

Localism Bill

The Bill is divided into two volumes. Volume I contains the Clauses. Volume II contains the Schedules to the Bill.

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Communities and Local Government, are published separately as Bill 126 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Eric Pickles has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Localism Bill are compatible with the Convention rights.

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A
B I L L

TO

Make provision about the functions and procedures of local and certain other authorities; to make provision about the functions of the Local Commission for Administration in England; to enable the recovery of financial sanctions imposed by the Court of Justice of the European Union on the United Kingdom from local and public authorities; to make provision about local government finance; to make provision about town and country planning, the Community Infrastructure Levy and the authorisation of nationally significant infrastructure projects; to make provision about social and other housing; to make provision about regeneration in London; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

LOCAL GOVERNMENT

CHAPTER 1

GENERAL POWERS OF AUTHORITIES

- 1 Local authority’s general power of competence** 5
- (1) A local authority has power to do anything that individuals generally may do.
- (2) Subsection (1) applies to things that an individual may do even though they are in nature, extent or otherwise—
- (a) unlike anything the authority may do apart from subsection (1), or
- (b) unlike anything that other public bodies may do. 10
- (3) In this section “individual” means an individual with full capacity.
- (4) Where subsection (1) confers power on the authority to do something, it confers power (subject to sections 2 to 4) to do it in any way whatever, including—

-
- (a) power to do it anywhere in the United Kingdom or elsewhere,
- (b) power to do it for a commercial purpose or otherwise for a charge, or without charge, and
- (c) power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area. 5
- (5) The generality of the power conferred by subsection (1) (“the general power”) is not limited by the existence of any other power of the authority which (to any extent) overlaps the general power.
- (6) Any such other power is not limited by the existence of the general power (but see section 5(2)). 10
- (7) Schedule 1 (consequential amendments) has effect.
- 2 Boundaries of the general power**
- (1) If exercise of a pre-commencement power of a local authority is subject to restrictions, those restrictions apply also to exercise of the general power so far as it is overlapped by the pre-commencement power. 15
- (2) The general power does not enable a local authority to do –
- (a) anything which the authority is unable to do by virtue of a pre-commencement limitation, or
- (b) anything which the authority is unable to do by virtue of a post-commencement limitation which is expressed to apply – 20
- (i) to the general power,
- (ii) to all of the authority’s powers, or
- (iii) to all of the authority’s powers but with exceptions that do not include the general power.
- (3) The general power does not confer power to – 25
- (a) make or alter arrangements of a kind which may be made under Part 6 of the Local Government Act 1972 (arrangements for discharge of authority’s functions by committees, joint committees, officers etc);
- (b) make or alter arrangements of a kind which are made, or may be made, by or under Part 1A of the Local Government Act 2000 (arrangements for local authority governance in England); 30
- (c) make or alter any contracting-out arrangements, or other arrangements within neither of paragraphs (a) and (b), that authorise a person to exercise a function of a local authority.
- (4) In this section – 35
- “post-commencement limitation” means a prohibition, restriction or other limitation expressly imposed by a statutory provision that –
- (a) is contained in an Act passed after the end of the Session in which this Act is passed, or
- (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 1; 40
- “pre-commencement limitation” means a prohibition, restriction or other limitation expressly imposed by a statutory provision that –
- (a) is contained in this Act, or in any other Act passed no later than the end of the Session in which this Act is passed, or 45

- (b) is contained in an instrument made under an Act and comes into force before the commencement of section 1;

“pre-commencement power” means power conferred by a statutory provision that –

- (a) is contained in this Act, or in any other Act passed no later than the end of the Session in which this Act is passed, or 5
- (b) is contained in an instrument made under an Act and comes into force before the commencement of section 1.

3 Limits on charging in exercise of general power

- (1) Subsection (2) applies where – 10
 - (a) a local authority provides a service to a person otherwise than for a commercial purpose, and
 - (b) its providing the service to the person is done, or could be done, in exercise of the general power.
- (2) The general power confers power to charge the person for providing the service to the person only if – 15
 - (a) the service is not one that a statutory provision requires the authority to provide to the person,
 - (b) the person has agreed to its being provided, and
 - (c) ignoring this section and section 93 of the Local Government Act 2003, 20 the authority does not have power to charge for providing the service.
- (3) The general power is subject to a duty to secure that, taking one financial year with another, the income from charges allowed by subsection (2) does not exceed the costs of provision.
- (4) The duty under subsection (3) applies separately in relation to each kind of service. 25

4 Limits on doing things for commercial purpose in exercise of general power

- (1) The general power confers power on a local authority to do things for a commercial purpose only if they are things which the authority may, in exercise of the general power, do otherwise than for a commercial purpose. 30
- (2) Where, in exercise of the general power, a local authority does things for a commercial purpose, the authority must do them through a company.
- (3) A local authority may not, in exercise of the general power, do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person. 35
- (4) In this section “company” means –
 - (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
 - (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969. 40

5 Powers to make supplemental provision

- (1) If the Secretary of State thinks that a statutory provision (whenever passed or made) prevents or restricts local authorities from exercising the general power, the Secretary of State may by order amend, repeal, revoke or disapply that provision. 5
- (2) If the Secretary of State thinks that the general power is overlapped (to any extent) by another power then, for the purpose of removing or reducing that overlap, the Secretary of State may by order amend, repeal, revoke or disapply any statutory provision (whenever passed or made).
- (3) The Secretary of State may by order make provision preventing local authorities from doing, in exercise of the general power, anything which is specified, or is of a description specified, in the order. 10
- (4) The Secretary of State may by order provide for the exercise of the general power by local authorities to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order. 15
- (5) The power under subsection (1), (2), (3) or (4) may be exercised in relation to—
- (a) all local authorities,
 - (b) particular local authorities, or
 - (c) particular descriptions of local authority.
- (6) The power under subsection (1) or (2) to amend or disapply a statutory provision includes power to amend or disapply a statutory provision for a particular period. 20
- (7) Before making an order under section (1), (2), (3) or (4) the Secretary of State must (whether before or after the passing of this Act) consult—
- (a) such local authorities,
 - (b) such representatives of local government, and
 - (c) such other persons (if any),
- as the Secretary of State considers appropriate. 25

6 Procedure for orders under section 5

- (1) If, as a result of any consultation required by section 5(7) with respect to a proposed order under section 5(1), it appears to the Secretary of State that it is appropriate to change the whole or any part of the Secretary of State's proposals, the Secretary of State must (whether before or after the passing of this Act) undertake such further consultation with respect to the changes as the Secretary of State considers appropriate. 30
- (2) If, after the conclusion of the consultation required by section 5(7) and subsection (1), the Secretary of State considers it appropriate to proceed with the making of an order under section 5(1), the Secretary of State must lay before Parliament—
- (a) a draft of the order, and 40
 - (b) an explanatory document explaining the proposals and giving details of—
- (i) any consultation undertaken under section 5(7) and subsection (1),
 - (ii) any representations received as a result of the consultation, and 45
 - (iii) the changes (if any) made as a result of those representations.

- (3) Sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 (choosing between negative, affirmative and super-affirmative parliamentary procedure) are to apply in relation to an explanatory document and draft order laid under subsection (2) but as if –
- (a) section 18(11) of that Act were omitted, 5
 - (b) references to section 14 of that Act were references to subsection (2), and
 - (c) references to the Minister were references to the Secretary of State.
- (4) Provision under section 5(2) may be included in a draft order laid under subsection (2) and, if it is, the explanatory document laid with the draft order must also explain the proposals under section 5(2) and give details of any consultation undertaken under section 5(7) with respect to those proposals. 10
- (5) Section 5(7) does not apply to an order under section 5(3) or (4) which is made only for the purpose of amending an earlier such order –
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or 15
 - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.
- 7 Interpretation of Chapter** 20
- (1) In this Chapter –
- “the general power” means the power conferred by section 1(1);
 - “local authority” means –
- (a) a county council in England,
 - (b) a district council, 25
 - (c) a London borough council,
 - (d) the Common Council of the City of London in its capacity as a local authority,
 - (e) the Council of the Isles of Scilly, or
 - (f) an eligible parish council; 30
- “statutory provision” means a provision of an Act or of an instrument made under an Act.
- (2) A parish council is “eligible” for the purposes of this Chapter if the council meets the conditions prescribed by the Secretary of State by order for the purposes of this section. 35

CHAPTER 2

FIRE AND RESCUE AUTHORITIES

8 General powers of certain fire and rescue authorities

- (1) In Part 1 of the Fire and Rescue Services Act 2004 (fire and rescue authorities) after section 5 insert – 40
- “5A Powers of certain fire and rescue authorities in England**
- (1) A relevant fire and rescue authority may do –

-
- (a) anything it considers appropriate for the purposes of the carrying-out of any of its functions (its “functional purposes”),
 - (b) anything it considers appropriate for purposes incidental to its functional purposes,
 - (c) anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes, 5
 - (d) anything it considers to be connected with –
 - (i) any of its functions, or
 - (ii) anything it may do under paragraph (a), (b) or (c), and 10
 - (e) for a commercial purpose anything which it may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) A relevant fire and rescue authority’s power under subsection (1) is in addition to, and is not limited by, the other powers of the authority. 15
- (3) In this section “relevant fire and rescue authority” means a fire and rescue authority in England that is –
- (a) a metropolitan county fire and rescue authority,
 - (b) the London Fire and Emergency Planning Authority,
 - (c) constituted by a scheme under section 2, or 20
 - (d) constituted by a scheme to which section 4 applies.
- 5B Boundaries of power under section 5A**
- (1) Section 5A(1) does not enable a relevant fire and rescue authority to do –
- (a) anything which the authority is unable to do by virtue of a pre-commencement limitation, or 25
 - (b) anything which the authority is unable to do by virtue of a post-commencement limitation which is expressed to apply –
 - (i) to its power under section 5A(1),
 - (ii) to all of the authority’s powers, or 30
 - (iii) to all of the authority’s powers but with exceptions that do not include its power under section 5A(1).
- (2) If exercise of a pre-commencement power of a relevant fire and rescue authority is subject to restrictions, those restrictions apply also to exercise of the power conferred on the authority by section 5A(1) so far as it is overlapped by the pre-commencement power. 35
- (3) Where under section 5A(1) a relevant fire and rescue authority does things for a commercial purpose, it must do them through –
- (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or 40
 - (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.
- (4) Section 5A(1) does not authorise a relevant fire and rescue authority to do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person. 45

