

BUSINESS AND PLANNING BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Business and Planning Bill as brought from the House of Commons on 30 June 2020 (HL Bill 119).

- These Explanatory Notes have been produced by the Department for Business, Energy & Industrial Strategy in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The Bill includes a range of measures to help businesses adjust to new ways of working as the country recovers from disruption caused by Covid-19. The measures support the transition from immediate crisis response and lockdown into recovery and getting the economy moving again. The measures support businesses to implement safer ways of working to manage the ongoing risks from Covid-19, in particular the need for social distancing.
- 2 The Bill has the following purposes:
 - a. Facilitating Bounce Back Loans by disapplying unfair relationships provisions in the Consumer Credit Act 1974 for lending made under the Bounce Back Loans Scheme.
 - b. Making it easier for premises in England serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing. Alcohol licensing changes will allow operators to serve alcohol for consumption off the premises and will also apply in Wales.
 - c. Making temporary changes to the law relating to planning in England, as well as new, permanent provision for certain planning proceedings in England to be considered by means of more than one procedure. This will ensure that the planning system can continue to operate effectively and support the planning and safe construction of new development following the impact of Covid-19.
 - d. Making changes to HGV and PCV licensing in Great Britain and Northern Ireland and roadworthiness testing for heavy vehicles in Great Britain to prevent a backlog of checks and tests from disrupting services, whilst respecting safety considerations.

Policy background

- 3 Covid-19 has affected businesses across the economy. Many businesses have had to cease trading for several months, and others have had to significantly modify their operations. As the economy starts to re-open, the Government wants to support recovery, help businesses adjust to new ways of working and create new jobs. This Bill introduces a number of urgent measures to help businesses succeed in these new and challenging conditions over the coming months, and to remove short-term obstacles that could get in their way. Almost all measures are temporary, with some limited exceptions.

Outdoor Seating

- 4 This Bill includes temporary measures to support businesses selling food and drink through economic recovery as lockdown restrictions are lifted but social distancing guidelines remain in place. Once cafes, pubs and restaurants are permitted to open, current social distancing guidelines will have considerable impact on the capacity to accommodate customers.
- 5 The measures in this Bill are designed to support businesses selling food and drink such as cafes, pubs and restaurants by introducing a temporary fast-track process for these businesses to obtain permission from the local council for the placement of furniture such as tables and chairs on the pavement outside their premises. This will enable them to maximise their capacity whilst adhering to social distancing guidelines. The current process for businesses to obtain these licences can be costly and time-consuming. This Bill includes temporary measures to place a cap on the application fee for businesses, enforcement and revocation powers so councils can protect public safety and amenity, and a new 14-day determination period, ensuring that businesses can obtain licences in a timely and cost effective manner aiding their financial recovery.

Alcohol Licensing

- 6 The measures included in this Bill modify provisions in the Licensing Act 2003 to provide automatic extensions to premises licences that only permit sales of alcohol for consumption on the premises (“on-sales”) to allow sales of alcohol for consumption off the premises (“off-sales”). It will be a temporary measure to boost the economy, with provisions lasting until the end of September 2021.
- 7 These measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption off the premises. This will allow businesses to trade whilst keeping social distancing measures in place inside.
- 8 The provisions remove the need for any application to be made, therefore no fee will need to be paid. This will deliver savings to businesses, as well as providing them with certainty about how they are able to trade. It will also reduce the burden on local authorities and the police, who will not need to scrutinize any applications for licence variations from the premises affected by these measures. Licensees who have had an application for an off-sales permission refused or had their off-sales permission excluded by variation or at review within the last three years, will be excluded from this licence extension. This is a safeguard to ensure that where it has recently been decided that the licensee should not have the permission, they do not receive it through this legislation.
- 9 The default hours in which off-sales will be permitted will be the same as those in which on-sales are permitted. Any licensee who wished to open for longer hours could apply for a licence variation.
- 10 The provisions will also apply temporary conditions to licences where there is pre-existing permission for off-sales. The conditions will set the hours of off-sales to match those for on-sales, allow off-sales of alcohol in open containers and allow deliveries of alcohol to residential or work buildings. Those conditions will suspend existing conditions that are more restrictive. So, for example, an existing condition that allowed off-sales only in closed containers would be suspended to allow sales in open containers.
- 11 If there were problems of crime and disorder, public nuisance, public safety or the protection of children arising from how the premises operated using the new permission, any responsible authority, including the police or environmental health, could apply for a new off-sales review. The off-sales review process is modelled on the existing summary review process. In the event that an off-sales review is triggered, it will only relate to off-sales authorised by virtue of these provisions, or conditions which have effect by virtue of these provisions: it cannot be used to revoke the existing licence or modify pre-existing licence conditions.

Bounce Back Loan Scheme (BBLs)

- 12 The BBLs were designed in response to the ongoing need for small businesses to rapidly access loans as a result of the economic disruption that has been caused by the outbreak of Covid-19.
- 13 Usually, lenders providing small business loans require those businesses to provide extensive evidence of past financial data and examine their business plans and financial forecasts. Some of these small business loans are also subject to extensive and complex information disclosure requirements under the Consumer Credit Act 1974 (CCA), its subordinate legislation and Financial Conduct Authority (FCA) rules because they fall within the definition of regulated credit agreements. However, this is not appropriate in the current circumstances, first because of the significant uncertainty caused by the Covid-19 pandemic, which makes such forecasts challenging, and because these processes are time and resource intensive for the lender and so would inhibit lending at the scale and pace required to respond to this crisis.

- 14 Instead, reflecting the current circumstances, the scheme allows lenders to rely on self-certification by the business that they meet the eligibility criteria for the scheme and that they can afford to pay back the loan. It also provides for simpler information disclosure requirements to the borrower. However, lenders will continue to carry out fraud and know-your-customer checks.
- 15 For lenders to be able to change their lending practices in this way, it has been necessary for the Government to make legislative changes. The first set of legislative changes was effected through the Financial Services and Markets Act 2000 (Regulated Activities) (Coronavirus) (Amendment) Order 2020 (S.I 2020/480), which amended the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (“the Regulated Activities Order”). This amending Order came into force on 4 May 2020, the day the BBLs was launched. The effect of this amending order is that, with the exception of debt collection activities, loans made under the BBLs of £25,000 or less to individuals (such as sole traders), unincorporated bodies of persons or partnerships of fewer than four partners will not be regulated credit agreements and therefore not subject to the majority of provisions in the CCA, its subordinate legislation and the FCA’s rules on consumer credit. This removes a range of regulatory obligations on the lender, including around detailed information disclosure provisions and affordability tests, that would otherwise have inhibited the operation of the scheme.
- 16 This Bill makes further legislative amendments necessary for the BBLs to operate effectively. The Bill removes the application of sections 140A to 140C of the CCA, referred to as the “unfair relationship provisions”, to BBLs loans. These provisions could not be disapplied through the Financial Services and Markets Act 2000 (Regulated Activities) (Coronavirus) (Amendment) Order 2020. The unfair relationship provisions give the court broad powers to make an order where it determines that the relationship between the lender and the borrower is unfair to the borrower. The unfair relationship provisions currently apply to all loans to individuals (such as sole traders), unincorporated bodies of persons and partnerships of fewer than four partners under the BBLs, including loans of more than £25,000 to this group of borrowers.
- 17 Lenders have indicated that if the unfair relationship provisions were to continue to apply to BBLs loans, they would need to continue with many of the processes, in particular the affordability tests, which lengthen the loan application process, or face an unreasonable level of legal risk that the courts will subsequently conclude that the loan agreement gave rise to an unfair relationship – particularly if there was little prospect of the loan being repaid. The disapplication of the unfair relationships provisions to loans made under the BBLs allows lenders to shorten the application process in line with the intention of the Scheme. Accordingly, and in order to facilitate lenders offering BBLs loans at the scale and pace required, it is necessary to introduce this measure to amend section 140A of the CCA with the practical effect of disapplying the unfair relationship provisions for all loans made under the BBLs to individuals (such as sole traders), unincorporated bodies of persons and partnerships of fewer than four partners.

Goods, passenger and public service vehicles

Certificates of exemption for public service and goods vehicles

- 18 A test certificate issued within the past year is ordinarily required to use a heavy vehicle – lorries, buses and coaches – on a road. As the vehicle testing regime has been disrupted by Covid-19 for three months, demand for testing will greatly exceed capacity once testing resumes.
- 19 The Bill will amend existing powers to enable the Driver and Vehicle Standards Agency (DVSA) to manage this demand in a manner that prioritises road safety (e.g. to test vehicles

used for carrying dangerous goods on schedule while delaying tests of safer vehicles). This will permanently broaden an already existing power to grant certificates of temporary exemption. The policy intention is only to use the expanded power temporarily in response to the Covid-19 outbreak.

