after the date when the arrangements (or the last of them) cease to have effect –
 - (i) lay a report before each House of Parliament, or
 - (ii) make a statement to the House of Parliament of which that Secretary of State is a member,
 setting out the results and conclusions of the review.”

121A Page 74, line 33, leave out “planning applications for” and insert “applications that relate to”

121B Page 74, line 36, leave out “planning applications for” and insert “applications that relate to”

121C Page 74, line 41, at end insert –

“() The regulations may not contain anything that allows or requires, or could allow or require, the responsible planning authority’s duty to determine an application to be carried out, to any extent, by a designated person on the authority’s behalf.

“() Nothing said or done by a designated person appointed under the regulations to process an application is binding on the responsible planning authority when determining the application.

“() Before making the first regulations under this section the Secretary of State must consult such representatives of local planning authorities, and such other persons, as the Secretary of State thinks fit.”

121D Page 75, line 2, leave out “a planning” and insert “an”

LORD TRUE

121E Page 75, line 4, at end insert “except for –

- (i) the compilation of a report for a meeting of the planning, planning sub-committee, development control committee or other committee of the local planning authority convened to determine the application concerned, unless that report has been approved by a planning officer independent of the applicant, and
- (ii) the provision of a recommendation to the determining committee as to how to determine the application, which must always be made by an officer independent of the applicant or of objectors,”

BARONESS WILLIAMS OF TRAFFORD

121F Page 75, line 6, at end insert –

“(6A) In this group of sections “connected application”, in relation to an application for planning permission that is to be or has been processed by a designated person under the regulations (“the main application”), means –

- (a) an application for approval of a matter reserved under an outline planning permission within the meaning of section 92 of the Town and Country Planning Act 1990 (where the main application resulted in the grant of such permission), or
- (b) an application of a specified description, made under or by virtue of an enactment about planning, that relates to some or all of the land to which the main application relates.”

LORD KENNEDY OF SOUTHWARK

LORD BEECHAM

122 Page 75, line 7, leave out second “person” and insert “local authority or public body”

LORD TRUE

122A Page 75, line 12, at end insert –

“() Any person designated by the Secretary of State, who is not a local authority, must lay before the proper officer of the local authority concerned, for inclusion on the authority’s register of interests, information on any past or present beneficial connection with the applicant for whom he or she is acting or with the applicant to any other past or present application in the local authority area.”

BARONESS WILLIAMS OF TRAFFORD

122B Page 75, line 16, leave out “application” means an application for” and insert “permission” means”

122C Page 75, line 18, leave out “a planning application” and insert “an application for planning permission or a connected application”

LORD KENNEDY OF SOUTHWARK
LORD BEECHAM

123 Leave out Clause 145

Clause 146

BARONESS WILLIAMS OF TRAFFORD

123A Page 75, line 23, leave out subsection (1) and insert –

“() Regulations under section 145 may –

- (a) require a designated person (subject to any specified exceptions) to process an application for planning permission if chosen to do so by an applicant;
- (b) provide that, where an application for planning permission is to be or has been processed by a designated person, any connected application must (subject to any specified exceptions) also be processed by that person;
- (c) allow a responsible planning authority to take over the processing of an application for planning permission, or a connected application, in specified circumstances.”

LORD SHIPLEY

123B Page 75, line 28, at end insert –

“(c) allowing a responsible planning authority to enter into a fee flexibility pilot scheme.

() A “fee flexibility pilot scheme” under subsection (1) means an agreement between a local planning authority and the Secretary of State regarding the use of fees under specified conditions.”

BARONESS WILLIAMS OF TRAFFORD

123C Page 75, line 33, leave out “planning applications” and insert “applications for planning permission or connected applications”

123D Page 75, line 42, leave out paragraph (g)

LORD TRUE

123E Page 75, line 45, leave out paragraph (i)

BARONESS WILLIAMS OF TRAFFORD

123F Page 76, line 2, leave out “a planning” and insert “an”

LORD KENNEDY OF SOUTHWARK
LORD BEECHAM

124 Leave out Clause 146

Clause 147

LORD TRUE

124A Page 76, line 27, at end insert –

“() The Secretary of State must deem excessive any fee set or charged by a designated person which is higher than that which the Secretary of State would have permitted to the local planning authority for the same function.”

LORD KENNEDY OF SOUTHWARK
LORD BEECHAM**125** Leave out Clause 147**Clause 148**LORD KENNEDY OF SOUTHWARK
LORD BEECHAM**126** Leave out Clause 148**Clause 149**

BARONESS WILLIAMS OF TRAFFORD

127 Page 77, line 23, leave out from “(1)” to end of line 24 and insert “does not have effect until approved by a resolution of each House of Parliament.