- (5) Section 5A(1) does not authorise a relevant fire and rescue authority to borrow money.
- (6) Section 5A(1)(a) to (d) do not authorise a relevant fire and rescue authority to charge a person for any action taken by the authority (but see section 18A). 5
- (7) Section 18B(1) to (6) apply in relation to charging for things done for a commercial purpose in exercise of power conferred by section 5A(1)(e) as they apply in relation to charging under section 18A(1).
- (8) In this section –
- “post-commencement limitation” means a prohibition, restriction 10
or other limitation imposed by a statutory provision that –
 - (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 8(1) of that Act; 15
 - “pre-commencement limitation” means a prohibition, restriction
or other limitation imposed by a statutory provision that –
 - (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or 20
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 8(1) of that Act;
 - “pre-commencement power” means power conferred by a statutory provision that – 25
 - (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 8(1) of that Act; 30
 - “relevant fire and rescue authority” has meaning given by section 5A(3);
 - “statutory provision” means a provision of an Act or of an instrument made under an Act.
- 5C Power to make provision supplemental to section 5A 35**
- (1) If the Secretary of State thinks that a statutory provision (whenever passed or made) prevents or restricts relevant fire and rescue authorities from exercising power conferred by section 5A(1), the Secretary of State may by order amend, repeal, revoke or disapply that provision. 40
- (2) If the Secretary of State thinks that the power conferred by section 5A(1) is overlapped (to any extent) by another power then, for the purpose of removing or reducing that overlap, the Secretary of State may by order amend, repeal, revoke or disapply any statutory provision (whenever passed or made). 45
- (3) The Secretary of State may by order make provision preventing relevant fire and rescue authorities from doing under section 5A(1) anything which is specified, or is of a description specified, in the order.

- (4) The Secretary of State may by order provide for the exercise by relevant fire and rescue authorities of power conferred by section 5A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.
- (5) The power under subsection (1), (2), (3) or (4) may be exercised in relation to – 5
- (a) all relevant fire and rescue authorities,
 - (b) particular relevant fire and rescue authorities, or
 - (c) particular descriptions of relevant fire and rescue authorities.
- (6) Before making an order under subsection (1), (2), (3) or (4) the Secretary of State must (whether before or after the passing of the Localism Act 2011) consult – 10
- (a) such relevant fire and rescue authorities,
 - (b) such representatives of relevant fire and rescue authorities, and
 - (c) such other persons (if any), 15
- as the Secretary of State considers appropriate.
- (7) In this section “relevant fire and rescue authority” has the meaning given by section 5A(3).

5D Procedure for orders under section 5C

- (1) If, as a result of any consultation required by section 5C(5) with respect to a proposed order under section 5C(1), it appears to the Secretary of State that it is appropriate to change the whole or any part of the Secretary of State’s proposals, the Secretary of State must (whether before or after the passing of the Localism Act 2011) undertake such further consultation with respect to the changes as the Secretary of State considers appropriate. 20
- (2) If, after the conclusion of the consultation required by section 5C(5) and subsection (1), the Secretary of State considers it appropriate to proceed with the making of an order under section 5C(1), the Secretary of State must lay before Parliament – 25
- (a) a draft of the order, and
 - (b) an explanatory document explaining the proposals and giving details of – 30
 - (i) any consultation undertaken under section 5C(5) and subsection (1), 35
 - (ii) any representations received as a result of the consultation, and
 - (iii) the changes (if any) made as a result of those representations.
- (3) Sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 (choosing between negative, affirmative and super-affirmative parliamentary procedure) are to apply in relation to an explanatory document and draft order laid under subsection (2) but as if – 40
- (a) section 18(11) of that Act were omitted,
 - (b) references to section 14 of that Act were references to subsection (2), and 45
 - (c) references to the Minister were references to the Secretary of State.

-
- (4) Provision under section 5C(2) may be included in a draft order laid under subsection (2) and, if it is, the explanatory document laid with the draft order must also explain the proposals under section 5C(2) and give details of any consultation undertaken under section 5C(5) with respect to those proposals. 5
- (5) Section 5C(6) does not apply to an order under section 5C(3) or (4) which is made only for the purpose of amending an earlier such order –
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or 10
- (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.”
- (2) In section 5 of the Fire and Rescue Services Act 2004 (power of combined fire and rescue authorities corresponding to the power under section 111 of the Local Government Act 1972) – 15
- (a) in subsection (1) after “authority” insert “in Wales”, and
- (b) in the heading after “authorities” insert “in Wales”.
- (3) In section 60(4) of the Fire and Rescue Services Act 2004 (orders and regulations subject to affirmative procedure) for “subordinate legislation which amends or repeals any Act or provision of an Act may” substitute “– 20
- (a) an order under section 5C(3), other than one that is made only for the purpose mentioned in section 5D(5),
- (a) an order under section 5C(4), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose, or 25
- (b) subordinate legislation which amends or repeals any Act or provision of an Act,
- may”. 30
- (4) In section 60(5) of the Fire and Rescue Services Act 2004 (orders and regulations subject to negative procedure) for “apart from an order under section 30 or 61, is” substitute “apart from –
- (a) an order under section 5C(1),
- (a) an order under section 5C(2) that is made in accordance with sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 as applied by section 5D(3), or 35
- (b) an order under section 30 or 61,
- is”.
- (5) In section 146A of the Local Government Act 1972 (application of provisions to certain joint and other authorities) – 40
- (a) in subsection (1) after “Subject to subsections (1ZA), (1ZB)” insert “, (1ZC)”, and
- (b) after subsection (1ZB) insert –
- “(1ZC) Neither a metropolitan county fire and rescue authority, nor the London Fire and Emergency Planning Authority, is to be treated as a local authority for the purposes of section 111 above (but see section 5A of the Fire and Rescue Services Act 2004).” 45

9 Fire and rescue authorities: charging

- (1) The Fire and Rescue Services Act 2004 is amended as follows.
- (2) After section 18 insert –

“18A Charging by authorities in England

- (1) A fire and rescue authority in England may charge a person for any action taken by the authority – 5
 - (a) in the United Kingdom or at sea or under the sea, and
 - (b) otherwise than for a commercial purpose,
but this is subject to the provisions of this section and section 18B.
- (2) Subsection (1) authorises a charge to be imposed on, or recovered from, a person other than the person in respect of whom action is taken by the authority. 10
- (3) Before a fire and rescue authority begins to charge under subsection (1) or section 5A(1)(e) for taking action of a particular description, the authority must consult any persons the authority considers appropriate. 15
- (4) If a fire and rescue authority decides to charge under subsection (1) for taking action of a particular description –
 - (a) the amount of the charge is to be set by the authority;
 - (b) the authority may charge different amounts in different circumstances (and may charge nothing). 20
- (5) In setting the amount of a charge under subsection (1), a fire and rescue authority must secure that, taking one financial year with another, the authority’s income from charges does not exceed the cost to the authority of taking the action for which the charges are imposed. 25
- (6) The duty under subsection (5) applies separately in relation to each kind of action.
- (7) The references in subsections (1) and (2) to “sea” are not restricted to the territorial sea of the United Kingdom.
- (8) In subsection (5) “financial year” means 12 months ending with 31 March. 30

18B Limits on charging under section 18A(1)

- (1) Section 18A(1) authorises charging for extinguishing fires, or protecting life and property in the event of fires, only in respect of fires which are at sea or under the sea. 35
- (2) Section 18A(1) does not authorise charging for emergency medical assistance.
- (3) Section 18A(1) authorises charging for action taken in response to a report of a fire or explosion only if section 18C applies to the report.
- (4) Section 18A(1) does not authorise charging for rescuing individuals, or protecting individuals from serious harm, in the event of an emergency. 40

- (5) Section 18A(1) does not authorise charging for action taken in response to –
 - (a) emergencies resulting from events of widespread significance,
 - (b) emergencies which have occurred as a direct result of severe weather, or
 - (c) emergencies resulting from road traffic accidents.5
- (6) Section 18A(1) does not authorise charging for action taken by a fire and rescue authority in its capacity as an enforcing authority for the purposes of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541). 10
- (7) Nothing in subsections (1) to (6) –
 - (a) applies to charges for providing under section 12 the services of any persons or any equipment,
 - (b) affects the operation of section 13(3) or 16(3), or
 - (c) affects any provision for payments to a fire and rescue authority in England contained in arrangements for co-operation made between that authority and –
 - (i) a public authority that is not a fire and rescue authority, or
 - (ii) any person, other than a public authority, who exercises public functions.15
- (8) The Secretary of State may by order disapply subsection 18A(1) in relation to actions of a particular kind. 20
- (9) The power under subsection (8) includes power to disapply for a particular period. 25
- 18C Cases where a charge may be made for responding to report of fire etc**
- (1) This section applies for the purposes of section 18B(3).
- (2) This section applies to a report of fire, or explosion, at sea or under the sea.
- (3) This section applies to a report of fire if –
 - (a) the report is of fire at premises that are not domestic premises,
 - (b) the report is false,
 - (c) the report is made as a direct or indirect result of warning equipment having malfunctioned or been misinstalled, and
 - (d) there is a persistent problem with false reports of fire at the premises that are made as a direct or indirect result of warning equipment under common control having malfunctioned or been misinstalled.30
- (4) This section applies to a report of fire if –
 - (a) the report is of fire at domestic premises,
 - (b) the report is false,
 - (c) the report is made as a direct or indirect result of warning equipment having malfunctioned or been misinstalled,
 - (d) the report is made without human intervention or, where the report is relayed through one or more intermediaries, the report is initially made without human intervention, and40
- 45