Temporary reduction in duration of certain driving licences

- 20 Driver licensing is a matter reserved to Westminster for Scotland and Wales and devolved for Northern Ireland. However, the arrangements for licence renewal are very similar across the United Kingdom.
- 21 Drivers applying for a first licence or renewing a lorry or bus licence at age 45 or over are required to provide a medical report. This report is known as a D4 in Great Britain and a DLM1 in Northern Ireland. Parts of this have to be filled in and signed by a qualified doctor. It is the responsibility of the applicant to arrange and pay for its completion.
- 22 The medical report is a general assessment covering various aspects of the applicant's health that may impact on their fitness to drive. Some elements of the report are generally required to be carried out face to face, such as eyesight and blood pressure tests.
- 23 The report provides for a formal screening of an applicant's medical circumstances to address the greater road safety risks involved in driving larger vehicles as well as the longer time that professional drivers spend at the wheel. The requirement for a medical report at the age of 45 and over reflects the potential impact of age on the health of drivers.
- 24 The medical report itself does not determine fitness to drive if a medical condition is identified through the process. The relevant licensing authority will consider the information provided by the medical report and, if necessary, carry out a medical investigation before deciding whether a licence should be granted. If appropriate, a licence may be issued for 1, 2 or 3 years to allow for regular review of the condition.
- 25 There remains an obligation on licence applicants to make a declaration about their health on the licence application form.
- 26 Although it does not form part of their NHS contract, around 80% of medical reports are completed by NHS GPs on a private basis. In the current conditions of the Covid-19 pandemic, NHS doctors have not been available to meet the demand for completing these reports to support licence applications.
- 27 If licences are not issued there would be a substantial reduction in the availability of lorry and bus drivers and, potentially, drivers of emergency vehicles who are subject to lorry and bus licensing requirements given the size of the vehicles. In the case of lorry drivers in particular, this will in turn cause disruption to supply lines that are vital to the response to the pandemic and potentially put thousands of people out of work. The loss of these drivers will be in addition to the reduction in the workforce caused by drivers being off sick with the virus itself.
- 28 However, issuing or renewing licences without a medical report presents a potential road safety risk. This is likely to persist beyond the period of the Covid-19 pandemic given the majority of drivers are granted a 5-year licence under existing legislation. Because of the urgency of the situation in Great Britain, a scheme to issue 1-year licences without a medical report was announced on 17 April 2020 and implemented fully on 5 May 2020.
- 29 In doing this, the Government has had to balance the need to keep drivers on the road in the current crisis and the risks to road safety. The scheme therefore focuses on drivers currently

working in the transport sector who are vital to maintaining critical supply lines and services. For this reason, the scheme only applies to those looking to renew an existing lorry or bus licence where a medical report is normally required.

- 30 The scheme in Great Britain only applies to the renewal of licences that expire on or after 1 January 2020 and where the applicant cannot provide a medical report. Drivers whose licences expired before 1 January 2020 would have had the opportunity to obtain a medical report before the impact of the pandemic and are therefore not eligible to take advantage of the temporary arrangements.
- 31 The clauses for Great Britain will be retrospective and support the temporary scheme by making the 1-year expiry date of licences issued without a medical report enforceable.
- 32 The clauses for Northern Ireland make similar provisions to those made for Great Britain. However, the clauses are not retrospective as Northern Ireland has not already issued any 1-year licences without a medical report.

Planning

- 33 This Bill ensures the planning system in England can continue to operate effectively and proactively support the planning and safe construction of new development following the impact of Covid-19. The Bill will introduce a new route for developers to seek to amend planning restrictions on construction site working hours to temporarily allow extended working hours, for example work during the evening and at weekends. This is to ensure that, where appropriate, planning conditions are not a barrier to allowing developers the flexibility necessary to facilitate the safe operation of construction sites during the response to the Covid-19 pandemic and to proceed at pace with work otherwise delayed as a result of Covid-19.
- 34 The Bill will also extend the expiration of certain planning permissions and listed building consents, providing certainty to the development industry where developments are delayed due to Covid-19. There is a strong consensus across the industry and local planning authorities that unimplemented planning permissions should be extended to enable planned developments to be commenced over the next year. MHCLG analysis of data from Glenigan, the construction market analysts, shows that at the end of March there were 1,178 major residential planning permissions with capacity to deliver over 60,000 homes due to lapse this calendar year.
- 35 The Bill will temporarily remove the requirements for the Mayor of London to make the current Spatial Development Strategy (SDS) available for physical inspection and to provide hard copies on request. This will help accelerate progress of the emerging SDS to ultimately unlock development and support the economy. It will make it safer for planning officers and the general public inspecting documents, and reduce administrative burdens.
- 36 It will also provide the Planning Inspectorate with the flexibility to use more than one procedure type when dealing with a planning appeal (local inquiry, hearing, and/or written representations), enabling appeals to progress at a faster pace.

Legal background

Outdoor seating

- 37 Businesses selling food and drink such as cafes, pubs and restaurants can apply to the local council for a “pavement licence” allowing them to put furniture such as tables and chairs outside on the highway for their customers to consume their food and drink. The present procedure for the grant of a “pavement licence” is set out in Part 7A of the Highways Act 1980. London boroughs can also choose to opt into a procedure set out in the London Local

Authorities Act 1990. The City of Westminster operates its own procedure set out in the City of Westminster Act 1999.

- 38 The Bill will provide a new streamlined procedure enabling businesses serving food and drink to apply for a temporary pavement licence. This will be a bespoke procedure, outside those Acts. In addition to a pavement licence, some local councils require the business to also apply for planning permission on the basis that putting tables and chairs on the highway is a change of use of the land. The Bill provides that where a temporary pavement licence is granted, any necessary planning permission is automatically deemed to have been granted.

Alcohol licensing

- 39 The Licensing Act 2003 makes provision for the regulation of the sale and supply of alcohol, including the granting of premises licences. Should a licensee with permission to sell alcohol only for consumption on the premises (“on-sales”) wish to sell alcohol for consumption off the premises (“off-sales”), they are required to apply for a variation of their licence. The Bill modifies the Licensing Act 2003 to allow eligible holders of an on-sales licence an automatic grant of the off-sales permission for a limited period. The provisions will also apply temporary conditions to licences where there is a pre-existing permission for off-sales. These will enable those premises to operate in the same ways as those that are granted the new permission by suspending existing conditions that are more restrictive. The Bill also provides for off-sales reviews to take place on grounds which are relevant to the licensing objectives. The licensing objectives are set out in section 4(2) of the Licensing Act 2003. As a result, an off-sales review can take place if there are problems relating to crime and disorder, public nuisance, public safety or the protection of children associated with the new permission or its associated conditions.

Bounce Back Loans Scheme

- 40 Sections 140A to 140C of the CCA deal with a relationship arising out of a credit agreement between a lender and a borrower that is unfair to the borrower.
- 41 Section 140A of the CCA sets out the circumstances where a court can make an order in relation to any credit agreement where it determines that the relationship between the creditor (lender) and the debtor (borrower) arising out of the agreement (including any related agreement) is unfair to the debtor. The unfairness may arise because of one or more of the following:
1. any of the terms of the agreement or of any related agreement;
 2. the way in which the lender has exercised or enforced any of their rights under the agreement or any related agreement;
 3. any other thing done (or not done) by or on behalf of the lender (either before or after the making of the agreement or any related agreement).
- 42 The powers of the court are broad where it determines that the relationship is unfair to the borrower. Under section 140B the court can, in particular:
1. require the lender to repay the whole or part of any sum paid by the borrower;
 2. reduce or discharge any sum payable by the borrower;
 3. set aside (in whole or part) any duty imposed on the borrower;
 4. alter the terms of the agreement or any related agreement.
- 43 This Bill amends section 140A of the CCA to provide that an order by the court cannot be made under section 140B of the CCA in connection with a loan made under the BBLs. Given that

sections 140A to 140C of the CCA only apply to individuals (such as sole traders), unincorporated bodies of persons and partnerships of fewer than four partners, the effect of the amendment made by this Bill will only apply to that group of borrowers too.