() If a draft of an instrument containing an order by the Secretary of State under subsection (1) would, but for this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.”

Clause 150

BARONESS WILLIAMS OF TRAFFORD

128 Page 78, line 10, leave out from “section” to end of line 11 and insert “does not have effect until approved by a resolution of each House of Parliament.

() If a draft of an instrument containing an order by the Secretary of State under this section would, but for this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.”

After Clause 164

BARONESS WILLIAMS OF TRAFFORD

128A Insert the following new Clause –**“No general vesting declaration after notice to treat**

In section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 (execution of declaration), after subsection (1) insert –

“(1A) But an acquiring authority may not execute a declaration in respect of land if they have served a notice to treat in respect of that land and have not withdrawn it.

- (1B) In subsection (1A) the reference to an authority having “served” a notice does not include cases in which the authority is deemed to have served a notice.””

Clause 165

BARONESS WILLIAMS OF TRAFFORD

128B Page 84, line 30, leave out “11A(3)” and insert “11A(4)”

128C Page 84, line 33, leave out from beginning to end of line 10 on page 85 and insert –
“11A Powers of entry: further notices of entry

- (1) This section applies where –
 - (a) an acquiring authority have given a notice of entry under section 11(1) but have not yet entered on and taken possession of the land, and
 - (b) the authority become aware of an owner, lessee or occupier (“the newly identified person”) to whom they ought to have given a notice to treat under section 5(1) but have not.
- (2) Any notice of entry already served under section 11(1) remains valid, but the authority may not enter on and take possession of the land unless they serve on the newly identified person –
 - (a) a notice to treat under section 5(1), and
 - (b) a notice of entry under section 11(1).
- (3) Subsection (4) applies for the purpose of determining the period to be specified in the notice of entry under section 11(1) served on the newly identified person if –
 - (a) the person is an occupier of the land and the authority were not aware of the person because they were given misleading information when carrying out inquiries under section 5(1), or
 - (b) the person is not an occupier of the land.
- (4) The period specified in the notice must be a period that ends –
 - (a) no earlier than the end of the period of 14 days beginning with the day on which the notice of entry is served, and
 - (b) no earlier than the end of the period specified in any previous notice of entry given by the acquiring authority in respect of the land.”

Clause 166

BARONESS WILLIAMS OF TRAFFORD

128D Page 85, line 22, leave out “a person who is in possession of” and insert “an occupier with an interest in”

128E Page 85, line 22, leave out “the person” and insert “the occupier”

128F Page 85, line 25, leave out “the person” and insert “the occupier”

- 128G** Page 85, line 33, at end insert –
- “(3A) A counter-notice under subsection (1) has no effect if the notice to treat relating to the land is withdrawn or ceases to have effect before the date specified in the counter-notice.
- (3B) A counter-notice under subsection (1) has no effect if it would require an acquiring authority to take possession of land at a time when section 11A or paragraph 5 of Schedule 2A prohibit the authority from entering on and taking possession of the land.
- (3C) If subsection (3B) applies, the authority must notify the occupier who served the counter-notice –
- (a) that the counter-notice has no effect, and
- (b) if the authority serve a notice of entry as mentioned in section 11A(2)(b), of the date after which the authority could enter on and take possession of the land.
- (3D) If a counter-notice served under subsection (1) has no effect because of subsection (3B), the occupier who served it may serve a further counter-notice.”
- 128H** Page 85, line 35, leave out “person who is in possession of” and insert “occupier with the same interest in”
- 128J** Page 85, line 36, leave out “person in possession” and insert “occupier with an interest in land”

Clause 168

BARONESS WILLIAMS OF TRAFFORD

- 128K** Page 86, line 8, before “omit” insert “in sub-paragraph (1) –
- (i) in the words before paragraph (a), after “every owner of that land” insert “so far as known to the acquiring authority after making diligent inquiry in accordance with section 5(1) of the Compulsory Purchase Act 1965”;
- (ii) in the words after paragraph (b),”
- 128L** Page 86, leave out lines 29 to 41 and insert –
- ““4A(1) This paragraph applies where –
- (a) an acquiring authority have given a notice under paragraph 4(1) but have not yet entered on and taken possession of the land, and
- (b) the authority become aware of an owner (“the newly identified owner”) to whom they ought to have given a notice to treat under section 5(1) of the Compulsory Purchase Act 1965 but have not.
- (2) Any notice already served under paragraph 4(1) remains valid, but the authority may not enter on and take possession of the land unless they serve on the newly identified owner –
- (a) a notice to treat under section 5(1) of the Compulsory Purchase Act 1965, and
- (b) a notice under paragraph 4(1).

