

Housing and Planning Bill

REVISED FIFTH
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 143 to 159	Schedules 17 and 18
Schedule 14	Clauses 177 to 182
Clauses 160 to 163	Schedule 19
Schedule 15	Clauses 183 to 186
Clauses 164 to 169	Schedule 20
Schedule 16	Clauses 187 to 193
Clauses 170 to 176	Title

[Amendments marked ★ are new or have been altered]

Amendment
No.

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 or an 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 148LORD 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 151

LORD TAYLOR OF GOSS MOOR
LORD BEST

128ZA★ Insert the following new Clause –

“Designation of new town areas and establishment of corporations: procedure

- (1) The New Towns Act 1981 is amended as follows.
- (2) In section 1 (designation of areas) –
 - (a) after subsection (3) insert –

“(3A) Before making an order under this section designating an area of land in England as the site of a proposed new town, the Secretary of State must consult the following persons (as well as the local authorities mentioned in subsection (1)) –

 - (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the site;
 - (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the site;
 - (c) any other person whom the Secretary of State considers it appropriate to consult.”
 - (b) in subsection (4), after “section” insert “designating areas of land in Wales”.
- (3) In section 3 (establishment of development corporations for new towns), after subsection (2) insert –

“(2A) Before making an order under this section in relation to a site in England, the Secretary of State must consult the following persons –

 - (a) persons who appear to the Secretary of State to represent those living within, or in the vicinity of, the site;
 - (b) persons who appear to the Secretary of State to represent businesses with any premises within, or in the vicinity of, the site;
 - (c) every county or district council for an area which falls wholly or partly within the site;
 - (d) any other person whom the Secretary of State considers it appropriate to consult.”

- (4) In section 77 (regulations and orders) –
- (a) after subsection (3) insert –
 - “(3ZA) The power of the Secretary of State to make orders under section 3 is also exercisable by statutory instrument.”;
 - (b) after subsection (3A) insert –
 - “(3B) A statutory instrument containing an order made by the Secretary of State under section 1, 2 or 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.
 - (3C) If a draft of an instrument containing an order of the Secretary of State under section 1, 2 or 3 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.”;
 - (c) in subsection (4), for the words before paragraph (a) substitute “A statutory instrument that is made by the Welsh Ministers (by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006) under any of the following provisions of this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales –”;
 - (d) in subsection 4(a)(ii), omit “a county planning authority or, where the order is one designating an area in Wales, by”.
- (5) In Schedule 1 (procedure for designating area), before paragraph 1 insert –
- “Application of Schedule: Wales only*
- A1 This Schedule applies only in relation to an order under section 1 designating an area of land in Wales as the site of a proposed new town.””

128ZB★ Insert the following new Clause –

“New towns: objects of development corporations in England

In section 4 of the New Towns Act 1981 (objects and general powers of development corporations), after subsection (1) insert –

“(1A) In pursuing those objects a development corporation that is established for the purposes of a new town in England must aim to contribute to the achievement of sustainable development.

(1B) For the purposes of subsection (1A) a development corporation must (in particular) have regard to the desirability of good design.””

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”

128YA [*Withdrawn*]

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).”;

128YAE [Withdrawn]

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).”

128YAU [*Withdrawn*]

- 128YAV** Page 178, line 24, after “served” insert “on the owner”
- 128YAW** Page 178, line 27, after “entry)” insert “on the owner”
- 128YAX** [*Withdrawn*]
- 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”
- 128YC** 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.”

LORD BEECHAM

LORD KENNEDY OF SOUTHWARK

- 129ZA** Leave out Clause 185

Clause 186

LORD TRUE
LORD BEECHAM

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,”

BARONESS HAYTER OF KENTISH TOWN
LORD PALMER OF CHILDS HILL

135B Page 100, line 18, at end insert –

“() regulations under section (*Power to require property agents to join client money protection schemes*), (*Client money protection schemes: approval or designation*), or (*Enforcement of client money protection scheme regulations*);”

LORD LUCAS

135C Page 100, line 18, at end insert –

“() regulations under section (*Planning freedoms: right for local areas to request alterations to planning system*)(1);”

BARONESS WILLIAMS OF TRAFFORD

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.”

LORD LUCAS

137A Page 100, line 29, at end insert –

“() If a draft of regulations under section (*Planning freedoms: right for local areas to request alterations to planning system*) 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 KREBS
LORD KENNEDY OF SOUTHWARK

138C★ Page 101, line 18, at end insert “, subject to subsection (3A).

(3A) The Secretary of State may not make regulations appointing the days on which any provision of Part 1 or Part 6 of this Act comes into force unless he or she has first made and commenced regulations that shall require the housing developer to be liable for the full cost of flood damage to a new dwelling if such damage occurs within ten years of the property being first sold.”

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

REVISED FIFTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

22 April 2016