Goods, passenger and public service vehicles

Certificates of exemption for public service and goods vehicles

- 44 The relevant existing legal powers are set out in the Road Traffic Act 1988 (section 48(4) and section 53(5)). Consequent regulation is set out in the Goods Vehicles (Plating and Testing) Regulations 1988 (regulation 46) and the Motor Vehicles (Tests) Regulations 1981 (regulation 28). The combination of these provisions permits the Secretary of State for Transport to issue Certificates of Temporary Exemption for heavy vehicles under certain “exceptional circumstances”.
- 45 The Bill expands the Secretary of State’s powers under sections 48 and 53 of the Road Traffic Act 1988 to make regulations governing the issue of certificates of temporary exemption from the test certificate requirement (imposed on the users of motor vehicles other than goods vehicles by section 47(1) and on the users of goods vehicles by section 53(1) and (2)).
- 46 Goods vehicles and public service vehicles adapted to carry more than eight passengers cannot (as a general rule) be used on a road unless a test certificate has been issued within the past year. Certificates of temporary exemption have been issued to all heavy vehicles that were due to be tested from late March onwards following disruption to the testing regime caused by Covid-19. This disruption will lead to excessive test demand in the coming months as scheduled tests and delayed tests fall due.
- 47 The Driver and Vehicle Standards Agency (DVSA) intends to manage this excessive demand in a manner that prioritises road safety. Certificates of temporary exemption will be issued for safer vehicles (such as newer vehicles kept by operators with high assessed standards) and the resulting capacity in the testing regime will ensure that vehicles with higher risk profiles or kept by operators with poor compliance records (as assessed by the DVSA) are tested on schedule.
- 48 The existing powers in the Road Traffic Act 1988 allow for certificates of temporary exemption to be issued in prescribed circumstances. These powers are being expanded to provide a clear basis for taking factors such as the DVSA’s assessment of risk into account and to allow for the revocation of certificates (if, for example, a vehicle with a certificate is transferred to a less reputable operator).
- 49 Issuing certificates of temporary exemption on the basis of the potential risk to road safety posed by particular vehicle operators will necessarily involve the exercise of judgement by the DVSA. Paragraph (c) of the inserted subsections (4A) and (5A) has been included to clearly allow for this. This is the most significant expansion of the enabling powers.

Temporary reduction in duration of certain driving licences

- 50 For Great Britain the power to require a medical report is set out in legislation.

[Reference: Regulation 10\(5\) of the Motor Vehicles \(Driving Licences\) Regulations 1999](#)

An applicant for a Group 2 licence shall, if required to do so by the Secretary of State, submit in support of his application a report (in such form as the Secretary of State may

require) signed by a qualified medical practitioner, prepared and dated not more than four months prior to the date on which the licence is to take effect, for the purpose of satisfying the Secretary of State that he is not suffering from a relevant or prospective disability.

- 51 In accordance with this provision, there is already the power to waive the requirement for a signed medical report.
- 52 However, the periods for which licences can be issued are set out in primary legislation. These refer to both the administrative validity period (AVP) of a licence, and the underlying age-related period for which a licence can remain in force, known as the “entitlement period” to drive a particular category of vehicle. Whatever AVP a licence is issued for, it legally expires at the point that the driver’s age-related entitlement expires. The requirement for a medical report is linked to the first issue of a licence and its renewal after the age of 45.
- 53 The duration of licences is governed by provisions in the Road Traffic Act:

Reference: Section 99(1A) of the Road Traffic Act 1988

In so far as a licence authorises its holder to drive any prescribed class of goods vehicle or passenger-carrying vehicle, it shall, unless previously revoked, suspended or surrendered, remain in force—

(a) except in a case falling within paragraph (c) or (d) of this subsection—

(i) for the period ending on the forty-fifth anniversary of the applicant’s date of birth or for a period of five years, whichever is the longer, or

(ii) where the applicant’s age at the date on which the licence is to come into force will exceed forty-five but not sixty-five years, for the period ending on the sixty-sixth anniversary of the applicant’s date of birth or for a period of five years, whichever is the shorter,

(b) except in a case falling within paragraph (d) of this subsection, where the applicant’s age at that date will exceed sixty-five years, for a period of one year,

(c) except in a case falling within paragraph (b) or (d) of this subsection, if the Secretary of State so determines in the case of a licence to be granted to a person appearing to him to be suffering from a relevant or prospective disability, for such period of not more than three years and not less than one year as the Secretary of State may determine, and

(d) in the case of a licence granted in exchange for a subsisting licence and in pursuance of an application requesting a licence for the period authorised by this paragraph, for a period equal to the remainder of that for which the subsisting licence was granted,

and any such period shall begin with the date on which the licence in question is expressed to come into force.

- 54 The duration of licence entitlement from age 45 is generally governed by section 99(1A)(a)(ii) and is 5 years. Once the driver reaches 65, it is governed by section 99(1A)(b) and is already 1 year. There is also a power to issue licence entitlement for 1 year under section 99(1A)(c) of the Act, but this only applies where it is identified that the licence holder has a relevant medical condition. There is no provision in law to manage road safety risks by limiting the duration of licence entitlement where it is governed by section 99(1A)(a)(ii).

Planning

- 55 The legislation which this Bill amends is set out in a number of Acts of Parliament. This legislation is referred to below. Further explanations, where required, are set out in the section-by-section commentary.
- 56 The principal planning Act is the Town and Country Planning Act 1990 ("1990 Act"). This Bill makes several modifications of, or amendments to, the 1990 Act, as well as modifications of, or amendments to, the following other legislation related to planning:
1. Planning (Listed Buildings and Conservation Areas) Act 1990;
 2. Planning (Hazardous Substances) Act 1990;
 3. Greater London Authority Act 1999.

Territorial extent and application

Outdoor Seating

- 57 The provisions extend to England and Wales but apply to England only.

Alcohol Licensing

- 58 The provisions extend and apply to England and Wales.

Bounce Back Loan Scheme

- 59 The provisions extend and apply to England and Wales, Scotland and Northern Ireland.

Goods, passenger and public service vehicles

Certificates of exemption for public service and goods vehicles

- 60 The provisions extend and apply to England, Wales and Scotland. Vehicle testing is a devolved matter with respect to Northern Ireland.

Temporary reduction in duration of certain driving licences

- 61 Provision is made for England and Wales and Scotland, and separately for Northern Ireland. Driver licensing is a matter that is reserved to Westminster for Scotland and Wales, but is devolved to Northern Ireland. The provision for Northern Ireland is subject to the consent of the Northern Ireland Assembly.

Planning

- 62 The provisions on planning extend to England and Wales, but apply to England only.
- 63 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions and matters relevant to Standing Orders Nos. 83J to 83X of the Standing Orders of the House of Commons relating to Public Business.

Fast-track legislation

- 64 The Government is asking Parliament to expedite the parliamentary progress of this Bill. In their report *Fast-track Legislation: Constitutional Implications and Safeguards*¹, the House of Lords' Select Committee on the Constitution recommended that where a Bill is to be fast-tracked, Parliament should be provided with the following information.¹

¹ House of Lords' Constitution Committee, 15th report of session 2008/09, HL paper 116-I, para. 186

Why is fast-tracking necessary? What is the justification for fast-tracking the Bill?

- 65 The Government has carefully considered the implications of using the fast-track process for expediting this Bill through Parliament. For these measures to be most effective, they will need to be in place before summer recess.
- 66 If legislation is not passed in time, hospitality businesses and their customers will not be able to benefit from flexibility on outdoor seating and alcohol service over the summer months, limiting the effectiveness of these measures. Likewise, road hauliers and others dependent on heavy vehicle testing and HGV/PCV licensing may be hindered by backlogs, and construction projects may also be delayed or paused due to the need to apply for extended planning permissions.

What efforts have been made to ensure the amount of time made available for parliamentary scrutiny has been maximised?

- 67 Discussions have been held with the opposition parties, the shadow Secretary of State for Business, and other interested shadow ministers. Relevant policy-specific engagement is listed below.

To what extent have interested parties and outside groups been given an opportunity to influence the policy proposal?

Outdoor Seating

- 68 MHCLG has engaged with the Local Government Association, and the following councils: Manchester, Westminster, Watford, Sevenoaks, and Worcestershire. The councils and LGA were supportive of the proposals and their views have helped inform the development of the provisions. MHCLG and the Department for Transport have also engaged with Disabled Persons Transport Advisory Committee (DPTAC), and Cycling and Walking Infrastructure Group whose membership includes Living Streets, Sustrans, Cycling UK, British Cycling, Institute for Transport Studies and Centre for Disability Studies, Chartered Institute for Highways and Transportation (CIHT), Institute of Highway Engineers (IHE), Chartered Institute of Logistics and Transport (CILT).

Alcohol Licensing

- 69 The Home Office has held discussions with alcohol licensing stakeholders, including the National Association of Licensing Enforcement Officers, the National Police Chiefs Council and the Local Government Association.

Bounce Back Loan Scheme

- 70 Extensive discussions were held with industry and the FCA prior to the launch of the scheme to ensure that it would operate effectively. In addition, the Chancellor wrote to lenders on 1 May 2020, setting out that the Government would introduce primary legislation at the earliest opportunity to disapply sections 140A to 140C of the Consumer Credit Act 1974.

Goods, passenger and public service vehicles

Certificates of exemption for public service and goods vehicles

- 71 Since the decision to utilise existing powers to issue Certificates of Temporary Exemption, regular Ministerial and official engagement has taken place regarding options to amend the relevant provisions.

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Temporary reduction in duration of certain driving licences

72 No public consultation on this measure has been carried out. However, introduction of the scheme that the measure will support was supported by NHS England, NHS Scotland and NHS Wales. Representations had also been received by the Department for Transport from the transport industry and Unite Union about the need to address the difficulties for drivers trying to get a medical report. Since the scheme was introduced there have been no concerns raised by stakeholders, industry or other representative bodies. In Northern Ireland, 1-year licences have not yet been issued.