- (3) Sub-paragraph (4) applies for the purpose of determining the period to be specified in the notice under paragraph 4(1) served on the newly identified owner if—
 - (a) the owner is an occupier of the land and the authority were not aware of the owner because they were given misleading information when carrying out inquiries under section 5(1) of the Compulsory Purchase Act 1965, or
 - (b) the owner is not an occupier of the land.
- (4) The period must be a period that ends—
 - (a) no earlier than the end of the period of 14 days beginning with the day on which the notice of entry is served, and
 - (b) no earlier than the end of the period specified in any previous notice under paragraph 4(1) given by the acquiring authority in respect of the land.”

128M Page 86, line 45, leave out “a person who is in possession of” and insert “an occupier with an interest in”

128N Page 86, line 45, leave out “the person” and insert “the occupier”

128P Page 87, line 3, leave out “the person” and insert “the occupier”

128Q Page 87, line 11, at end insert—

- “(3A) A counter-notice under sub-paragraph (1) has no effect if the notice to treat relating to the land is withdrawn or ceases to have effect before the date specified in the counter-notice.
- (3B) A counter-notice under sub-paragraph (1) has no effect if it would require an acquiring authority to take possession of land at a time when either paragraph 4A of this Schedule or paragraph 5 of Schedule 2A to the Compulsory Purchase Act 1965 prohibit the authority from entering on and taking possession of the land.
- (3C) If sub-paragraph (3B) applies, the authority must notify the occupier who served the counter-notice—
 - (a) that the counter-notice has no effect, and
 - (b) if the authority serve a notice under paragraph 4(1) of this Schedule as mentioned in paragraph 4A(2)(b) of this Schedule, of the date after which the authority could enter on and take possession of the land.
- (3D) If a counter-notice served under sub-paragraph (1) has no effect because of sub-paragraph (3B), the occupier who served it may serve a further counter-notice.”

128R Page 87, line 13, leave out “person who is in possession of” and insert “occupier with the same interest in”

128S Page 87, line 14, leave out “person in possession” and insert “occupier with an interest in land”

Clause 171

BARONESS WILLIAMS OF TRAFFORD

- 128T** Page 87, line 28, leave out “Secretary of State” and insert “appropriate national authority”
- 128U** Page 87, line 29, at end insert –
 “(1A) In subsection (1) “appropriate national authority” means –
 (a) in relation to a claim for compensation for the compulsory acquisition of land in England, the Secretary of State;
 (b) in relation to a claim for compensation for the compulsory acquisition of land in Wales, the Welsh Ministers.”
- 128V** Page 88, leave out lines 1 to 3 and insert –
 “(6) A statutory instrument containing regulations under subsection (1) is subject to annulment –
 (a) in the case of an instrument made by the Secretary of State, in pursuance of a resolution of either House of Parliament;
 (b) in the case of an instrument made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.”

After Clause 171

BARONESS WILLIAMS OF TRAFFORD

- 128W** Insert the following new Clause –
“Compensation after withdrawal of notice to treat
 (1) Section 31 of the Land Compensation Act 1961 (withdrawal of notices to treat) is amended in accordance with subsections (2) and (3).
 (2) After subsection (3) insert –
 “(3A) Where the acquiring authority withdraw a notice to treat under this section, the authority shall also be liable to pay a person compensation for any loss or expenses occasioned by the person as a result of the giving and withdrawal of the notice to treat if the person –
 (a) acquired the interest to which the notice to treat relates before its withdrawal, and
 (b) has not subsequently been given a notice to treat in relation to that interest.”
 (3) In subsection (4), after “(3)” insert “or (3A)”.
 (4) In Schedule 18 to the Planning and Compensation Act 1991 (provisions under which compensation is payable with interest), in Part 1, in the entry relating to the Land Compensation Act 1961, after “section 31(3)” insert “or (3A)”.”

Clause 172

BARONESS WILLIAMS OF TRAFFORD

- 128X** Page 88, line 22, at end insert –
 “(2A) In section 52ZC (land subject to mortgage: supplementary), for subsection (2) substitute –

- “(2) Within 28 days of receiving a request for a payment under section 52ZA or 52ZB, the acquiring authority must –
- (a) determine whether they have enough information to give effect to section 52ZA or, as the case may be, 52ZB, and
 - (b) if they need more information, require the claimant to provide it.”

128Y Page 88, line 25, leave out “Secretary of State” and insert “appropriate national authority”

THE EARL OF LYTTON

128YA Page 88, line 27, at end insert “provided –

- (a) the owner, lessee or occupier would have been entitled to a notice to treat had the acquiring authority been aware of the existence of the owner, lessee or occupier, and
- (b) the acquiring authority undertook reasonably diligent enquiries to ascertain the existence of those entitled to a notice to treat.”