- (e) there is a persistent problem with false reports of fire at the premises that are made as mentioned in paragraphs (c) and (d).
- (5) The references in subsection (2) to “sea” are not restricted to the territorial sea of the United Kingdom.
- (6) In this section – 5
“domestic premises” means premises occupied as a private dwelling (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling);
“warning equipment” means equipment installed for the purpose of – 10
(a) detecting fire, or
(b) raising the alarm, or enabling the alarm to be raised, in the event of fire.”
- (3) In section 19 (charging) – 15
(a) in subsection (1) (power to authorise authorities to charge) after “fire and rescue authority” insert “in Wales”, and
(b) in the heading after “Charging” insert “by authorities in Wales”.
- (4) Where immediately before the coming into force of subsections (1) to (3) an order under section 19(1) of the Fire and Rescue Services Act 2004 authorises a fire and rescue authority in England to charge for action of a specified description taken by the authority, section 18A(3) of that Act does not apply in relation to action of that description. 20

CHAPTER 3

GOVERNANCE 25

- 10 New arrangements with respect to governance of English local authorities**
Schedule 2 (new Part 1A of, and Schedule A1 to, the Local Government Act 2000) has effect.
- 11 New local authority governance arrangements: amendments**
Schedule 3 (minor and consequential amendments relating to local authority governance in England) has effect. 30
- 12 Changes to local authority governance in England: transitional provision etc**
- (1) The Secretary of State may by order make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of sections 10 and 11 and Schedules 2 and 3. 35
- (2) An order under subsection (1) may, in particular, include any provision –
(a) relating to local authorities –
(i) ceasing to operate executive arrangements or alternative arrangements under Part 2 of the Local Government Act 2000, and 40

- (ii) starting to operate executive arrangements or a committee system under Part 1A of that Act,
 - (b) as to whether, and how, anything done, or in the process of being done, under any provision of Part 2 of that Act is to be deemed to have been done, or be in the process of being done, under any provision of Part 1A of that Act (whether generally or for specified purposes), or 5
 - (c) modifying the application of any provision of Chapter 4 of Part 1A of that Act in relation to a change in governance arrangements by a local authority within a specified period.
- (3) The reference in subsection (2)(b) to things done includes a reference to things omitted to be done. 10
- (4) In this section –
 - “change in governance arrangements” has the meaning given by section 90A of the Local Government Act 2000;
 - “local authority” means a county council in England, a district council or a London borough council; 15
 - “specified” means specified in an order under this section.

CHAPTER 4

PREDETERMINATION

- 13 Prior indications of view of a matter not to amount to predetermination etc** 20
- (1) Subsection (2) applies if –
 - (a) as a result of an allegation of bias or predetermination, or otherwise, there is an issue about the validity of a decision of a relevant authority, and
 - (b) it is relevant to that issue whether the decision-maker, or any of the decision-makers, had or appeared to have had a closed mind (to any extent) when making the decision. 25
 - (2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because –
 - (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and 30
 - (b) the matter was relevant to the decision.
 - (3) Subsection (2) applies in relation to a decision-maker only if that decision-maker – 35
 - (a) is a member (whether elected or not) of the relevant authority, or
 - (b) is a co-opted member of that authority.
 - (4) In this section –
 - “co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who – 40
 - (a) is a member of any committee or sub-committee of the authority, or
 - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

- and who is entitled to vote on any question which falls to be decided at any meeting of the committee or sub-committee;
- “decision”, in relation to a relevant authority, means a decision made in discharging functions of the authority, functions of the authority’s executive, functions of a committee of the authority or functions of an officer of the authority (including decisions made in the discharge of any of those functions otherwise than by the person to whom the function was originally given); 5
- “elected mayor” has the meaning given by section 9H or 39 of the Local Government Act 2000; 10
- “member” –
- (a) in relation to the Greater London Authority, means the Mayor of London or a London Assembly member, and
 - (b) in relation to a county council, district council, a county borough council or London borough council, includes an elected mayor of the council; 15
- “relevant authority” means –
- (a) a county council,
 - (b) a district council,
 - (c) a county borough council, 20
 - (d) a London borough Council,
 - (e) the Common Council of the City of London,
 - (f) the Greater London Authority,
 - (g) a National Park authority,
 - (h) the Broads Authority, 25
 - (i) the Council of the Isles of Scilly,
 - (j) a parish council, or
 - (k) a community council.
- (5) This section applies only to decisions made after this section comes into force, but the reference in subsection (2)(a) to anything previously done includes things done before this section comes into force. 30

CHAPTER 5

STANDARDS

14 Amendments of existing provisions

Schedule 4 (which amends the existing provisions relating to the conduct of local government members and employees in England and makes related provision) has effect. 35

15 Duty to promote and maintain high standards of conduct

- (1) A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority. 40
- (2) In this Chapter “co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who –
 - (a) is a member of any committee or sub-committee of the authority, or

- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,
and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
- (3) The reference in subsection (2) to a joint committee or joint sub-committee of a relevant authority is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee. 5
- (4) In this Chapter “relevant authority” means –
- (a) a county council in England,
 - (b) a district council, 10
 - (c) a London borough council,
 - (d) a parish council,
 - (e) the Greater London Authority,
 - (f) the Metropolitan Police Authority,
 - (g) the London Fire and Emergency Planning Authority, 15
 - (h) the Common Council of the City of London in its capacity as a local authority or police authority,
 - (i) the Council of the Isles of Scilly,
 - (j) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies, 20
 - (k) a police authority (in England or in Wales) established under section 3 of the Police Act 1996,
 - (l) a joint authority established by Part 4 of the Local Government Act 1985, 25
 - (m) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009,
 - (n) a combined authority established under section 103 of that Act,
 - (o) the Broads Authority, or
 - (p) a National Park authority in England established under section 63 of the Environment Act 1995. 30
- (5) Any reference in this Chapter to a member of a relevant authority –
- (a) in the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies, includes a reference to an elected mayor;
 - (b) in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member. 35
- (6) Functions that are conferred by this Chapter on a relevant authority to which Part 1A of the Local Government Act 2000 applies are not to be the responsibility of an executive of the authority under executive arrangements.
- (7) Functions that are conferred by this Chapter on the Greater London Authority are to be exercisable by the London Assembly acting on behalf of the Authority. 40
- 16 Voluntary codes of conduct**
- (1) A relevant authority may adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity (referred to in this section as a “code of conduct”). 45

-
- (2) A relevant authority may –
- (a) revise its existing code of conduct,
 - (b) adopt a code of conduct to replace its existing code of conduct, or
 - (c) withdraw its existing code of conduct without replacing it.
- (3) If a written allegation is made to a relevant authority that a member or co-opted member of the authority has failed, or may have failed, to comply with its code of conduct, it must – 5
- (a) consider whether it is appropriate to investigate the allegation, and
 - (b) if it decides that an investigation is appropriate, investigate the allegation in such manner as it thinks fit. 10
- (4) If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under this section) it may have regard to the failure in deciding –
- (a) whether to take action in relation to the member or co-opted member, and 15
 - (b) what action to take.
- (5) A relevant authority may publicise its adoption, revision or withdrawal of a code of conduct in any manner that it considers appropriate.
- (6) A relevant authority’s function of adopting, revising or withdrawing a code of conduct under this section may be discharged only by the authority. 20
- (7) Accordingly –
- (a) in the case of an authority to whom section 101 of the Local Government Act 1972 (arrangements for discharge of functions) applies, the function is not a function to which that section applies; 25
 - (b) in the case of the Greater London Authority, the function is not a function to which section 54 of the Greater London Authority Act 1999 (discharge of Assembly functions by committees or single members) applies.
- 17 Disclosure and registration of members’ interests 30**
- (1) The Secretary of State may by regulations make provision for or in connection with requiring the monitoring officer of a relevant authority to establish and maintain a register of interests of the members and co-opted members of the authority.
- (2) Regulations under this section may, in particular, make provision – 35
- (a) specifying the financial and other interests that are to be registered in the register;
 - (b) requiring any member or co-opted member of a relevant authority who has an interest of a specified kind to disclose that interest before taking part in business of the authority relating to the interest; 40
 - (c) preventing or restricting the participation of a member or co-opted member of a relevant authority in any business of the authority to which an interest disclosed by virtue of paragraph (b) relates;
 - (d) for a relevant authority to grant dispensations in specified circumstances from a prohibition imposed by virtue of paragraph (c); 45

- (e) about the sanctions that a relevant authority may impose on a member or co-opted member for failure to comply with regulations under this section;
 - (f) requiring a relevant authority to make copies of the register available to the public and to inform the public that copies are available. 5
- (3) The provision that may be made by virtue of subsection (2)(e) does not include provision –
 - (a) for the suspension or partial suspension of a person from being a member or co-opted member of the authority, or
 - (b) for the disqualification of a person for being or becoming (by election or otherwise) a member or co-opted member of that or any other relevant authority. 10
- (4) The reference in subsection (1) to a monitoring officer of a relevant authority includes, in relation to a relevant authority that is a parish council, such person as may be specified. 15
- (5) In this section “specified” means specified in regulations under this section.

18 Offence of breaching regulations under section 17

- (1) A person who is a member or co-opted member of a relevant authority commits an offence if, without reasonable excuse, the person –
 - (a) fails to register a financial or other interest in accordance with regulations under section 17, 20
 - (b) fails to disclose an interest of a kind specified in such regulations in accordance with such regulations before taking part in business of the authority relating to the interest, or
 - (c) takes part in business of the authority to which an interest disclosed by virtue of such regulations relates contrary to a prohibition or restriction imposed by such regulations. 25
- (2) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) Where a person is convicted of an offence under this section, the court may by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority. 30
- (4) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions. 35
- (5) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor’s knowledge.
- (6) But no such proceedings may be brought more than three years – 40
 - (a) after the commission of the offence, or
 - (b) in the case of a continuous contravention, after the last date on which the offence was committed.
- (7) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor’s knowledge is conclusive evidence of that 45

fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

19 Amendment of section 15 following abolition of police authorities

In section 15(4) (which defines “relevant authority” for the purposes of this Chapter) omit –

- (a) paragraph (f) (the Metropolitan Police Authority), and
- (b) paragraph (k) (police authorities).