Planning

73 MHCLG has had extensive conversations with the development industry to understand the impacts of COVID-19 and the measures needed to support recovery. For example, there is a strong consensus across the industry and local planning authorities that unimplemented planning permissions should be extended to enable planned developments to be commenced over the next year.

Does the Bill include a sunset clause (as well as any appropriate renewal procedure)? If not, why do the Government judge that their inclusion is not appropriate?

Outdoor Seating

74 The outdoor seating proposal is a temporary measure. None of the licences consented will be valid after 30 September 2021. This will allow businesses securing licences through this route to place outdoor furniture well into the summer of 2021 and renew licences under the current system if they want to extend beyond this period.

Alcohol Licensing

75 A sunset clause is included in relation to this measure. Clause 11(14) provides that the provisions expire at the end of 30 September 2021, in line with the measure in relation to outdoor seating, and subject to a power for the Secretary of State to specify a later date by regulations. The addition of an off-sales permission is temporary to assist the hospitality sector with the easing of Covid-19 restrictions; however, premises are able to submit a variation application in order to retain permission.

Bounce Back Loan Scheme

76 There is no sunset clause for the Bounce Back Loans Scheme measure. However, the scheme is itself temporary in nature, set up in response to the Covid-19 crisis. The scheme is open for six months from 4 May 2020 (pending review) and loans under the scheme have a fixed term of six years.

Goods, passenger and public service vehicles

Certificates of exemption for public service and goods vehicles

77 This measure does not include a sunset clause. Powers to issue Certificates of Temporary Exemption are already available for use in respect of a range of exceptional circumstances. These clauses will improve their applicability during any future exceptional event.

Temporary reduction in duration of certain driving licences

78 The duration of licences issued under the provisions is limited to 1 year. Given the reason for the measures, the end date of the power to issue such time limited licences has been set to the

period that the Coronavirus Act 2020 remains in force. In line with section 89 of that Act, this will be until 24 March 2022.

Planning

- 79 The temporary measures enabling electronic inspection of the spatial development strategy will expire on 31 December 2020 unless extended by secondary legislation. The construction working hours and extensions of certain planning consents measures will expire on 1 April 2021, unless extended by secondary legislation.
- 80 The measure that introduces a more flexible procedure for certain planning proceedings is permanent. The flexibility for a planning inspector to use more than one procedure to determine planning appeals is required to enable the Planning Inspectorate to deal with cases quickly and efficiently during the coronavirus pandemic. This change is permanent as it will provide ongoing efficiencies to the work of the Planning Inspectorate.

Are mechanisms for effective post-legislative scrutiny and review in place? If not, why do the Government judge that their inclusion is not appropriate?

- 81 The Government will monitor and review the impact of the legislation.

Has an assessment been made as to whether existing legislation is sufficient to deal with any or all of the issues in question?

Outdoor Seating

- 82 The outdoor seating measures require new primary legislation which is necessary to provide for a fast track simplified procedure for the grant of a pavement licence. In addition, the fee for such applications is capped at £100; primary legislation is necessary to impose the cap.

Alcohol Licensing

- 83 This change requires primary legislation. Modification of the Licensing Act 2003 is required to be able to temporarily grant an automatic extension to eligible holders of on-sales licences.

Bounce Back Loan Scheme

- 84 The Financial Services and Markets Act 2000 (Regulated Activities) (Coronavirus) (Amendment) Order 2020 (S.I. 2020/480) ensured that loans made under the Bounce Back Loans Scheme for £25,000 or less to individuals, unincorporated bodies of persons and partnerships of fewer than four partners, that would have been regulated credit agreements, are not, and therefore are not subject to the majority of provisions in the CCA, its subordinate legislation and the FCA's rules on consumer credit. However, primary legislation is needed to disapply the unfair relationship provisions in sections 140A to 140C of the CCA for lending made under the Bounce Back Loans Scheme.

Goods, passenger and public service vehicles

Certificates of exemption for public service and goods vehicles

- 85 Existing legislation provides a basis on which to issue Certificates of Exemption. In order to issue these on the basis of road safety risk, amendments to primary legislation are required.

Temporary reduction in the duration of certain driving licences

- 86 There is no existing legislation to manage road safety risks by limiting the duration of licence entitlement where that licence would normally be for 5 years under current legislation.

These Explanatory Notes relate to the Business and Planning Bill as brought from the House of Commons on 30 June 2020 (HL Bill 119).

Planning

- 87 The planning measures are necessary as existing legislation is not sufficient to deal with the issues in question. Primary legislation is necessary to extend planning permissions and listed building consents and to put in place a new, fast-track procedure for applications to vary restrictions on working hours in planning conditions. Primary legislation is also required to remove existing requirements for physical documentation in respect of the Mayor of London's Spatial Development Strategy (the London Plan) and to enable a hybrid approach to planning appeals.

Have relevant parliamentary committees been given the opportunity to scrutinise the legislation?

- 88 Due to the nature of this Bill and the need to ensure that the measures included can take effect as soon as possible, full Committee scrutiny will not be possible.

Commentary on provisions of Bill

Part 1: Consumption of food and drink outdoors

Clause 1: Pavement licences

- 89 Clause 1 provides at subsection (4) the types of business which may apply to the local authority for a "pavement licence" to put furniture temporarily on the highway. "Furniture" is defined in clause 9 and includes stalls for selling or serving food or drink, tables and chairs and articles such as umbrellas, barriers and heaters. "Local authority" is also defined in clause 9.

Clause 2: Applications

- 90 Clause 2(2) specifies what must be included in an application. An application must be made by electronic means and be accompanied by a fee which will be set by the local authority, subject to a cap of £100. Clause 2(3) requires the local authority to publish the application and invite representations. Clause 2(5) provides that the person applying for the licence must display a notice of the application on the premises on the day of the application.

Clause 3: Determination of applications

- 91 Clause 3(2) provides that the local authority must consult the highways authority where the local authority is not itself the highways authority for the land. It must also consult such other persons as it considers appropriate. Clause 3(3) and (4) provide that the local authority may grant or reject the application and, in granting the application, they may make their own determination as to how much of the space requested, the licence will cover. If the local authority does not make a determination with the 7-day determination period which follows the 7-day consultation period, the licence is deemed to have been granted in the form in which the application was made, see subsection (8).

Clause 4: Duration

- 92 Clause 4 provides that a local authority can decide, when it is granting a licence, how long the licence should last for, or it can leave it open ended, in which case it will expire at the end of 30 September 2021. However, the licence must have a minimum duration of 3 months and it cannot extend beyond 30 September 2021. Where a licence is deemed to have been granted, the default position is that it will last for a year. If there is less than a year to run from the date of the determination, or deemed grant, to 30 September 2021, the licence will be for less than a year and will end at the end of 30 September 2021 see subsection (4).

Clause 5: Conditions

93 Clause 5 provides that the local authority can add conditions to the licence and can publish conditions which it proposes to add to pavement licences. The Secretary of State may also publish conditions. Where a pavement licence is granted or deemed to have been granted, it is deemed to include any conditions published by the Secretary of State. Where a licence is deemed to have been granted, it is also deemed to include any conditions published by the local authority. Where a condition published by the Secretary of State is inconsistent with a condition attached to a licence by the local authority either expressly, or where the licence is deemed to be granted, by reason of the local authority having published conditions, “a local condition”, that local condition takes precedence, see subsection (8).

Clause 6: Enforcement and revocations

94 Clause 6 provides that if a condition of the licence has been breached, the local authority may revoke the licence or may require steps to be taken to remedy the breach. In addition, clause 6(3) provides further grounds for revocation of the licence including where the furniture is giving rise to risks to public health and safety or risks causing a public nuisance. The licence can also be revoked where the person did not put up a notice to publicise the application as required, see clause 2 above, or anything in the application was false or misleading.

Clause 7: Effects

95 Clause 7(2) provides that where a licence is granted, or deemed to have been granted, any planning permission for anything done under the licence is deemed to have been given. Subsection (3) provides that where a pavement licence is in effect, a street trading licence is not needed for any activity authorised by the pavement licence. Subsection (4) provides that a person may still apply for permission to put furniture on the highway under Part 7A of the Highways Act 1980, but the local authority may not require them to apply under that Act, instead of under these provisions. Subsection (6) specifically applies the power in section 149 of the Highways Act so that local authorities may remove furniture placed on the highway should it constitute a nuisance or danger under that section.

96 Subsections (9) and (10) are transitional provisions. They provide that where a person has applied for a licence under the Highways Act 1980 or the London Local Authorities Act 1990 or another local Act and has paid a fee and then, before a decision is made on that first application, the person applies for a pavement licence, the local authority cannot charge a fee in respect of the application for a pavement licence, and the first application is treated as being withdrawn.

Clause 8: Guidance

97 Clause 8 provides that, in exercising its functions under this Part, the local authority must have regard to any guidance issued by the Secretary of State under this clause.