BARONESS WILLIAMS OF TRAFFORD

128YAA Page 88, line 27, at end insert –

“(1A) In subsection (1) “appropriate national authority” means –

- (a) in relation to a request relating to the compulsory acquisition of land in England, the Secretary of State;
- (b) in relation to a request relating to the compulsory acquisition of land in Wales, the Welsh Ministers.”

128YAB Page 88, line 37, leave out from “pursuance” to end of line 38 and insert “–

- (a) in the case of an instrument made by the Secretary of State, in pursuance of a resolution of either House of Parliament;
- (b) in the case of an instrument made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.”

Clause 173

BARONESS WILLIAMS OF TRAFFORD

128YAC Page 89, leave out lines 7 to 14 and insert –

“(1A) In a case where the compulsory acquisition is one to which the Lands Clauses Consolidation Act 1845 applies, the acquiring authority may not make an advance payment if they have not taken possession of the land, but must do so if they have.

(1B) In all other cases, an acquiring authority must make an advance payment under subsection (1) if, before or after the request is made, the authority –

- (a) give a notice of entry under section 11(1) of the Compulsory Purchase Act 1965, or
- (b) execute a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in respect of that land.”;

128YAD Page 89, leave out lines 16 to 31 and insert—

- “(4) An advance payment required by subsection (1A) must be made—
- (a) before the end of the day on which the authority take possession of the land, or
 - (b) if later, before the end of the period of two months beginning with the day on which the authority—
 - (i) received the request for the advance payment, or
 - (ii) received any further information required under subsection (2A)(b).
- (4ZA) An advance payment required by subsection (1B) must be made—
- (a) before the end of the day on which the notice of entry is given or the general vesting declaration is executed, or
 - (b) if later, before the end of the period of two months beginning with the day on which the authority—
 - (i) received the request for the advance payment, or
 - (ii) received any further information required under subsection (2A)(b).”;

THE EARL OF LYTTON

128YAE Page 89, line 31, at end insert—

- “() after subsection (10) insert—
- “(10A) If an acquiring authority fails to make an advance payment of compensation and the landowner has fulfilled all of the requirements to facilitate a payment, the acquiring authority may not take possession of the relevant land without the written permissions of the landowner or until an advance payment has been made.”

BARONESS WILLIAMS OF TRAFFORD

128YAF Page 89, line 38, after “52(1A)” insert “or (1B)”

128YAG Page 90, line 1, after “52(1A)” insert “or (1B)”

128YAH Page 90, leave out lines 10 to 21 and insert—

- “(3A) In a case where the compulsory acquisition to which the request relates is one to which the Lands Clauses Consolidation Act 1845 applies, the acquiring authority must make any payment under section 52ZA or 52ZB—
- (a) before the end of the day on which the authority take possession of the land, or
 - (b) if later, before the end of the period of two months beginning with the day on which the authority—
 - (i) received the request under section 52ZA(3) or 52ZB(3), or
 - (ii) received any further information required under subsection (2).
- (3B) In all other cases, the authority must make any payment under section 52ZA or 52ZB—
- (a) before the end of the day on which the notice of entry is given or the general vesting declaration is executed, or

- (b) if later, before the end of the period of two months beginning with the day on which the authority –
- (i) received the request under section 52ZA(3) or 52ZB(3), or
 - (ii) received any further information required under subsection (2).”;

Clause 174

BARONESS WILLIAMS OF TRAFFORD

128YAJ Page 90, line 36, after “52(1A)” insert “or (1B)”

128YAK [*Withdrawn*]

128YAL [*Withdrawn*]

Clause 175

BARONESS WILLIAMS OF TRAFFORD

128YAM Page 91, line 14, leave out subsection (2) and insert –

“(2) Section 52 (right to advance payment of compensation) is amended in accordance with subsections (2A) and (2B).

(2A) Omit subsection (5).

(2B) In subsection (9), for the words from “he disposes” to the end substitute –

“(a) the claimant’s interest in some or all of the land is acquired by another person, or

(b) the claimant creates an interest in some or all of the land in favour of a person other than the acquiring authority,

the amount of the advance payment together with any amount paid under section 52A shall be set off against any sum payable by the authority to that other person in respect of the compulsory acquisition of the interest acquired or the compulsory acquisition or release of the interest created.”

128YAN Page 91, line 18, at end insert –

“(2C) After section 52 insert –

“52AZA Repayment by claimant etc.

(1) Where the amount or aggregate amount of any payments under section 52 made on the basis of the acquiring authority’s estimate of the compensation exceeds the compensation as finally determined or agreed, the excess is to be repaid.