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20 Transitional provision

(1) An order under section 206(2) may, in particular, provide for any provision made by or under Part 3 of the Local Government Act 2000 to have effect with modifications in consequence of any partial commencement of any of the amendments to, or repeals of, provisions of that Part made by Schedule 4.

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(2) An order under section 206(2) may, in particular, make provision for an allegation or a case that is being investigated under Part 3 of the Local Government Act 2000 by the Standards Board for England or an ethical standards officer –

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- (a) to be referred to an authority of a kind specified in or determined in accordance with the order;
- (b) to be dealt with in accordance with provision made by the order.

(3) The provision that may be made by virtue of subsection (2)(b) includes –

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- (a) provision corresponding to any provision made by or under Part 3 of the Local Government Act 2000;
- (b) provision applying any provision made by or under that Part with or without modifications.

CHAPTER 6

25

PAY ACCOUNTABILITY

21 Senior pay policy statements

(1) A relevant authority must prepare a senior pay policy statement for the financial year 2012-2013 and each subsequent financial year.

(2) A senior pay policy statement for a financial year must set out the authority’s policies for the financial year relating to the remuneration of its chief officers.

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(3) The statement must include the authority’s policies relating to –

- (a) the level and elements of remuneration for each chief officer,
- (b) remuneration of chief officers on recruitment,
- (c) increases and additions to remuneration for each chief officer,
- (d) the use of performance related pay for chief officers,
- (e) the use of bonuses for chief officers,
- (f) the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the authority, and
- (g) the publication of and access to information relating to remuneration of chief officers.

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- (4) A senior pay policy statement for a financial year may also set out the authority's policies for the financial year relating to the other terms and conditions applying to the authority's chief officers.

22 Supplementary provisions relating to statements

- (1) A relevant authority's senior pay policy statement must be approved by a resolution of the authority before it comes into force. 5
- (2) The first statement must be prepared and approved before the end of 31st March 2012.
- (3) Each subsequent statement must be prepared and approved before the end of the 31st March immediately preceding the financial year to which it relates. 10
- (4) A relevant authority may by resolution amend its senior pay policy statement (including after the beginning of the financial year to which it relates).
- (5) As soon as is reasonably practicable after approving or amending a senior pay policy statement, the authority must publish the statement or the amended statement in such manner as it thinks fit (which must include publication on the authority's website). 15

23 Guidance

- (1) A relevant authority in England must, in performing its functions under section 21 or 22, have regard to any guidance issued or approved by the Secretary of State. 20
- (2) A relevant authority in Wales must, in performing its functions under section 21 or 22, have regard to any guidance issued or approved by the Welsh Ministers.

24 Determinations relating to remuneration etc

- (1) This section applies to a determination that – 25
- (a) is made by a relevant authority in a financial year beginning on or after 1st April 2012 and
 - (b) relates to the remuneration of or other terms and conditions applying to a chief officer of the authority.
- (2) The relevant authority must comply with its senior pay policy statement for the financial year in making the determination. 30
- (3) Any power of a fire and rescue authority within section 26(1)(i) to appoint officers and employees is subject to the requirement in subsection (2).
- (4) In section 112 of the Local Government Act 1972 (appointment of staff) after subsection (2) insert – 35
- “(2A) A local authority's power to appoint officers on such reasonable terms and conditions as the authority thinks fit is subject to section 24 of the Localism Act 2011 (requirement for determinations relating to terms and conditions of chief officers to comply with senior pay policy statement).” 40

25 Exercise of functions

- (1) The functions conferred on a relevant authority by this Chapter are not to be the responsibility of an executive of the authority under executive arrangements.
- (2) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of passing a resolution under this Chapter. 5
- (3) The function of a fire and rescue authority within section 26(1)(i) of passing a resolution under this Chapter may not be delegated by the authority.

26 Interpretation 10

- (1) In this Chapter “relevant authority” means—
- (a) a county council,
 - (b) a county borough council,
 - (c) a district council,
 - (d) a London borough council, 15
 - (e) the Common Council of the City of London in its capacity as a local authority,
 - (f) the Council of the Isles of Scilly,
 - (g) the London Fire and Emergency Planning Authority,
 - (h) a metropolitan county fire and rescue authority, or 20
 - (i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
- (2) In this Chapter “chief officer”, in relation to a relevant authority, means each of the following (if capable of being an officer of the authority)— 25
- (a) if the authority has made the arrangements specified in section 9HA(2) of the Local Government Act 2000 (mayoral management arrangements: mayor to be chief executive etc), the elected mayor of the authority;
 - (b) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989; 30
 - (c) its monitoring officer designated under section 5(1) of that Act;
 - (d) a statutory chief officer mentioned in section 2(6) of that Act;
 - (e) a non-statutory chief officer mentioned in section 2(7) of that Act;
 - (f) a deputy chief officer mentioned in section 2(8) of that Act. 35
- (3) In this Chapter “remuneration”, in relation to a chief officer and a relevant authority, means—
- (a) the chief officer’s salary or, in the case of a chief officer engaged by the authority under a contract for services, payments made by the authority to the chief officer for those services, 40
 - (b) any bonuses payable by the authority to the chief officer,
 - (c) any charges, fees or allowances payable by the authority to the chief officer,
 - (d) any benefits in kind to which the chief officer is entitled as a result of the chief officer’s office or employment, 45

- (e) any increase in or enhancement of the chief officer’s pension entitlement where the increase or enhancement is as a result of a resolution of the authority, and
 - (f) any amounts payable by the authority to the chief officer on the chief officer ceasing to hold office under or be employed by the authority, other than amounts that may be payable by virtue of any enactment. 5
- (4) In this Chapter “terms and conditions”, in relation to a chief officer and a relevant authority, means the terms and conditions on which the chief officer holds office under or is employed by the authority.
- (5) References in this Chapter to the remuneration of, or the other terms and conditions applying to, a chief officer include – 10
- (a) the remuneration that may be provided to, or the terms and conditions that may apply to, that chief officer in the future, and
 - (b) the remuneration that is to be provided to, or the terms and conditions that are to apply to, chief officers of that kind that the authority may appoint in the future. 15
- (6) In this Chapter –
- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);
 - “financial year” means the period of 12 months ending with 31st March in any year. 20

CHAPTER 7

MISCELLANEOUS REPEALS

- 27 Repeal of duties relating to promotion of democracy**
- Chapter 1 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (duties relating to promotion of democracy) is repealed. 25
- 28 Repeal of provisions about petitions to local authorities**
- Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (petitions to local authorities) is repealed.
- 29 Schemes to encourage domestic waste reduction by payments and charges** 30
- The following provisions are repealed –
- (a) section 71(1) of, and Schedule 5 to, the Climate Change Act 2008 (which amend the Environmental Protection Act 1990 to enable waste collection authorities to make waste reduction schemes, but which have never been in force), and 35
 - (b) sections 71(2) and (3) and 72 to 75 of that Act (which provide for the provisions mentioned in paragraph (a) to be piloted and then either brought into force, with or without amendments, or repealed).

PART 2

EU FINES

30 Power to require local or public authorities to make payments in respect of certain EU financial sanctions

- (1) In this Part “EU financial sanction” means a lump sum or penalty payment (or both) imposed after the commencement of this Part by the Court of Justice of the European Union under Article 260 of the Treaty on the Functioning of the European Union. 5
- (2) A Minister of the Crown may require a local or public authority to make a payment of an amount determined by the Minister in respect of any EU financial sanction imposed on the United Kingdom. 10
- (3) The requirement to make a payment under this Part must be imposed by an EU financial sanction notice under section 32 given by the Minister to the authority concerned after complying with the requirements of section 31.
- (4) The Secretary of State must publish (and may from time to time revise and republish) a statement of policy with respect to the imposition of requirements to make payments under this Part and the determination of the amount of the sums required to be paid. 15
- (5) In deciding how to exercise functions under this Part in relation to an EU financial sanction imposed on the United Kingdom the Minister must have regard to the statement of policy most recently published at the time when the EU financial sanction was imposed. 20
- (6) If an EU financial sanction notice is registered in accordance with rules of court or any practice direction, it is enforceable in the same manner as an order of the High Court. 25
- (7) *Any sums paid by a local or public authority under this Part are to be paid into the Consolidated Fund.*

31 Warning notices

- (1) Before imposing a requirement on a local or public authority to make a payment under this Part in respect of an EU financial sanction imposed on the United Kingdom, a Minister of the Crown must give a warning notice to the authority and follow the procedures set out in that notice (subject to any changes to those procedures made under subsection (5)). 30
- (2) A warning notice is a notice stating that the Minister, having regard to the judgment of the Court of Justice of the European Union imposing the Article 260 financial sanction, believes— 35
- (a) that acts of the authority may have caused or contributed to the infraction of EU law for which the EU financial sanction was imposed, and
- (b) that, if acts of the authority did cause or contribute to that infraction of EU law, it would be appropriate to consider requiring the authority to make a payment under this Part in respect of that financial sanction. 40
- (3) The warning notice must also—