Clause 9: Interpretation

98 Clause 9 sets out definitions used in clauses 1-8.

Clause 10: Expiry of pavement licence provisions

99 This clause provides that sections 1 to 9 expire at the end of 30 September 2021. Clause 10(2) includes a power for the Secretary of State to extend the date of 30 September 2021 and the latest date on which a licence will be able to run by regulations.

Clause 11: Modification of premises licences to authorise off-sales for limited period

- 100 Clause 11 modifies the Licensing Act 2003 (“the 2003 Act”). Clause 11(2) modifies the 2003 Act so that it has effect as if new sections 172F to 172L were inserted, providing for the modification of premises licences to authorise off-sales for a limited period.
- 101 New section 172F(1) provides that the authorisation of off-sales in new section 172f(2) will apply to a premise licence if the licence has effect, or is capable of having an effect on the day in which section 172F comes into force. The authorisation will apply when the premises licence is an on-sales only licence on the day immediately before and no disqualifying event has occurred in the three years prior in relation to the licence.
- 102 Where the authorisation provided for in section 172F(2) applies the premises licence has effect during the relevant period as if it also authorises off-sales, and it includes a condition that the off-sales must be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises. New section 172F(3) provides that any conditions which are included in the premises licence on the day this section comes into force which are inconsistent with the authorisation granted by virtue of section 172F(2) are suspended for so long as that authorisation has effect.
- 103 New section 172F(4) provides that conditions which have effect by virtue of new section 172F(5) apply to a premises licence which has effect, or is capable of having effect, on the day section 172F comes into force, immediately before that day that licence authorises on-sales and off-sales, and at that time the authorisation is subject to one or more of the conditions in section 172F(4)(c)(i) to (iii). These conditions relate to the time when an off-sale may be made, which would prevent such sales being made at time when the licensed premises are open for the purposes of on-sales; preventing off-sales where the alcohol is sold in an open container; and preventing off-sales where it is a sale for delivery.
- 104 New section 172F(5) provides that such a licence is to be treated as varied so that it includes one or more of the conditions in section 172F(5)(a) to (c) in so far as, and for so long as, the licence authorises off-sales during the relevant period. Those conditions authorise off-sales that would otherwise have been prevented by one or more of the conditions in section 172F(4)(c)(i) to (iii). New section 172F(6) provides that any condition or conditions which would have otherwise prevented such off-sales are suspended for so long as the condition or conditions applied by virtue of section 172F(5) have effect.
- 105 New section 172F(8) provides that a disqualifying event has occurred if the relevant licensing authority refused to grant a premises licence in respect of the licensed premises authorising off-sales; the relevant licensing authority refused to vary the premises licence so as to authorise off-sales; or the premises licence was varied so as to exclude off-sales from the scope of the licence.
- 106 New section 172F(10) sets out definitions for the purposes of that section. An “on-sales only licence” means a premises licence which authorises the sale by retail of alcohol for consumption on the licensed premises but does not authorise off-sales; off-sales in relation to a premises licence means the sale by retail of alcohol for consumption off the licensed premises; and sale for delivery in relation to a premises licence means an off-sale for delivery by or on behalf of the holder of the licence to a building which is used for residential or work purposes (or both). New section 172F(10) also sets out that the relevant period is the period beginning on the day section 172F comes into force, and ending with 30 September 2021, or if earlier, the revocation or expiry of the premises licence or the exclusion of off-sales from the scope of the licence.

- 107 New section 172G provides for summary off-sales reviews to take place. Where off-sales are authorised by virtue of section 172F(2) or conditions have effect by virtue of section 172F(5) a responsible authority may apply to the relevant licensing authority for an off-sales review of a premises licence, on grounds which are relevant to one or more of the licensing objectives. An off-sales review is a review of the licence in so far as it relates to the off-sales authorised by virtue of section 172F(2) or in so far as it relates to the condition or conditions which have effect by virtue of section 172F(5). New section 172G(3) also provides that on receipt of an application for a review, the relevant licensing authority must consider whether it is necessary to take interim steps pending the determination of the off-sales review within 48 hours, and must determine the review within 28 days.
- 108 Sections 172H to 172K make further provision in relation to off-sales reviews. Section 172H provides for interim steps pending the determination of an off-sales review; section 172I provides for the conduct of the review; section 172J provides for a review of any interim steps taken under section 172H that have effect on the date of the hearing to consider an application for an off-sale review; section 172K applies with modifications provisions of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, the Licensing Act 2003 (Hearings) Regulations 2005 and the Licensing Act 2003 (Licensing authority's register) (other information) Regulations 2005 in relation to off-sales reviews and hearings. Section 172L makes supplementary provision in relation to sections 172F to 172K.
- 109 Clause 11(3) to (7) make further modifications to the 2003 Act as a result of new sections 172F to 172L.
- 110 Clause 11(8) to (10) make consequential modifications to secondary legislation as a result of the modifications to the 2003 Act.
- 111 Clause 11(11) provides the Secretary of State with a power to make regulations making transitional, transitory or saving provision in connection with the end of the relevant period.
- 112 Clause 11(12) provides the Secretary of State with a power to make regulations to amend section 172K(3) of the 2003 Act which makes modifications to the Licensing Act 2003 (Premises licences and club premises certifications) Regulations 2005, as applied by section 172K(1).
- 113 Clause 11(13) provides for the expiry of clause 11(1) to (11) at the end of 30 September 2021.
- 114 Clause 11(14) provides the Secretary of State with a power make regulations to provide a later date than 30 September 2020 for the expiry of the relevant period and for the expiry of the provisions provided for in clause 11(14).
- 115 Clause 11(15) to (17) provide the Secretary of State with a power to make provision by regulations modifying enactments in consequence of any provisions in clause 11(1) to (10).

Part 2: Other measures relating to business

Bounce Back Loan Scheme

Clause 12: Removal of powers of court in relation to unfair relationships

- 116 This clause inserts new subsections (6) and (7) into section 140A of the Consumer Credit Act 1974.
- 117 New subsection (6) provides that the court shall not make an order under section 140B of the CCA in connection with a credit agreement entered into under the Bounce Bank Loan Scheme.
- 118 New subsection (7) sets out the definition of the Bounce Back Loan Scheme.

These Explanatory Notes relate to the Business and Planning Bill as brought from the House of Commons on 30 June 2020 (HL Bill 119).

Goods, passenger and public service vehicles

Clause 13: Certificates of temporary exemption for public service vehicles and goods vehicles

119 Clause 13 as a whole amends existing legal provisions in the Road Traffic Act 1988 relating to the issue of certificates of temporary exemption to goods vehicles and public service vehicles.

120 Clause 13(2) sets out that the Secretary of State may make regulations in connection with the issue of a certificate of temporary exemption in respect of a public service vehicle adapted to carry more than eight passengers, as well as the revocation of such a certificate. It further explicitly sets out powers to:

1. make provision for a certificate of temporary exemption to be issued subject to conditions
2. make different provision for different circumstances or cases
3. confer functions on a person (including functions involving the exercise of a discretion).

121 Clause 13(3) and Clause 13(4) set out analogous provisions in respect of goods vehicles.

122 These amendments broaden the powers of the Secretary of State as compared to the current legislation, introducing

1. an explicit power to revoke certificates of temporary exemption
2. an explicit power to make differing provisions for different circumstances or cases
3. an explicit ability to confer functions involving the exercise of discretion.

123 The effect of these amendments is to allow regulations to be made with regard to differential treatment of vehicles on the basis of road safety risk.

Clause 14: Temporary reduction in duration of certain driving licences

124 Clause 14(1) provides that a licence which falls within clause 14(2) which is granted in the period beginning 17 April 2020 and ending with 24 March 2022 will have a duration of one year. The period 17 April 2020 to 24 March 2022 is the period between the start of implementation of the temporary scheme to issue short licences and the end of the period the Coronavirus Act 2020 remains in force. Clause 14(1) does this by changing how section 99(1A)(a)(ii) of the Road Traffic Act is read in the circumstances. Section 99(1A)(a)(ii) governs the duration of licence entitlement issued between the ages of 45 and 65. In line with the policy intention, limiting the temporary power to issue 1-year licences under this provision, effectively excludes from the scheme applicants for new licences who tend to be under age 45. It also excludes holders of car licences issued before 1997, who require a D4 to renew entitlement to drive small lorries and minibuses when renewing the licence at age 70.

125 Limiting the duration of the licence to 1 year is in line with the duration of licences issued under other provisions in the Act where risks to road safety are considered to be highest (e.g. where drivers have a medical condition which is most likely to affect their fitness to drive or they are over 65).

126 Clause 14(2) restricts the power in clause 14(1) to grant a 1-year licence to those for goods vehicles and passenger carrying vehicles, and only once per applicant and only where the Secretary of States decides not require a medical report.

127 The issue of a licence without a D4 medical report presents a road safety risk, which is considered to increase the longer that the driver is allowed to remain on the road. For this reason, it is not considered appropriate to allow drivers to continue driving for longer than 1 year without submitting a D4. The clause makes clear that the option to issue a second 1-year licence to an individual under the scheme is not available.