(2) If after any payment under section 52 has been made to any person it is discovered that the person was not entitled to it, the person must repay it.

- (3) If the notice to treat relating to an interest in land in relation to which an acquiring authority have made a payment to a claimant under section 52 is withdrawn or has ceased to have effect before the authority take possession of the land, the authority may by notice require the claimant to pay them an amount equal to the amount of the payment, unless another person has acquired the whole of the claimant's interest in the land.
- (4) Subsection (5) applies where –
 - (a) a payment made to a claimant has been registered as a local land charge in accordance with section 52(8A),
 - (b) the whole of the claimant's interest in land has subsequently been acquired by another person (a "successor"),
 - (c) any notice to treat given in relation to the interest is withdrawn or ceases to have effect before the acquiring authority take possession of the land, and
 - (d) the authority notify the successor that they are not going to give the successor a notice to treat (or a further notice to treat) for the interest.
- (5) The authority may by notice require the successor to pay them an amount equal to the amount of any payment made to the claimant under section 52.
- (6) A notice under subsection (3) or (5) must specify the date by which the claimant or successor must pay the amount.
- (7) The date mentioned in subsection (6) must be after the period of two months beginning with the day on which the authority give the notice under subsection (3) or (5).
- (8) Neither subsection (3) nor subsection (5) affects a right to compensation under section 31(3) or (3A) of the Land Compensation Act 1961 or section 5(2C)(b) of the Compulsory Purchase Act 1965.”

128YAP Page 91, line 19, leave out subsection (3)

After Clause 175

BARONESS WILLIAMS OF TRAFFORD

128YAQ Insert the following new Clause –

“Repayment of payment to mortgagee if land not acquired

In the Land Compensation Act 1973, after section 52ZD (inserted by section 172 above) insert –

“52ZE Payment to mortgagee recoverable if notice to treat withdrawn

- (1) Where an acquiring authority have made a payment to a mortgagee under section 52ZA or 52ZB in relation to an interest in land and notify the claimant that the notice to treat relating to the interest is withdrawn or has ceased to have effect before the authority take possession of the land, the authority may by notice require the claimant to pay them an amount equal to the amount of the payment, unless another person has acquired the whole of the claimant's interest in the land.
- (2) Subsection (3) applies where –
 - (a) a payment under section 52ZA or 52ZB has been registered as a local land charge in accordance with section 52(8A),

- (b) the whole of a claimant's interest in land has subsequently been acquired by another person (a "successor"),
 - (c) any notice to treat given in relation to the interest is withdrawn or ceases to have effect before the authority take possession of the land, and
 - (d) the acquiring authority notify the successor that they are not going to give the successor a notice to treat (or a further notice to treat) in relation to the interest.
- (3) The authority may by notice require the successor to pay them an amount equal to the amount of the payment.
 - (4) A notice under subsection (1) or (3) must specify the date by which the claimant or successor must pay the amount.
 - (5) The date mentioned in subsection (4) must be after the period of two months beginning with the day on which the authority give the notice under subsection (1) or (3).
 - (6) Neither subsection (1) nor subsection (3) affects a right to compensation under section 31(3) or (3A) of the Land Compensation Act 1961 or section 5(2C)(b) of the Compulsory Purchase Act 1965."

THE EARL OF LYTTON

128YAR Insert the following new Clause –

“Duty of care

- (1) The Secretary of State shall by 31 December 2016 make regulations establishing a duty of care upon acquiring authorities within the meaning of the Land Compensation Act 1973.
- (2) The duty of care established in regulations made under subsection (1) must include but not be limited to specifications regarding the treatment by acquiring authorities of those losing land or property to compulsory purchase.”

After Clause 176

BARONESS WILLIAMS OF TRAFFORD

128YAS Insert the following new Clause –

“Objection to division of land: blight notices

- (1) The Town and Country Planning Act 1990 is amended as follows.
- (2) In section 153 (reference of objection to Upper Tribunal), after subsection (4) insert –
 - “(4A) Where the effect of a blight notice would be a compulsory purchase to which Part 1 of the Compulsory Purchase Act 1965 applies, the Upper Tribunal may uphold an objection on the grounds mentioned in section 151(4)(c) only if it is satisfied that the part of the hereditament or affected area proposed to be acquired in the counter-notice –
 - (a) in the case of a house, building or factory, can be taken without material detriment to the house, building or factory, or
 - (b) in the case of a park or garden belonging to a house, can be taken without seriously affecting the amenity or convenience of the house.”
- (3) In section 166 (saving for claimant's right to sell whole hereditament etc.) –

- (a) in subsection (1) omit paragraph (b) (and the “or” before it);
- (b) omit subsection (2).”