- (a) set out the Minister’s reasons for making the statements mentioned in subsection (2);
 - (b) set out the Minister’s proposed criteria for determining –
 - (i) whether the authority’s acts did cause or contribute to the infraction of EU law concerned; 5
 - (ii) whether the authority should be required to make a payment in respect of the EU financial sanction, and
 - (iii) the amount of any payment the authority is to be required to make;
 - (c) set out the Minister’s proposed procedures for determining those matters (which must allow for representations to be made by the authority); 10
 - (d) invite the authority to submit representations to the Minister –
 - (i) about the matters mentioned in subsection (2) and the reasons given under paragraph (a) above; 15
 - (ii) about the matters mentioned in paragraphs (b), (c) and (e) of this subsection;
 - (iii) as to whether the authority’s acts did cause or contribute to the infraction of EU law concerned, whether it should be required to make a payment in respect of the EU financial sanction and the amount of any payment the authority is to be required to make; and 20
 - (iv) in response to any representations made by another local or public authority with an interest in the outcome of the determination of those matters (including representations made in relation to any other warning notice given in respect of the same EU financial sanction); and 25
 - (e) set out a timetable for allowing those representations to be made by the authority and considered.
- (4) The warning notice may contain other such information as the Minister considers appropriate. 30
- (5) The Minister may, after considering any representations made by the authority under subsection (3)(d)(ii) but before the matters mentioned in subsection (3)(b) are determined, give the authority a notice stating any changes that the Minister has decided to make to the criteria, procedures or timetable as originally set out in the warning notice under subsection (3)(b), (c) or (e). 35
- (6) A warning notice given to a local or public authority may be withdrawn at any time before the matters mentioned in subsection (3)(b) are determined, but this does not prevent a further warning notice being given to the authority in relation to the same EU financial sanction. 40

32 EU financial sanction notices

- (1) A Minister of the Crown may give an EU financial sanction notice to a local or public authority in relation to an EU financial sanction imposed on the United Kingdom only if the Minister is satisfied that acts of the authority caused or contributed to the infraction of EU law for which that financial sanction was imposed. 45
- (2) An EU financial sanction notice must –
 - (a) specify the amount required to be paid by the authority,

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- (b) specify the EU financial sanction to which the notice relates,
 - (c) specify any act of the authority which is regarded as having caused or contributed to the infraction of EU law for which that financial sanction was imposed;
 - (d) set out the Minister’s reasons – 5
 - (i) for requiring the authority to make a payment in respect of that financial sanction, and
 - (ii) for specifying the amount required to be paid,
 - (e) specify how and to whom the payment must be made, and
 - (f) specify the period within which the payment is required to be made. 10
- (3) Subject to subsection (5), the amount specified in the notice must not exceed the total amount of the EU financial sanction to which it relates.
- (4) Where the Minister is satisfied that acts of any person or body other than the authority to whom the notice is addressed also caused or contributed to the infraction of EU law concerned, the amount specified in the notice must not exceed the proportion of that total amount which the Minister considers fairly reflects the authority’s share of the responsibility for that infraction. 15
- (5) In deciding –
- (a) whether to give the authority an EU financial sanction notice, and
 - (b) if such a notice is to be given, the amount it is to be required to pay, 20
- the Minister must have regard to the effect on the authority’s finances of any amount it may be required to pay.
- 33 Meaning of “local or public authority”**
- (1) In this Part “local or public authority” means – 25
- (a) a local authority specified in subsection (2); or
 - (b) a person or body designated under subsection (3) as a public authority for the purposes of this Part.
- (2) The local authorities are – 30
- (a) a county council or district council in England or a London borough council;
 - (b) the Greater London Authority; and
 - (c) the Common Council of the City of London (in its capacity as a local authority).
- (3) The Secretary of State may by order designate persons or bodies exercising public functions in England as public authorities for the purposes of this Part (whether by specifying them or by prescribing descriptions of such persons or bodies). 35
- 34 Interpretation of Part: general**
- In this Part – 40
- “act” includes omission;
 - “EU financial sanction” has the meaning given by section 30(1);
 - “EU financial sanction notice” means a notice under section 32;

“infraction of EU law”, in relation to an EU financial sanction imposed on the United Kingdom, means a failure by the United Kingdom to comply with an obligation under the EU treaties;

“local or public authority” has the meaning given in section 33(1);

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

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PART 3

NON-DOMESTIC RATES ETC

Business rate supplements

35	Ballot for imposition and certain variations of a business rate supplement	10
(1)	The Business Rate Supplements Act 2009 (“the 2009 Act”) is amended as follows.	
(2)	In section 4(c) (condition for imposing a BRS) for “where there is to be a ballot on the imposition of the BRS, the ballot” substitute “a ballot”.	
(3)	In section 7 (holding of ballot) omit subsections (1), (2) and (5) (provision about the circumstances in which a ballot on the imposition of a BRS is to be held).	15
(4)	In section 8(1) (meaning of approve by ballot) for “If a ballot on the imposition of a BRS is held, the imposition of the BRS” substitute “The imposition of a BRS”.	
(5)	In section 10 (variations) –	20
(a)	in subsection (2)(c) (condition for varying a BRS) omit the words from the beginning to “subsection (7),”, and	
(b)	omit subsections (7) to (9) (provision about the circumstances in which a ballot on a proposal to vary a BRS is to be held).	
(6)	In Schedule 1 (information to be included in a prospectus for a BRS) for paragraphs 19 and 20 (information required in relation to a ballot on the imposition of the BRS) substitute –	25
“19	In an initial prospectus, a statement that there is to be a ballot on the imposition of the BRS.	
20	In a final prospectus –	30
(a)	a statement that a ballot has been held on the imposition of the BRS;	
(b)	the results of the ballot, including in particular –	
(i)	the total number of votes cast,	
(ii)	the number of persons who voted in favour of the imposition of the BRS,	35
(iii)	the number of persons who voted against its imposition,	
(iv)	the aggregate of the rateable values of each hereditament in respect of which a person voted in the ballot,	40

- (v) the aggregate of the rateable values of each hereditament in respect of which a person voted in favour of the imposition of the BRS, and
 - (vi) the aggregate of the rateable values of each hereditament in respect of which a person voted against its imposition.” 5
- (7) The amendments made by this section do not apply in relation to a BRS imposed before the date this section comes into force (whether or not the chargeable period of the BRS has begun before that date).
- (8) In this section – 10
- “BRS” means a business rate supplement (see section 1 of the 2009 Act);
 - “chargeable period” has the meaning given by section 11(6) of that Act.

Non-domestic rates

36 Non-domestic rates: discretionary relief

- (1) Section 47 of the Local Government Finance Act 1988 (non-domestic rates: discretionary relief) is amended as follows. 15
- (2) In subsection (1) (eligibility for relief) for the words from “the first and second conditions” to “are fulfilled” substitute “the condition mentioned in subsection (3) below is fulfilled”.
- (3) Omit subsection (2) (the first eligibility condition). 20
- (4) In subsection (3) (the second eligibility condition) omit “second”.
- (5) Omit subsections (3A) to (3D) (the other eligibility conditions).
- (6) After subsection (5) insert –
- “(5A) So far as a decision under subsection (3) above would have effect where none of section 43(6) above, section 43(6B) above and subsection (5B) below applies, the billing authority may make the decision only if it is satisfied that it would be reasonable for it to do so, having regard to the interests of persons liable to pay council tax set by it. 25
- (5B) This subsection applies on the chargeable day if –
- (a) all or part of the hereditament is occupied for the purposes of one or more institutions or other organisations – 30
 - (i) none of which is established or conducted for profit, and
 - (ii) each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts, or 35
 - (b) the hereditament –
 - (i) is wholly or mainly used for purposes of recreation, and
 - (ii) all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit. 40

- (5C) A billing authority in England, when making a decision under subsection (3) above, must have regard to any relevant guidance issued by the Secretary of State.
- (5D) A billing authority in Wales, when making a decision under subsection (3) above, must have regard to any relevant guidance issued by the Welsh Ministers.” 5
- (7) Before subsection (9) insert –
- “(8A) This section does not apply where the hereditament is an excepted hereditament.”
- 37 Small business relief 10**
- (1) Section 43 of the Local Government Finance Act 1988 (liability to non-domestic rates) is amended as follows.
- (2) In subsection (4B)(a) (small business relief: England) omit –
- (a) sub-paragraph (i) (maximum rateable value of hereditament), and
- (b) sub-paragraph (iii) (requirement for application). 15
- (3) Omit subsection (4C) (form and content of application).
- (4) In subsection (4D) (offence of making false application) –
- (a) after “If” insert “the ratepayer makes an application in order to satisfy a condition prescribed under subsection (4B)(a)(ii) above and”,
- (b) in paragraph (a) for “an application under subsection (4B)(a)(iii) above” substitute “the application”, and 20
- (c) in paragraph (b) for “such an” substitute “the”.
- 38 Cancellation of liability to backdated non-domestic rates**
- After section 49 of the Local Government Finance Act 1988 insert –
- “49A Cancellation of backdated liabilities for days in years 2005 to 2010 25**
- (1) The Secretary of State may by regulations provide that, in a prescribed case, the chargeable amount under section 43 or 45 for a hereditament in England for a chargeable day is zero.
- (2) The regulations may give that relief in relation to a hereditament and a chargeable day only if – 30
- (a) the hereditament is shown for the day in a local non-domestic rating list compiled on 1 April 2005, and
- (b) it is shown for that day as it is shown as the result of an alteration of the list made after the list was compiled.
- (3) The regulations may give that relief in relation to a hereditament and a chargeable day subject to the fulfilment of prescribed conditions. 35
- (4) A prescribed condition may be –
- (a) a condition to be fulfilled in relation to the hereditament,
- (b) a condition to be fulfilled in relation to some other hereditament, or 40
- (c) some other condition.

- (5) The conditions that may be prescribed include, in particular –
- (a) conditions relating to the circumstances in which an alteration of a local non-domestic rating list was made;
 - (b) conditions relating to the consequences of the alteration;
 - (c) conditions relating to the length of the period beginning with the first day from which an alteration had effect and ending with the day on which the alteration was made; 5
 - (d) conditions relating to a person’s liability or otherwise to non-domestic rates at any time.”