128 There are also occasions, where the Secretary of State's existing discretion is routinely applied because the road safety risk is not considered sufficient to warrant asking the licence applicant to submit a further D4 when one has been provided recently. Clause 14(3) ensures that these applications are not affected by the provision to reduce the duration of the licence issued under section 99(1A)(a)(ii).

Clause 15: Temporary reduction in duration of certain driving licences: Northern Ireland

129 Clause 15 makes provision for Northern Ireland corresponding to the provision made for Great Britain by clause 14. It is about the duration of driving licences granted in Northern Ireland to drivers of some classes of goods vehicles and some classes of passenger-carrying vehicles.

130 Clause 15 would enable driving licences lasting 1 year to be granted to drivers aged 45 to 65 without them sending in a medical report with their licence application. These drivers would usually be able to get a 5-year licence (or a licence lasting until their 66th birthday if shorter) but they cannot get one because they cannot obtain the required medical report. This is because of restrictions on access to medical practitioners as a result of Covid-19.

131 Clause 15 applies to driving licences whose duration is set by Article 15(2)(a) of the Road Traffic (Northern Ireland) Order 1981. Article 15(2)(a) applies where a licence comes into force on or before the applicant's 65th birthday. It covers licences for driving the categories of vehicles prescribed in regulation 38(2) of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996.

132 Regulation 7(7) of those Regulations allows the Department for Infrastructure in Northern Ireland to require a driving licence application to be accompanied by a medical report. In the case of the licences to which Article 15(2)(a) applies, the Department's practice is to require a medical report to be sent in where the application is for the applicant's first driving licence for a particular vehicle class or is for renewal by an applicant whose 45th birthday will have been reached by the time the renewed licence comes into operation.

133 Clause 15(1) specifies that the duration of driving licences to which the clause applies will be 1 year instead of the period of up to 5 years that would otherwise apply under Article 15(2)(a).

134 Clause 15(2) provides that the clause applies to only some of the driving licences whose duration would otherwise be set by Article 15(2)(a). In particular, a driver will not be able to get more than one 1-year driving licence granted without a medical report for any particular class of vehicle.

135 Also, as the Department proposes to continue to require a medical report for a first-time licence for a particular vehicle class, 1-year licences without a medical report will in practice all be renewals. Because of this, and because the Department has not already issued any 1-year licences in anticipation of this legislation, clause 15 applies only to licences granted on or after 1 August 2020. This ties in with licences that expired on or after 1 February 2020 having been extended by 7 months by EU Regulation 2020/698. Accordingly, the Department would be able to use August 2020 to start granting 1-year renewal licences to come into operation when the 7-month extensions start to expire in September 2020.

136 Limiting clause 15 to applicants who will have reached their 45th birthday keeps this clause in line with the corresponding provision for Great Britain, as the existing relevant legislation for Great Britain already distinguishes between drivers who have not reached 45 and those who are 45 to 65.

137 Clause 15(3) would cover a driver who, within a year of being granted a driving licence in reliance on a medical report, applies to be additionally licensed for a class of vehicle to which Article 15(2)(a) applies. A licence granted to the driver for that additional class will have its normal duration, even if granted without a fresh medical report being required.

Part 3: Planning

Construction working hours

Clause 16: Modification of conditions relating to construction working hours

138 Clause 16 introduces a new, fast track application process for the temporary variation of planning conditions relating to construction site working hours. This new process is to enable the facilitation of safe construction working practices in line with social distancing guidance issued by the Government and Public Health England in response to Covid-19.

139 The clause achieves this by temporarily modifying the effect of the Town and Country Planning Act 1990 which is to be read as if new sections 74B-74D were inserted in it (see subsection (2))

140 New section 74B(1) to (4), conditions relating to construction working hours, provide that an applicant may apply in writing, electronically, to modify the restrictions on the hours of construction activity, either to extend the permitted hours, or to allow construction activity to take place on a day that it is not presently permitted where:

1. planning permission is granted for the development of land (other than relevant development of a dwellinghouse, which is defined in new section 74B(9) and (10), or mining operations see new section 74D(1)); and
2. a condition attached to that planning permission restricts hours of construction activity or a similar restriction is contained in a separate document approved by the local planning authority.

141 Such an extension of working hours may only be for a temporary period not extending beyond 1 April 2021 (see new sections 74B(8) and 74C(5)).

142 New section 74C(1) to 74C(3) provide that in response to an application under section 74B, an authority may by notice:

1. approve the proposed modifications to construction hours;
2. refuse the proposed modifications to construction hours; or
3. determine, with the agreement of the applicant, different modifications to construction hours or alternative dates during which these will have effect (subject to the end date not being later than 1 April 2021). Different modifications must not prohibit construction from taking place at a time when it is already permitted (see new section 74C(4)).

143 New section 74C(6) and (7) provide that if an authority does not give notice of its decision within 14 days (beginning with the day after that on which the application is sent to the

authority) then the condition is deemed to be modified as set out in the application and the applicant can implement the new working hours.

144 New section 74C(8) provides that where modifications are determined by the authority in respect of only some of the matters in the application (e.g. the date on which the extended hours may start) then the condition is deemed to have been modified in respect of the other matters, in line with the application.

145 New section 74D(6) requires a local planning authority to have regard to guidance issued by the Secretary of State when discharging its functions under new sections 74B and 74C.

146 Subsection (3) of clause 16 modifies section 78(1) to provide for a right of appeal against a refusal of an application under new section 74C(1)(b).

147 Subsection (4) modifies paragraph 3(1) of Schedule 1 to the Town and Country Planning Act 1990 (TCPA 1990), so that the function of deciding these applications will be a district planning authority function. Where there is an Urban Development Corporation, such as the Ebbsfleet Development Corporation, or a Mayoral Development Corporation, such as the London Legacy Development Corporation with planning functions under Part 3 of the TCPA 1990, the Corporation will be the body responsible for determining these applications.

148 Subsection (6) makes provision for the expiry of this fast track application process at the end of 1 April 2021.

149 Subsection (7) includes a power for the Secretary of State to extend the period during which this application process is in operation through regulations.

Clause 17: Extension of duration of certain planning permissions

150 Clauses 17 to 19 make provision to allow the commencement period for certain unimplemented planning permissions and listed building consents to be extended. This is to ensure relevant permissions and consents are still extant, enabling development to commence following delays caused by Covid-19.

151 Clause 17, which provides for an extension of the duration of certain planning permissions, temporarily modifies the effect of the TCPA 1990 which is to be read as if new sections 93A-93C were inserted in it (see subsection (2)) and modifications were made to section 78 (see subsection (3)) and Schedule 1 (see subsection (4)).

152 New section 93A will modify any condition that imposes a time limit for commencement of development pursuant to a relevant planning permission for those permissions where the time limit for commencement of development is due to expire between the date that clause 17 comes into force and 31 December 2020. The time limit for commencement of development pursuant to these permissions will be extended to 1 April 2021.

153 New section 93B will have the same effect as new section 93A (that is to say, an extension of the time limit for commencement of development to 1 April 2021) for a relevant planning permission where the time limit for commencement expired between 23 March 2020 and the date on which clause 17 comes into force, if an “additional environmental approval” is granted or deemed to be granted in relation to that permission.

154 In respect of additional environmental approval:

1. an application for additional environmental approval may be submitted to a local planning authority by a person with an interest in the relevant land or a person acting on their behalf;

2. applications are required to be submitted using electronic communications in a manner specified by the relevant local planning authority, and to include sufficient information:
 - a. to enable the local planning authority to identify the relevant planning permission and time limit; and
 - b. to determine whether additional environmental approval should be granted;
3. the local planning authority is to grant additional environmental approval if it is satisfied that the EIA and Habitats requirements are met;
4. the EIA requirement is met if either:
 - a. the development contains no EIA development within the meaning of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017; or
 - b. the development remains the subject of an up-to-date Environmental Impact Assessment within the meaning of those Regulations.
5. the Habitats requirement is met if either:
 - a. the development would not require an assessment in accordance with regulation 63(1) of the Conservation of Habitats and Species Regulations 2017; or
 - b. the development was previously the subject of an assessment in accordance with that regulation which ascertained that the development would not adversely affect the integrity of a European site or European offshore marine site, and which remains up-to-date;
6. the local planning authority must have regard to any guidance issued by the Secretary of State;
7. the local planning authority must issue a decision to grant or refuse additional environmental approval within 28 days, or such longer period agreed in writing between the local planning authority and applicant (such longer period not to exceed an additional 21 days). If the local planning authority does not issue a decision within the 28-day period (or as extended), it is deemed to have granted additional environmental approval;
8. an applicant may appeal to the Secretary of State against a decision to refuse additional environmental approval;
9. additional environmental approval may not be granted conditionally; and
10. no additional environmental approval may be granted or deemed to be granted after 31 December 2020, unless the grant is on an appeal lodged on or before that date.