Schedule 17

BARONESS WILLIAMS OF TRAFFORD

128YAT Page 178, line 3, at end insert –

“1A This Part does not apply by virtue of a notice to treat that is deemed to have been served in respect of part only of a house, building or factory under section 154(5) of the Town and Country Planning Act 1990 (deemed notice to treat in relation to blighted land).”

THE EARL OF LYTTON

128YAU Page 178, leave out lines 23 to 29 and insert “then the acquiring authority must not take possession of the land proposed to be acquired until –

- (a) the date specified in the notice of entry, or
- (b) 14 days after the date on which the acquiring authority served the owner with notice of their decision under paragraph 7 to accept the counter-notice or refer the counter-notice to the Upper Tribunal.”

BARONESS WILLIAMS OF TRAFFORD

128YAV Page 178, line 24, after “served” insert “on the owner”

128YAW Page 178, line 27, after “entry)” insert “on the owner”

THE EARL OF LYTTON

128YAX Page 179, leave out lines 4 to 12 and insert “the compulsory purchase order and the notice to treat are to have effect as if they include the owner’s interest in the whole of the land.

11 If the acquiring authority serve notice of a decision to accept the counter-notice in respect of the land proposed to be acquired, the acquiring authority may serve a notice of entry under section 11(1) in relation to the whole of the land and they have already served notice of entry in respect of the land proposed to be acquired, that notice has effect as if it were served in respect of the whole land.

11A If the acquiring authority serve notice of a decision to refer the counter-notice to the Upper Tribunal and have already served a notice of entry in respect of the land proposed to be acquired, the notice of entry has effect subject to paragraph 5.

11B If the acquiring authority serve notice of a decision to refer the counter-notice to the Upper Tribunal and they have not served a notice of entry, the acquiring authority may serve a notice of entry under section 11(1) in relation to the land proposed to be acquired.”

BARONESS WILLIAMS OF TRAFFORD

128YAY Page 179, line 11, after “11(1)” insert “on the owner”

- 128YB** Page 179, line 33, at end insert –
 “13A This Part does not apply if the acquiring authority are deemed to have served a notice to treat in respect of the land proposed to be acquired under section 154(5) of the Town and Country Planning Act 1990 (deemed notice to treat in relation to blighted land).”
- 128YBA** Page 180, line 32, after first “the” insert “owner’s interest in the”
- 128YBB** Page 181, line 31, after “the” insert “owner’s interest in the”
- 128YBC** Page 182, line 38, leave out ““subsection (5)” substitute “subsections (5) and (5A)”” and insert ““Subsection (5) also applies” substitute “Subsections (5), (5A) and (5B) also apply””
- 128YBD** Page 183, line 29, leave out “part only” and insert “the whole or part”
- 128YBE** Page 183, leave out lines 35 to 37
- 128YBF** Page 183, leave out lines 39 to 41
- 128YBG** Page 183, leave out lines 42 and 43
- 128YBH** Page 184, line 2, leave out “whole of the land” and insert “house, building or factory”
- 128YBJ** Page 184, line 4, leave out “whole of the land” and insert “house, building or factory”
- 128YBK** Page 184, line 25, leave out “whole of the land” and insert “house, building or factory”
- 128YBL** Page 185, line 1, leave out “land to which the counter-notice relates” and insert “house, building or factory”
- 128YBM** Page 185, line 4, leave out “land” and insert “house, building or factory”
- 128YBN** Page 185, line 8, leave out “land” and insert “house, building or factory”
- 128YBP** Page 185, line 11, leave out “the whole of the” and insert “that”
- 128YBQ** Page 185, line 38, leave out “1” and insert “A1”

Schedule 18

BARONESS WILLIAMS OF TRAFFORD

- 128YBR** Page 186, line 16, leave out “1” and insert “A1”
- 128YBS** Page 186, line 22, leave out “1” and insert “A1”