PART 4 10

COMMUNITY EMPOWERMENT

CHAPTER 1

LOCAL REFERENDUMS

Duty to hold local referendum

- 39 Duty to hold local referendum 15**
- (1) A principal local authority must hold a referendum in accordance with this Chapter (a “local referendum”) if any of the following conditions is met.
- (2) The first condition is that –
- (a) the authority receives a petition that complies with section 40, and
 - (b) the authority determines in accordance with sections 43 and 44 that it is appropriate to hold a local referendum. 20
- (3) The second condition is that –
- (a) one or more members of the authority makes a request that complies with section 42,
 - (b) the authority determines in accordance with sections 43 and 44 that it is appropriate to hold a local referendum, and 25
 - (c) the authority resolves in accordance with section 46 that the referendum should be held.
- (4) The third condition is that the authority passes a resolution that complies with section 47. 30
- (5) In this Chapter “principal local authority” means –
- (a) a county council in England;
 - (b) a district council;
 - (c) a London borough council;
 - (d) the Greater London Authority; 35
 - (e) the Common Council of the City of London in its capacity as a local authority;
 - (f) the Council of the Isles of Scilly.

Triggers for local referendum

40 Petition for local referendum

- (1) A petition complies with this section if –
 - (a) it requests the principal local authority to hold a local referendum in a relevant area of that authority, 5
 - (b) it is duly signed by the required percentage of local government electors in that area, taken as a whole (see section 41), and
 - (c) it states the question that the petitioners want to be asked in the referendum.
- (2) A principal local authority may determine in a particular case that a petition is to be treated as complying with this section even though it is not duly signed by the required percentage of local government electors in the area to which it relates. 10
- (3) For the purposes of this section a petition is duly signed by a person if –
 - (a) the person dates the signature, 15
 - (b) the date falls within the period of six months ending with the date on which the petition is received by the authority, and
 - (c) the petition states the person’s name, and the person’s address within the relevant area.
- (4) A principal local authority may provide a facility for making petitions under this section in electronic form to the authority. 20
- (5) In the case of a petition made to a principal local authority in electronic form –
 - (a) references in this section to signing or signature, or to dating a signature, are to authentication or dating in a manner that complies with specifications made by the authority; 25
 - (b) references in this Chapter to the date on which the petition is received by the authority is to such date after the petition is opened for signature as is determined in accordance with those specifications.
- (6) Specifications under subsection (5) must be published in such manner as the authority thinks fit. 30
- (7) In this Chapter “relevant area”, in relation to a principal local authority, means –
 - (a) the whole of the authority’s area, or
 - (b) in the case of an authority other than the Greater London Authority, a part of the authority’s area consisting of – 35
 - (i) a single electoral area, or
 - (ii) two or more electoral areas, each of which adjoins at least one other electoral area in the part.
- (8) In section 10 of the Local Democracy, Economic Development and Construction Act 2009 after subsection (2) insert – 40

“(2A) This section does not apply to a petition under section 40 of the Localism Act 2011 (petitions for local referendums).”

41 The required percentage

- (1) Subject as follows “the required percentage” in section 40(1)(b) means 5%.
- (2) The Secretary of State may by order amend subsection (1) to specify a higher or lower percentage than the percentage for the time being specified in that subsection. 5

42 Request for referendum

- (1) A request to a principal local authority complies with this section if –
 - (a) it requests the principal local authority to hold a local referendum in a relevant area of that authority,
 - (b) each member who requests the local referendum is a member for an electoral area in that relevant area, 10
 - (c) in the case of an electoral area with more than one member, all of the members or a majority of the members for the area make the request,
 - (d) the request is made to the proper officer of the authority, and
 - (e) the request is in writing and dated, and states the question that the members want to be asked in the referendum. 15
- (2) A member of the Greater London Authority may not request a referendum under this section.

43 Duty to determine appropriateness of referendum

- (1) This section applies if – 20
 - (a) a principal local authority receives a petition that complies with section 40, or
 - (b) a principal local authority receives a request that complies with section 42.
- (2) The principal local authority must determine whether it is appropriate to hold a local referendum in response to the petition or request. 25
- (3) But subsection (2) does not apply to a petition or request if –
 - (a) it is received by a district council whose area is part of the area of a county council, and
 - (b) the district council thinks the question stated in the petition or request relates (in whole or in part) to the functions of a partner authority of the county council other than the district council. 30
- (4) In such a case –
 - (a) the district council must refer the petition or request to the county council, 35
 - (b) the county council must consider a petition so referred as if it had received it from the petitioners,
 - (c) the county council must consider a request so referred as if it had been made to the county council in accordance with section 42, and
 - (d) any provision of this Chapter which requires a period to be calculated by reference to the date of receipt of the petition or request has effect as if it referred to the date on which the petition or request is received by the county council. 40

- (5) Subsection (4)(b) applies in relation to an electronic petition regardless of whether an electronic petition, or an electronic petition in that form, could have been made to the county council.

44 Grounds for determination

- (1) A principal local authority may only determine that it is not appropriate to hold a local referendum in response to a petition or request on one or more of the following grounds. 5
- (2) The first ground is that the authority thinks that action taken to promote or oppose the referendum question is likely to lead to contravention of an enactment or a rule of law. 10
- (3) The second ground is that the authority thinks that the matter to which the referendum question relates is not a local matter –
- (a) over which the authority has an influence or (in the case of a principal local authority other than a non-unitary district council or the Greater London Authority) any of its partner authorities has an influence, or 15
 - (b) which affects the authority’s area or the inhabitants of that area.
- (4) For the purposes of this Chapter –
- (a) a matter is a “local matter” if – 20
 - (i) it relates to the economic, social or environmental well-being of the area in which the referendum is proposed to be held, and
 - (ii) it has a particular connection with that area;
 - (b) a principal local authority or a partner authority has an influence over a matter if the authority can affect that matter by the exercise of any of its general or particular functions.
- (5) The Secretary of State may by order provide that a matter specified in the order is not to be treated as a local matter to which paragraph (a) or (b) of subsection (3) applies (whether or not it would otherwise be capable of being so treated). 25
- (6) The third ground is that the referendum question relates to a matter specified by order by the Secretary of State.
- (7) The fourth ground is that the principal local authority thinks the petition or request is vexatious or abusive. 30
- (8) In this section “the referendum question” means –
- (a) the question stated in the petition or request, or
 - (b) where the authority thinks that it is likely to exercise its power under section 48(3) (substitution of question) if the local referendum takes place, the question it thinks it is likely to substitute. 35

45 Action following determination in response to petition

- (1) Where a principal local authority has made a determination under section 43 as to whether it is appropriate to hold a local referendum in response to a petition, it must – 40
- (a) notify the petition organiser of the determination, and
 - (b) publish the determination in such manner as it thinks fit.
- (2) The notification must be made in writing, but may not be made by means of an electronic communication unless –

-
- (a) the petition organiser has agreed to accept the notification by such means, or
- (b) the petition was made to the authority in electronic form.
- (3) If the determination is that it is appropriate to hold the referendum, the authority must make arrangements for the referendum to take place in accordance with sections 48 to 51. 5
- (4) If the determination is that it is not appropriate to hold the referendum –
- (a) the notification must give the reasons for the determination, and
- (b) subject to subsection (5), the authority must publish those reasons when it publishes the determination. 10
- (5) A principal local authority is not obliged to publish those reasons if it thinks that in all the circumstances it would be inappropriate to do so.
- (6) In this Chapter “petition organiser”, in relation to a petition, means –
- (a) the person designated in the petition as the person with whom the authority may deal in relation to the petition, or 15
- (b) the person appearing to the authority to be the person with whom it may deal in relation to the petition.
- 46 Action following determination in response to request**
- (1) Where a principal local authority has made a determination under section 43 as to whether it is appropriate to hold a local referendum in response to a request, it must publish the determination in such manner as it thinks fit. 20
- (2) If the determination is that it is appropriate to hold the referendum, the proper officer of the authority must arrange for a meeting to decide on a resolution that the referendum should be held.
- (3) The meeting must be held as soon as is reasonably practicable after the determination is made. 25
- (4) If the authority resolves at the meeting that the referendum should be held, it must make arrangements for the referendum to take place in accordance with sections 48 to 51.
- (5) Subject to subsection (6), if the determination is that it is not appropriate to hold the referendum, the authority must publish the reasons for the determination when it publishes the determination. 30
- (6) A principal local authority is not obliged to publish those reasons if it thinks that in all the circumstances it would be inappropriate to do so
- 47 Resolution for local referendum** 35
- (1) A resolution complies with this section if –
- (a) it resolves that the principal local authority should hold a local referendum throughout the area of that authority, and
- (b) it states the question that is proposed be asked in the referendum.
- (2) If the authority passes a resolution that complies with this section, it must make arrangements for the referendum to take place in accordance with sections 48 to 51. 40

Arrangements for local referendum

48 Question to be asked in local referendum

- (1) The principal local authority must decide the question to be asked in the local referendum.
- (2) That question is to be the question stated in – 5
 - (a) the petition for the referendum,
 - (b) the request for the referendum, or
 - (c) the resolution for the referendum,as the case may be.
- (3) But if the authority considers that the question so stated is misleading, it may substitute its own wording. 10
- (4) The authority may not exercise the power in subsection (3) –
 - (a) in relation to a referendum following a petition, unless the authority has consulted the petition organiser;
 - (b) in relation to a referendum following a request, unless the authority has consulted the member or members who made the request. 15
- (5) The authority must publish, in such manner as it thinks fit –
 - (a) its decision about the question to be put in the referendum, and
 - (b) if it has substituted its own wording, its reasons for doing so.