155 New section 93C defines “relevant planning permission” for the purposes of new sections 93A and 93B.

156 Subsection (3) of clause 17 modifies section 78(1) to provide a right of appeal against a refusal of additional environmental approval.

157 Subsection (4) modifies Schedule 1 to identify the local planning authority to which an application for additional environmental approval is to be submitted.

158 Subsection (5) modifies the Town and Country Planning (Development Management Procedure) Order 2015 to require details of additional environmental approvals to be recorded by a local planning register authority.

159 Subsection (6) provides that the modifications to the TCPA 1990 and the 2015 Order detailed above expire at the end of 1 April 2021.

160 Subsection (7) enables the Secretary of State to make regulations to amend the duration of the extension of time limits referred to above, and permissions to which such extensions apply, by substituting certain dates in the legislation with later dates, being:

- a. the latest time limit for commencement which will be modified by this clause 17 (set by this legislation as 31 December 2020);
- b. the date to which relevant time limits for commencement will be modified (set by this legislation as 1 April 2021);
- c. the date after which no application for additional environmental approval may be granted or deemed to be granted, except on appeal (set by this legislation as 31 December 2020); and
- d. the date on which subsections (1) to (5) expire (set by this legislation as 1 April 2021).

161 Subsections (8) and (9) provide that the Secretary of State may, if making regulations under subsection (7) for any further or additional extension of time limits, require that such further or additional extensions be subject to further approval.

162 An example of how these provisions would apply to certain planning permissions is detailed in the text box below.

Example 1: Cases of development with an extant planning permission

An unimplemented planning permission was granted on 11 November 2017. This was granted subject to a requirement to commence within 3 years, imposed as a condition limiting the duration of planning permission under section 91 of the Town and Country Planning Act 1990. Therefore, the planning permission would be required to be begun not later than 11 November 2020.

Under the provisions of this Bill, this planning permission will now be required to be begun not later than 1 April 2021.

Example 2: Cases of development where planning permission has lapsed

An unimplemented planning permission for development which was required to undergo Environment Impact Assessment (but not an appropriate assessment under the Habitats Regulations) was granted on 15 April 2017, subject to a requirement to commence within 3 years, imposed as a condition limiting the duration of planning permission under section 91. This permission was not commenced before 15 April 2020 and has consequently lapsed.

As this permission lapsed before the date on which clause 17 comes into effect, in order to be extended to 1 April 2021, a person with an interest in the land (or someone on their behalf) would have to submit an application for additional environmental approval to the local planning authority. In

this case, additional environmental approval should be granted if (a) the Environmental Impact Assessment remains up to date, and (b) it remains the case that no appropriate assessment under the Habitats Regulations would be required, if planning permission for the development were being granted now. If the local planning authority is satisfied on these points, and so grants additional environmental approval, the permission would benefit from an extension to 1 April 2021.

Clause 18: Extensions in connection with outline planning permission

- 163 Clause 18 has a similar effect to clause 17, but in relation to the extension of the duration of outline planning permissions.
- 164 Clause 18 temporarily modifies the effect of the TCPA 1990, which is to be read as if new sections 93D-93F were inserted into it, and modifications were made to section 78 (see subsection (3)) and Schedule 1 (see subsection (4)).
- 165 New section 93D will modify any condition that imposes a time limit for the submission of an application for the approval of a reserved matter for those outline permissions where the time limit for submission of an application for approval expires between 23 March 2020 and 31 December 2020. The time limit for submission of such applications will be extended to 1 April 2021.
- 166 New section 93E will modify any condition that imposes a time limit for commencement of development pursuant to an outline planning permission for those outline permissions where a time limit for commencement of development is due to expire between the date that clause 17 comes into force and 31 December 2020. The time limit for commencement of development pursuant to these permissions will be extended to 1 April 2021.
- 167 New section 93F will have the same effect as new section 93E for an outline planning permission (that is to say, an extension of time limits for commencement of development to 1 April 2021) where a time limit for commencement expired between 23 March 2020 and the date on which clause 17 comes into force, if an “additional environmental approval” is granted or deemed to be granted in relation to that permission.
- 168 The requirement for “additional environmental approval” is the same in these cases as described in relation to new section 93B above.
- 169 Clause 18(3) modifies section 78(1) to provide a right of appeal against a refusal of additional environmental approval.
- 170 Subsection (4) modifies Schedule 1 to identify the local planning authority to which an application for additional environmental approval is to be submitted.
- 171 Subsection (5) modifies the Town and Country Planning (Development Management Procedure) Order 2015 to require details of additional environmental approvals to be recorded by a local planning register authority.
- 172 Subsection (6) provides that the temporary modifications to the 1990 Act and the 2015 Order detailed above expire at the end of 1 April 2021.
- 173 Clause 18(7) enables the Secretary of State by regulations to amend the duration of the extension of time limits referred to above, and permissions to which such extensions apply, by substituting certain dates in the legislation with later dates, being:

- a. the latest time limits which will be modified by this clause 18 (set by this legislation as 31 December 2020);
- b. the date to which relevant time limits will be modified (set by this legislation as 1 April 2021);
- c. the date after which no application for additional environmental approval may be granted or deemed to be granted, except on appeal (set by this legislation as 31 December 2020); and
- d. the date on which subsections (1) to (5) expire (set by this legislation as 1 April 2021).

174 Clause 18(8) and (9) provide that the Secretary of State may, if making regulations under subsection (7) for any further or additional extension of time limits, require that such further or additional extensions be subject to further approval.

175 An example of how these provisions would apply to outline planning permissions is detailed in the text box below.

Example 1: Cases of an extant outline planning permission involving an application for reserved matters approval

An unimplemented outline planning permission was granted on 21 October 2012. This was granted subject to a condition that any applications for reserved matters approval must be submitted to the local planning authority within 8 years. Therefore, no (further) applications for the approval of reserved matters may be submitted after 21 October 2020.

Under the provisions of this Bill, the ability to submit applications for the approval of reserved matters pursuant to this outline planning permission will benefit from an automatic extension to 1 April 2021.

Example 2: Cases of outline planning permission with an extant reserved matters approval

An outline planning permission was granted subject to a condition that the development must be commenced within 2 years of the final approval of reserved matters. All reserved matters under the planning permission were approved on 3 October 2018. Therefore, the development would be required to be begun not later than 3 October 2020.

Under the provisions of this Bill, this time limit would benefit from an automatic extension to 1 April 2021.

Example 3: Cases of outline planning permission with subsequent reserved matters approval which has lapsed

Another outline planning permission was granted subject to a condition that the development must be commenced within 2 years of the final approval of reserved matters. The final reserved matters approval was

granted on 10 May 2018. Development was not commenced on or before 10 May 2020 and the permission has therefore lapsed.

As this permission lapsed before the date on which clause 17 comes into effect, in order to be extended to 1 April 2021, a person with an interest in the land (or someone on their behalf) would have to submit an application for additional environmental approval to the local planning authority. In this case, additional environmental approval should be granted if (a) the Environmental Impact Assessment remains up to date and (b) it remains the case that no appropriate assessment under the Habitats Regulations is required, if planning permission were being granted for the development now. If the local planning authority is satisfied on these points, and so grants additional environmental approval, the time limit for commencement would be extended to 1 April 2021.

Clause 19: Extension of duration of certain listed building consent

176 Clause 19 provides for an extension of the duration of certain listed building consents, by temporarily modifying the effect of the Planning (Listed Buildings and Conservation Areas) Act 1990 which is to be read as if a new section 18A were inserted in it (see subsection (1)). New section 18A will modify any condition that imposes a time limit for the commencement of works pursuant to a listed building consent where the time limit for commencement of works expires between 23 March 2020 and 31 December 2020. The time limit for commencement in such cases will be extended to 1 April 2021.

177 Clause 19(2) provides that the temporary modifications expire at the end of 1 April 2021.

178 Clause 19(3) enables the Secretary of State by regulations to amend the duration of the extension of time limits referred to above, and consents to which such extensions apply, by substituting certain dates in the legislation with later dates, being:

1. the latest time limit for commencement which will be modified by this clause 19 (set by this legislation as 31 December 2020);
2. the date to which relevant time limits will be modified (set by this legislation as 1 April 2021); and
3. the date on which the temporary modifications expire (set by this legislation as 1 April 2021).

179 For an example of the effect of these provisions, please refer to Example 1 above under the notes for clause 17.

Procedure for certain planning proceedings

Clause 20: Procedure for certain planning proceedings

180 Clause 20 amends the power for the Secretary of State in England to determine which procedure (written representations, a hearing or a local inquiry) should be adopted in certain proceedings to enable a more flexible deployment of one or more of the three types of procedure. These decisions are delegated to the Planning Inspectorate, whose Planning Inspectors take the decision on behalf of the Secretary of State and who deal with the various planning appeals covered by this clause.