- 128YBT** Page 186, line 24, leave out from “treat),” to the of line 29 and insert “for subsection (1) substitute –
“(1) On the vesting date the provisions of –
(a) the Land Compensation Act 1961 (as modified by section 4 of the Acquisition of Land Act 1981),
(b) the Compulsory Purchase Act 1965, and
(c) Schedule A1 to this Act,
shall apply as if, on the date on which the general vesting declaration was executed, a notice to treat had been served on every person on whom, under section 5 of the Compulsory Purchase Act 1965, the acquiring authority could have served such a notice, other than any person entitled to a minor tenancy or a long tenancy which is about to expire.””
- 128YBU** Page 186, line 34, at end insert –
“4A In section 12 (divided land), for “Schedule 1” substitute “Schedules A1 and 1”.”
- 128YBV** Page 187, line 1, leave out “For Schedule 1 substitute –” and insert “Before Schedule 1 insert –”
- 128YBW** Page 187, line 2, leave out “1” and insert “A1”
- 128YBX** Page 187, line 30, at end insert –
““notice to treat” means a notice to treat deemed to have been served under section 7(1);”
- 128YBY** Page 188, line 38, leave out “28 days” and insert “3 months”
- 128YCY** Page 189, line 35, leave out “determines” and insert “specifies in its determination”
- 128YCA** Page 189, line 37, after “land” insert “(“the specified land”)”
- 128YCB** Page 189, line 40, leave out “that additional” and insert “the specified”
- 128YCC** Page 190, line 1, leave out “additional” insert “specified”
- 128YCD** Page 190, line 7, leave out “determined” and insert “specified in its determination”
- 128YCE** Page 190, line 9, after “land” insert “(“the specified land”)”
- 128YCF** Page 190, line 12, leave out “additional” insert “specified”
- 128YCG** Page 190, line 14, leave out from “may” to end of line 17 and insert “, within the period of 6 weeks beginning with the day on which the Upper Tribunal made its determination, withdraw the notice to treat in relation to the land proposed to be acquired together with the specified land.”

- 128YCH** Page 190, line 26, at end insert –
“5A In Schedule 1 (divided land) omit Part 1 (buildings and gardens etc).”
- 128YCJ** Page 190, line 29, leave out “1” and insert “A1”
- 128YCK** Page 190, line 41, at end insert –
“8 In Schedule 6 to the Crossrail Act 2008 (acquisition of land shown within limits on deposited plans), in paragraph 11(3)(b), for “Schedule 1” substitute “Schedule A1”.”

Clause 179

BARONESS WILLIAMS OF TRAFFORD

- 128YCL** Page 93, line 8, at end insert “, and
(d) the building or maintenance work is for purposes related to the purposes for which the land was vested, acquired or appropriated as mentioned in paragraph (b).”
- 128YCM** Page 93, line 12, leave out “a specified authority” and insert “the qualifying authority in relation to the land”
- 128YCN** Page 93, line 13, at end insert “, and
(d) the building or maintenance work is for purposes related to the purposes for which the land was vested in, or acquired or appropriated by, the qualifying authority in relation to the land.”
- 128YCP** Page 93, line 29, at end insert “, and
(d) the use is for purposes related to the purposes for which the land was vested, acquired or appropriated as mentioned in paragraph (b).”
- 128YCQ** Page 93, line 33, leave out “a specified authority” and insert “the qualifying authority in relation to the land”
- 128YCR** Page 93, line 35, at end insert “, and
(d) the use is for purposes related to the purposes for which the land was vested in, or acquired or appropriated by, the qualifying authority in relation to the land.”
- 128YCS** Page 93, line 37, at end insert –
“(7A) Land currently owned by a qualifying authority is to be treated for the purposes of subsection (3)(c) or (6)(c) as if it were not currently owned by the authority.”
- 128YCT** Page 93, line 41, at end insert –
“(9) Nothing in this section authorises –

- (a) an interference with a relevant right or interest annexed to land belonging to the National Trust which is held by the National Trust inalienably, or
 - (b) a breach of a restriction as to the user of land which does not belong to the National Trust—
 - (i) arising by virtue of a contract to which the National Trust is a party, or
 - (ii) benefiting land which does belong to the National Trust.
- (10) For the purposes of subsection (9) —
- (a) “National Trust” means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907, and
 - (b) land is held by the National Trust “inalienably” if it is inalienable under section 21 of the National Trust Act 1907 or section 8 of the National Trust Act 1939.”

Clause 180

BARONESS WILLIAMS OF TRAFFORD

- 128YCU** Page 94, line 3, after “specified” insert “or qualifying”
- 128YCV** Page 94, line 5, leave out “specified”
- 128YCW** Page 94, line 6, at end insert —
 “(3A) The specified or qualifying authority against which a liability is enforceable by virtue of subsection (3)(a) is the specified or qualifying authority in which the land to which the compensation relates was vested, or by which the land was acquired or appropriated, as mentioned in section 179.”
- 128YCX** Page 94, line 7, leave out subsection (4) and insert —
 “(4) Any dispute about compensation payable under this section may be referred to and determined by the Upper Tribunal.”