49 Date of referendum

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- (1) Subject as follows, the local referendum is to be held on a date decided by the principal local authority.
- (2) The local referendum must not be held on a date within the period of two months beginning with the trigger date.
- (3) If another referendum (whether or not a local referendum) or an election is to be held in the whole or part of the authority's area within the period of six months beginning with the trigger date, the local referendum is to be held on the same date as the other referendum or election. 25
- (4) Subsection (3) does not apply if the authority thinks that in all the circumstances it would be inappropriate for the local referendum to be held on that date. 30
- (5) The local referendum must be held within the period of 12 months beginning with the trigger date.
- (6) In this section “the trigger date” means the date on which –
 - (a) the petition that led to the referendum was received by the authority,
 - (b) the request that led to the referendum was received by the authority, or
 - (c) the resolution that led to the referendum was passed by the authority,as the case may be. 35

50 Publicity for and in relation to local referendum

- (1) The principal local authority must publicise, in such manner as it thinks fit – 40

- (a) the fact that the local referendum is to take place,
 - (b) the date of the referendum, and
 - (c) the question that is to be asked in the referendum.
- (2) The duty in subsection (1) is subject to any provision made by regulations under section 51 (voting in and conduct of local referendums). 5
- (3) If the question to be asked in the referendum relates to a matter over which a partner authority has an influence, the principal local authority must inform the partner authority of the matters listed in subsection (1).
- (4) Subject to subsection (5), the principal local authority may publish, or arrange for the publication of, material that is designed to encourage support for or opposition to the question to be asked in the referendum. 10
- (5) The power in subsection (4) –
- (a) applies only in relation to a local referendum that is held in response to a petition or a request;
 - (b) enables the authority to incur only such expenditure as is reasonable. 15

51 Voting in and conduct of local referendums

- (1) The persons entitled to vote in a local referendum held by a principal local authority are those who, on the day of the referendum –
- (a) would be entitled to vote as electors at an election for members for an electoral area which is situated in the area in which the referendum is to be held (“the referendum area”), and
 - (b) are registered in the register of local government electors at an address within the referendum area. 20
- (2) The Secretary of State may by regulations make provision as to the conduct of local referendums. 25
- (3) The Secretary of State may by regulations make provision for the combination of polls at local referendums with polls at any elections or any referendums that are not local referendums.
- (4) Regulations under this section may make provision about –
- (a) when, where and how voting in a local referendum is to take place;
 - (b) how the votes cast in a local referendum are to be counted. 30
- (5) Regulations under this section may apply or incorporate, with or without modifications or exceptions, any provision of any enactment (whenever passed or made) relating to elections or referendums.
- (6) Regulations under this section may not include provision –
- (a) as to the question to be asked in a referendum;
 - (b) about the limitation of expenditure in connection with a referendum;
 - (c) about the effect of the result of a referendum;
 - (d) for the questioning of the result of a referendum by a court or tribunal;
 - (e) creating criminal offences. 35
- (7) Before making any regulations under this section, the Secretary of State must consult the Electoral Commission. 40

Consequences of local referendum

52 Consequences of local referendum

- (1) A principal local authority must publicise the result of a local referendum held in its area in such manner as the authority thinks appropriate.
- (2) Subsections (3) and (4) apply if the question asked in the referendum relates to a matter over which the principal local authority has an influence. 5
- (3) As soon as is reasonably practicable after the result is known, the authority must consider what steps (if any) the authority proposes to take to give effect to the result.
- (4) If the authority decides to take no steps to give effect to the result, it must publish that decision in such manner as it thinks appropriate together with the reasons for that decision. 10
- (5) Subsections (6) to (8) apply if the question asked in the referendum relates to a matter over which a partner authority has an influence.
- (6) The principal local authority must inform the partner authority of the outcome of the referendum. 15
- (7) As soon as is reasonably practicable after the result is known, the partner authority must consider what steps (if any) the authority proposes to take to give effect to the result.
- (8) If the partner authority decides to take no steps to give effect to the result of the referendum, it must publish that decision in such manner as it thinks appropriate together with the reasons for that decision. 20

Supplementary

53 Application to parish councils

- (1) The Secretary of State may by regulations make provision about the holding of polls or referendums by parish councils. 25
- (2) Regulations under this section may –
 - (a) apply or reproduce, with or without modifications, any provision of, or any provision made under, this Chapter;
 - (b) amend, repeal or revoke any enactment (whenever passed or made). 30
- (3) *The Secretary of State may make or arrange for the making of payments to parish councils to enable them to meet the additional expenditure they incur as a result of regulations under this section.*

54 Discharge of functions

- (1) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions) does not apply to a function of passing a resolution under any provision of this Chapter. 35
- (2) In the case of a principal local authority that is operating executive arrangements, a function of passing a resolution under this Chapter is not to be the responsibility of the authority's executive under those arrangements. 40

- (3) In the case of the Greater London Authority, the function of passing a resolution under section 47 is to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

55 Interpretation

- (1) In this Chapter – 5
- “electoral area” means –
- (a) in relation to a district council, a London borough council or the Common Council of the City of London, a ward;
 - (b) in relation to a county council, an electoral division;
 - (c) in relation to the Greater London Authority, an Assembly constituency within the meaning of the Greater London Authority Act 1999; 10
 - (d) in relation to the Council of the Isles of Scilly, a parish;
- “electronic communication” has the same meaning as in the Electronic Communications Act 2000; 15
- “enactment” includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);
- “local government elector” means –
- (a) a person registered as a local government elector in the register of electors kept in accordance with the provisions of the Representation of the People Acts, or
 - (b) in relation to the Common Council of the City of London, a person whose name appears in a ward list published under section 7 of the City of London (Various Powers) Act 1957 (5 & 6 Eliz 2 c x), 20
- and the reference in section 51(1)(b) to the register of local government electors is to be read accordingly;
- “local matter” has the meaning given by section 44(4);
- “local referendum” has the meaning given by section 39(1); 30
- “non-unitary district council” means a district council for an area which is part of the area of a county council;
- “partner authority”, in relation to a principal local authority, has the same meaning as in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007; 35
- “petition organiser” has the meaning given by section 45(6);
- “principal local authority” has the meaning given by section 39(5);
- “proper officer”, in relation to a purpose and a principal local authority, means the officer appointed for that purpose by that authority;
- “relevant area” has the meaning given by section 40(7). 40
- (2) Any reference in this Chapter to a member of a principal local authority –
- (a) in the case of an authority to which Part 1A of the Local Government Act 2000 applies, includes a reference to an elected mayor;
 - (b) in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member. 45

CHAPTER 2

COUNCIL TAX

56 Referendums relating to council tax increases

- (1) In Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) after Chapter 4 insert the Chapter set out in Schedule 5. 5
- (2) Schedule 6 (council tax referendums: consequential amendments) has effect.

57 Powers of the National Assembly for Wales

In Part 1 of Schedule 5 to the Government of Wales Act 2006 (Assembly Measures: matters) in Field 12 (local government) after Matter 12.18 insert –

“Matter 12.19 10

Referendums on council tax increases by county councils, county borough councils, police and crime commissioners and fire and rescue authorities.”

58 References to proper accounting practices

In section 21(4) of the Local Government Act 2003 (enactments to which provisions about references to proper accounting practices apply) – 15

- (a) at the end of paragraph (c) insert –
“(ca) the Local Government Finance Act 1992 (c. 14),”, and
- (b) for the “and” at the end of paragraph (d) substitute –
“(da) the Greater London Authority Act 1999 (c. 29), and”. 20

59 Council tax calculations by billing authorities in England

Before section 32 of the Local Government Finance Act 1992 insert –

“31A Calculation of council tax requirement by authorities in England

- (1) In relation to each financial year a billing authority in England must make the calculations required by this section. 25
- (2) The authority must calculate the aggregate of –
 - (a) the expenditure which the authority estimates it will incur in the year in performing its functions and will charge to a revenue account, other than a BID Revenue Account, for the year in accordance with proper practices, 30
 - (b) such allowance as the authority estimates will be appropriate for contingencies in relation to amounts to be charged or credited to a revenue account for the year in accordance with proper practices,
 - (c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure, 35
 - (d) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account

- deficit for any earlier financial year as has not already been provided for,
- (e) any amounts which it estimates will be transferred in the year from its general fund to its collection fund in accordance with section 97(4) of the 1988 Act, and 5
 - (f) any amounts which it estimates will be transferred from its general fund to its collection fund pursuant to a direction under section 98(5) of the 1988 Act and charged to a revenue account for the year.
- (3) The authority must calculate the aggregate of – 10
- (a) the income which it estimates will accrue to it in the year and which it will credit to a revenue account, other than a BID Revenue Account, for the year in accordance with proper practices,
 - (b) any amounts which it estimates will be transferred in the year from its collection fund to its general fund in accordance with section 97(3) of the 1988 Act, 15
 - (c) any amounts which it estimates will be transferred from its collection fund to its general fund pursuant to a direction under section 98(4) of the 1988 Act and will be credited to a revenue account for the year, and 20
 - (d) the amount of the financial reserves which the authority estimates it will use in order to provide for the items mentioned in subsection (2)(a), (b) and (e) above, and
- (4) If the aggregate calculated under subsection (2) above exceeds that calculated under subsection (3) above, the authority must calculate the amount equal to the difference; and the amount so calculated is to be its council tax requirement for the year. 25
- (5) In making the calculation under subsection (2) above the authority must ignore payments which must be met from its collection fund under section 90(2) of the 1988 Act or from a trust fund. 30
- (6) In estimating under subsection (2)(a) above the authority must take into account –
- (a) the amount of any expenditure which it estimates it will incur in the year in making any repayments of grants or other sums paid to it by the Secretary of State, and 35
 - (b) the amount of any precept issued to it for the year by a local precepting authority and the amount of any levy or special levy issued to it for the year.
- (7) But (except as provided by regulations under section 41 above or regulations under section 74 or 75 of the 1988 Act) the authority must not anticipate a precept, levy or special levy not issued. 40
- (8) For the purposes of subsection (2)(c) above an authority's estimated future expenditure is –
- (a) that which the authority estimates it will incur in the financial year following the year in question, will charge to a revenue account for the year in accordance with proper practices and will have to defray in the year before the following sums are sufficiently available – 45

- (i) sums which will be payable for the year into its general fund and in respect of which amounts will be credited to a revenue account for the year in accordance with proper practices, and
 - (ii) sums which will be transferred as regards the year from its collection fund to its general fund, and
 - (b) that which the authority estimates it will incur in the financial year referred to in paragraph (a) above or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year in accordance with proper practices.
- (9) In making the calculation under subsection (3) above the authority must ignore –
 - (a) payments which must be made into its collection fund under section 90(1) of the 1988 Act or to a trust fund, and
 - (b) subject to paragraphs (b) and (c) of subsection (3), sums which have been or are to be transferred from its collection fund to its general fund.
- (10) The Secretary of State may by regulations do either or both of the following –
 - (a) alter the constituents of any calculation to be made under subsection (2) or (3) above (whether by adding, deleting or amending items);
 - (b) alter the rules governing the making of any calculation under subsection (2) or (3) above (whether by deleting or amending subsections (5) to (9) above, or any of them, or by adding other provisions, or by a combination of those methods).
- (11) Calculations to be made in relation to a particular financial year under this section must be made before 11th March in the preceding financial year, but they are not invalid merely because they are made on or after that date.
- (12) This section is subject to section 52ZS below (which requires a direction to a billing authority that the referendum provisions in Chapter 4ZA are not to apply to the authority for a financial year to state the amount of the authority’s council tax requirement for the year).
- (13) In this section “BID Revenue Account” has the same meaning as in Part 4 of the Local Government Act 2003.