181 Clause 20(1) amends section 319A(2) of the 1990 Act to apply that change to:

1. appeals in relation to the determination of planning appeals under section 78 of the 1990 Act;
2. appeals against the refusal or failure of a local planning authority to make a decision on an application under section 195 of the 1990 Act;
3. appeals against enforcement notices under section 174 of the 1990 Act;
4. appeals in relation to an application to modify or discharge affordable housing requirements under section 106BC of the 1990 Act; and
5. applications made to the Secretary of State under section 52A or s77 of the 1990 Act.

182 Clause 20(2) amends section 88D(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to apply the same change to appeals covered by that section of that Act. Finally subsection (3) amends section 21A(2) of the Planning (Hazardous Substances) Act 1990 to apply the same change to appeals covered by that section of that Act.

183 The amendments under this clause are permanent. The flexibility for a planning inspector to use more than one procedure to determine planning appeals is required to enable the Planning Inspectorate to deal with cases quickly and efficiently during the coronavirus pandemic. However, this change will provide ongoing efficiencies to the work of the Planning Inspectorate.

Electronic inspection of spatial development strategy

Clause 21: Mayor of London's spatial development strategy: electronic inspection

184 Clause 21 temporarily modifies the effect of section 43 of the Greater London Authority Act 1999 ("GLAA") which is to be read as if new subsections 4A and 4B were inserted in it (see subsection (1)).

185 Section 43 of the GLAA requires the Mayor of London to take steps to give adequate publicity to his strategies (which include strategies in relation to transport, economic development and regeneration, spatial development, biodiversity, municipal waste management, air quality, ambient noise and culture), to make the current versions of them available for public inspection at the Greater London Authority's offices and other suitable places, and to provide them at a reasonable cost to any person who asks for them. A spatial development strategy is a strategy that the Mayor is required to produce setting out strategic planning policies for London (see section 334 of the GLAA).

186 New subsection (4A) of section 43 removes the requirement to make the current version of the spatial development strategy available for inspection at the Greater London Authority's offices, and other suitable places, and to provide the strategy at a reasonable cost to any person who asks for it, if a copy of the current version of the strategy is available for inspection free of charge by appropriate electronic means. New subsection (4B) provides that the current version of the spatial development strategy is available for inspection "by appropriate electronic means" if: (a) arrangements have been made such that it is available for inspection by electronic means in a reasonably convenient way, and (b) in deciding what arrangements to make, the Mayor has had regard to any guidance issued by the Secretary of State as to (i) how it should be made available by electronic means; and (ii) the arrangements

(if any) that may be appropriate to mitigate the effects on a person of not being able to inspect a copy of the strategy, or finding it difficult to do so, by electronic means.

187 Clause 21(2) provides that this measure will expire at the end of 31 December 2020. Subsection (3) enables the Secretary of State to make regulations substituting the date specified in subsection (3) for the time being with a later date.

Part 4: General

Clause 22: Regulations

188 Clause 22 sets out the procedure which is to apply in respect of certain powers to make regulations conferred by the Act, and states that these powers include the power to make different provision for different cases and to make incidental, consequential, supplementary, transitional or transitory provision or savings.

Clause 23: Extent

189 Clause 23 sets out the extent of the various provisions of the Act.

Clause 24: Commencement

190 Clause 24 makes provision about commencement.

191 Subsection (1) provides that Part 1 (consumption of food and drink outdoors) will come into force on the day of Royal Assent.

192 Subsection (2) provides that in Part 2 (other measures relating to business): clause 12 is to be treated as having come into force on 4 May 2020 and clauses 13 to 15 will come into force on the day of Royal Assent.

193 Subsection (3) provides that in Part 3 (planning): clause 16 comes into force at the end of 6 days beginning with the day of Royal Assent, clauses 17 to 19 come into force at the end of the period of 28 days beginning with the day of Royal Assent, and clauses 20 and 21 come into force on the day of Royal Assent.

194 Subsection (4) provides that Part 4 (general) will come into force on the day of Royal Assent.

Clause 25: Transitional etc provision in connection with expiry

195 Clause 25 confers upon the Secretary of State a power to make regulations which may be used to make transitional, transitory or saving provision in connection with the expiry of any provision of this Act.

Clause 26: Short title

196 Clause 26 provides that the Bill may be cited as the Business and Planning Act 2020.

Commencement

Outdoor seating

197 The pavement licensing measures in Part 1 will come into force on the day of Royal Assent.

Alcohol licensing

198 The alcohol licensing measures in Part 1 will come into force on the day of Royal Assent.

Bounce Back Loans

199 The Bounce Back Loans measures will commence on the day of Royal Assent. The measures will be deemed to have been in force from 4th May 2020.

Goods, passenger and public service vehicles

Certificates of exemption for public service and goods vehicles

200 Clause 13 will come into force on the day of Royal Assent.

Temporary reduction in duration of certain driving licences

201 Clauses 14 and 15 will come into force on the day of Royal Assent.

Planning

202 The planning measures will come into force as follows:

1. Clause 16 (modification of conditions relating to construction working hours): at the end of 6 days beginning with the day of Royal Assent;
2. Clauses 17-19 (extension of certain permissions and consents): at the end of 28 days beginning with the day of Royal Assent; and
3. Clause 20 (procedure for certain planning proceedings) and 21 (Mayor of London's spatial development strategy: electronic inspection) on the day of Royal Assent.

Financial implications of the Bill

203 Financial implications on local authorities from outdoor seating provisions should be minimal. The assessment of applications is a function they operate already, and the proposals take away much of the administrative costs associated with dealing with applications such as requiring the local authority to produce (and place) the site notice on the application site, and consult for 28 days while they secure the various consents.

204 The alcohol licensing measures in this Bill will have minimal financial implications, as the proposals eliminate the time and cost for businesses associated with applying for variation of on-sale only licences, as well as reducing the administration burden from licensing bodies. However, with the reduced number of applicants for licensing variations, it will result in a reduction in fees for licensing authorities. The Impact Assessment indicates that the estimated benefits of these measures will ultimately outweigh any financial implications.

205 The Bounce Back Loans measure in this Bill does not have financial implications.

206 Certificates of exemption for public service and goods vehicles: The impact assessment for the Bill indicates that the effect of this clause will present some revenue losses to business and to the Driver and Vehicle Standards Agency, estimated at £4.2m and £14.7m respectively. However, it should be noted that this is compared in the assessment to utilisation of the existing legal powers to manage demand over 12 months, which is estimated to cause revenue losses to business and the Driver and Vehicle Standards Agency of £14.2m and £50.4m respectively.

207 Temporary reduction in duration of certain driving licences: The regulatory analysis indicates that any additional costs are expected to be met from driving licence fees charged by the DVLA. Currently, there is no fee for the renewal of lorry and bus licences and so costs will be met from fees charged to other sectors of the motoring public. Northern Ireland has not yet issued any 1-year licences; the financial implications will be separately assessed in advance of any decision to do so.

208 Costs from the planning measures will principally fall on local planning authorities due to the cost of administrating applications for extending construction hours and the additional environmental approval for extending lapsed planning permissions. The scale of this cost will depend on the take up, but as temporary measures, MHCLG expects the cost to be limited.

Parliamentary approval for financial costs or for charges imposed

209 The Bill does not require a money resolution or a ways and means resolution. A money resolution is required where a bill authorises new charges on the public revenue – broadly speaking, new public expenditure – and a ways and means resolution is required where a bill authorises new charges on the people – broadly speaking, new taxation or other similar charges.

Compatibility with the European Convention on Human Rights

210 The Minister, Rt Hon. Earl Howe, Deputy Leader of the House of Lords, has made a statement under section 19(1)(a) of the Human Rights Act 1998 that, in his view, the provisions of the Bill are compatible with the Convention rights.

211 The Government has published a separate ECHR memorandum with its assessment of the Bill's compatibility with the European Convention on Human Rights. It confirms that the Bill is compatible with the Convention rights.

Related documents

212 The following documents are relevant to the Bill and will be made available on the parliament.uk website:

- Analysis to support the Business and Planning Bill;
- Equalities analysis and family test assessment;
- Delegated powers memorandum; and
- ECHR memorandum.

Annex A – Territorial extent and application in the United Kingdom

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion sought?
Clauses 1 – 10 (Pavement licences)	Yes	No	No	No	Yes	Yes	Yes	No
Clause 11 (Alcohol licensing)	Yes	Yes	No	No	No	Yes	Yes	No
Clause 12 (Bounce Back Loans Scheme)	Yes	Yes	Yes	Yes	No	No	No	No
Clause 13 (Certificates of Temporary Exemption)	Yes	Yes	Yes	No	N/A	N/A	Yes	No
Clause 14 Temporary reduction in duration of certain driving licences (GB)	Yes	Yes	Yes	No	N/A	N/A	Yes	No
Clause 15 Temporary reduction in duration of certain driving licences (NI)	No	No	No	Yes	N/A	N/A	N/A	Yes
Part 3 (Clauses 16-21)	Yes	No	No	No	Yes	Yes	Yes	No
Part 5 (Clauses 22-26)	Yes	In part	In part	In part	N/A	N/A	N/A	No

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