Clause 181

BARONESS WILLIAMS OF TRAFFORD

- 128YCY** Page 95, line 7, at end insert —
 ““qualifying authority” in relation to other qualifying land means the authority in which the land was vested, or which acquired or appropriated the land, as mentioned in the definition of “other qualifying land”;
- 128YD** Page 95, line 16, after “Act” insert —
 “(ca) a body established by or under an Act or Measure of the National Assembly for Wales,”

After Clause 184

LORD TRUE

128YE Insert the following new Clause –

“Local planning authority right to develop in the local interest

- (1) Where a local planning authority has compiled a register under section 137 or has seen a report under section 184 and considers that a government department, Mayor of London or other public authority, transport undertaking or other statutory undertaking has not prepared, or declines to prepare, a plan for development of previously developed unused or underused land on the register in its possession within the local authority area, it may challenge the owner of the land to present planning proposals to the local planning authority within 6 months in conformity with the adopted plan or plans for the area concerned, unless the Secretary of State has certified such development as against the national interest.
- (2) Where the owner declines to present such a plan in accordance with subsection (1) it must publish within the same 6-month period a response showing good reason why such previously used land in its ownership should not be developed in the local public interest.
- (3) If the local planning authority considers the response not to show good reason why the land should not be developed, it may proceed to present its own proposals for development, to compulsorily purchase the land concerned and to exercise itself any planning consent that is then granted.
- (4) The costs to the local planning authority of any compulsory purchase of the land and the net cost of its development will be remitted by the local planning authority without any profit element to the owner who has declined to develop, in arrears after the land is sold.
- (5) This section does not apply to land within National Parks or the Royal Parks or designated as a site of special scientific interest.”

Clause 185

BARONESS WILLIAMS OF TRAFFORD

129 Page 98, line 22, leave out from “(A1)” to end of line 23 and insert “may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Clause 186

LORD TRUE

129A Leave out Clause 186

Clause 190

BARONESS WILLIAMS OF TRAFFORD

130 Page 100, line 14, leave out “(whether alone or together with other provision)”

- 131** Page 100, line 15, at end insert –
“() regulations under section 13,”
- LORD LISVANE
LORD KERSLAKE
LORD BEECHAM
- 132** Page 100, line 15, at end insert –
“() regulations under section 67(1) that contain more than one determination or a determination that relates to more than one local housing authority,
() regulations under section 67(8),”
- BARONESS WILLIAMS OF TRAFFORD
- 133** Page 100, line 16, at end insert –
“() the first regulations under section 78,”
- LORD BEECHAM
LORD KENNEDY OF SOUTHWARK
- 133A** Page 100, line 16, at end insert –
“() regulations under section 77(2),”
- BARONESS WILLIAMS OF TRAFFORD
- 133B** Page 100, line 17, at end insert –
“() section (*Reducing local authority influence over private registered providers*);”
- 134** [*Withdrawn*]
- 135** Page 100, line 18, at end insert –
“() regulations under section (*Electrical safety standards for properties let by private landlords*);”
- 135A** Page 100, line 18, at end insert –
“() regulations under section 145 that make provision of the kind referred to in section 145(2), (3), (4) or (6A)(b), section 147 or section 148,”
- 136** Page 100, line 24, at beginning insert “(whether alone or together with other provision)”
- 137** Page 100, line 29, at end insert –
“() If a draft of regulations under section 145 would, apart from this subsection, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.”

Clause 192

LORD LISVANE
LORD KERSLAKE
LORD BEECHAM
LORD FOSTER OF BATH

138 Page 101, line 9, leave out paragraph (b)

LORD TRUE

138A Page 101, line 11, leave out “135,”

LORD YOUNG OF COOKHAM

138B★ Page 101, line 15, at end insert –
“() section (*Tenants’ associations: power to request information about tenants*);”

LORD LISVANE
LORD KERSLAKE
LORD KENNEDY OF SOUTHWARK
LORD FOSTER OF BATH

139 Page 101, line 18, at end insert –

“() Chapter 3 of Part 4 of this Act shall not come into force before the end of the period of one year after draft regulations to be made under section 78(1) of this Act are laid before each House of Parliament.”

140 Page 101, line 18, at end insert –

“() Chapter 2 of Part 4 of this Act shall not come into force before the end of the period of one year after draft regulations to be made under section 67(8) of this Act are laid before each House of Parliament.”

141 Page 101, line 18, at end insert –

“() Chapter 1 of Part 1 of this Act shall not come into force before the end of the period of one year after the later or last of the days on which draft regulations to be made under section 2(1)(e) and 2(3)(c) of this Act are laid before each House of Parliament.”

BARONESS WILLIAMS OF TRAFFORD

142 Page 101, line 19, at end insert –

“(5) In respect of sections 161 and 163, and Schedule 15, different days may be appointed for different areas.”

Housing and Planning Bill

FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

18 April 2016