31B Calculation of basic amount of tax by authorities in England

- (1) In relation to each financial year a billing authority in England must calculate the basic amount of its council tax by applying the formula –

$$\frac{R}{T}$$

where –

R is the amount calculated (or last calculated) by the authority under section 31A(4) above as its council tax requirement for the year;

T is the amount which is calculated by the authority as its council tax base for the year and, where one or more major precepting

authorities have power to issue precepts to it, is notified by it to those authorities (“the major precepting authorities concerned”) within the prescribed period.

- (2) Where the aggregate calculated (or last calculated) by the authority for the year under subsection (2) of section 31A above does not exceed that so calculated under subsection (3) of that section, the amount for item R in subsection (1) above is to be nil. 5
- (3) The Secretary of State must make regulations containing rules for making for any year the calculation required by item T in subsection (1) above; and a billing authority must make the calculation for any year in accordance with the rules for the time being effective (as regards the year) under the regulations. 10
- (4) Regulations prescribing a period for the purposes of item T in subsection (1) above may provide that, in any case where a billing authority fails to notify its calculation to the major precepting authorities concerned within that period, that item must be determined in the prescribed manner by such authority or authorities as may be prescribed. 15
- (5) The Secretary of State may by regulations do either or both of the following – 20
 - (a) alter the constituents of any calculation to be made under subsection (1) above (whether by adding, deleting or amending items);
 - (b) provide for rules governing the making of any calculation under that subsection (whether by adding provisions to, or deleting or amending provisions of, this section, or by a combination of those methods).” 25

60 Council tax calculations by major precepting authorities in England

Before section 43 of the Local Government Finance Act 1992 insert –

“42A Calculation of council tax requirement by authorities in England 30

- (1) In relation to each financial year a major precepting authority in England must make the calculations required by this section.
- (2) The authority must calculate the aggregate of –
 - (a) the expenditure the authority estimates it will incur in the year in performing its functions and will charge to a revenue account for the year in accordance with proper practices, 35
 - (b) such allowance as the authority estimates will be appropriate for contingencies in relation to amounts to be charged or credited to a revenue account for a year in accordance with proper practices, 40
 - (c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure, and
 - (d) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for. 45

- (3) The authority must calculate the aggregate of—
 - (a) the income which it estimates will accrue to it in the year and which it will credit to a revenue account for the year in accordance with proper practices, other than income which it estimates will accrue to it in respect of any precept issued by it, and 5
 - (b) the amount of the financial reserves which the authority estimates that it will use in order to provide for the items mentioned in paragraphs (a) and (b) of subsection (2) above.
- (4) If the aggregate calculated under subsection (2) above exceeds that calculated under subsection (3) above, the authority must calculate the amount equal to the difference; and the amount so calculated is to be its council tax requirement for the year. 10
- (5) In making the calculation under subsection (2) above the authority must ignore payments which must be met from a trust fund. 15
- (6) In estimating under subsection (2)(a) above an authority must take into account—
 - (a) the amount of any expenditure which it estimates it will incur in the year in making any repayments of grants or other sums paid to it by the Secretary of State, and 20
 - (b) in the case of authority which is a county council, the amount of any levy issued to it for the year.
- (7) But (except as provided by regulations under section 74 of the 1988 Act) the authority must not anticipate a levy not issued.
- (8) For the purposes of subsection (2)(c) above an authority's estimated future expenditure is— 25
 - (a) that which the authority estimates it will incur in the financial year following the year in question, will charge to a revenue account for the year in accordance with proper practices and will have to defray in the year before the following sums are sufficiently available— 30
 - (i) sums which will be payable to it for the year, and
 - (ii) sums in respect of which amounts will be credited to a revenue account for the year in accordance with proper practices, and 35
 - (b) that which the authority estimates it will incur in the financial year referred to in paragraph (a) above or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year in accordance with proper practices. 40
- (9) In making the calculation under subsection (3) above the authority must ignore payments which must be made into a trust fund.
- (10) In estimating under subsection (3)(a) the authority must take into account the sums which the authority estimates will be paid to it in the year by billing authorities in accordance with regulations under section 99(3) of the 1988 Act. 45
- (11) The Secretary of State may by regulations do one or both of the following—

- (a) alter the constituents of any calculation to be made under subsection (2) or (3) above (whether by adding, deleting or amending items);
- (b) alter the rules governing the making of any calculation under subsection (2) or (3) above (whether by deleting or amending subsections (5) to (10) above, or any of them, or by adding other provisions, or by a combination of those methods). 5
- (12) This section is subject to section 52ZT below (which requires a direction to a major precepting authority that the referendum provisions in Chapter 4ZA are not to apply to the authority for a financial year to state the amount of the authority’s council tax requirement for the year). 10

42B Calculation of basic amount of tax by authorities in England

- (1) In relation to each financial year a major precepting authority in England must calculate the basic amount of its council tax by applying the formula – 15

$$\frac{R}{T}$$

where –

- R is the amount calculated (or last calculated) by the authority under section 42A(4) above as its council tax requirement for the year; 20
- T is the aggregate of the amounts which are calculated by the billing authorities to which the authority issues precepts (“the billing authorities concerned”) as their council tax bases for the year for their areas, or (as the case may require) for the parts of their areas falling within the authority’s area, and are notified by them to the authority within the prescribed period. 25
- (2) Where the aggregate calculated (or last calculated) by the authority for the year under subsection (2) of section 42A above does not exceed that so calculated under subsection (3) of that section, the amount for item R in subsection (1) above is to be nil. 30
- (3) The Secretary of State must make regulations containing rules for making for any year the calculation required by item T in subsection (1) above; and the billing authorities concerned must make the calculations for any year in accordance with the rules for the time being effective (as regards the year) under the regulations. 35
- (4) Regulations prescribing a period for the purposes of item T in subsection (1) above may provide that, in any case where a billing authority fails to notify its calculation to the precepting authority concerned within that period, that item must be determined in the prescribed manner by such authority or authorities as may be prescribed. 40
- (5) The Secretary of State may by regulations do either or both of the following –

- (a) alter the constituents of any calculation to be made under subsection (1) above (whether by adding, deleting or amending items);
- (b) provide for rules governing the making of any calculation under that subsection (whether by adding provisions to, or deleting or amending provisions of, this section, or by a combination of those methods).” 5

61 Calculation of council tax requirement by the Greater London Authority

- (1) Section 85 of the Greater London Authority Act 1999 (calculation of component and consolidated budget requirements) is amended as follows. 10
- (2) In the section heading for “budget” substitute “council tax”.
- (3) In subsection (1) for “43” substitute “42A”.
- (4) In subsection (4) –
 - (a) in paragraph (a) for the words from “, other than” to “the 1988 Act” substitute “in accordance with proper practices”, and 15
 - (b) in paragraph (b) –
 - (i) for “expenditure to be charged” substitute “amounts to be charged or credited”, and
 - (ii) after “for the year” insert “in accordance with proper practices”.
- (5) In subsection (5) for paragraph (a) substitute – 20
 - “(a) the income which the Authority estimates will accrue to or for the body in the year and which will be credited to a revenue account for the year in accordance with proper practices, other than income which the Authority estimates will accrue in respect of any precept issued by it;” 25
- (6) In subsection (6)(b) for “budget” substitute “council tax”.
- (7) In subsection (7) for “budget” substitute “council tax”.
- (8) In subsection (8) for “budget” in both places substitute “council tax”.
- (9) Omit subsection (9).
- (10) Section 86 of that Act (provisions supplemental to section 85) is amended as follows. 30
- (11) After subsection (1) insert –
 - “(1A) In making any calculation under subsection (4) of section 85 above the Authority shall ignore payments which must be met from a trust fund.
 - (1B) In estimating under subsection (4)(a) of section 85 above – 35
 - (a) in the case of any functional body, the Authority shall take into account the amount of any expenditure which it estimates will be incurred in the year in respect of the body under section 43(1) of the Local Government Act 2003 or in paying any BID levy for which the body is liable, and 40
 - (b) in the case of the Mayor, the Authority shall take into account the amount of any expenditure which it estimates will be incurred in the year in respect of the Authority under section

-
- 43(1) of the Local Government Act 2003 or in paying any BID levy for which the Authority is liable.”
- (12) After subsection (2A) insert –
- “(2B) In estimating under subsection (4)(a) of section 85 above in the case of the Mayor, the Authority shall take into account the amount of any expenditure which the Authority estimates it will incur in the year in pursuance of regulations under section 99(3) of the Local Government Finance Act 1988.” 5
- (13) After subsection (4) insert –
- “(4A) In making any calculation under subsection (5) of section 85 above, the Authority must ignore payments which must be made into a trust fund. 10
- (4B) In estimating under subsection (5)(a) of section 85 above in the case of the Mayor, the Authority shall take into account –
- (a) the amounts which the Authority estimates will be paid to it in the year by billing authorities in accordance with regulations under section 99(3) of the Local Government Finance Act 1988, and 15
- (b) the amount of any expenditure which it estimates will be incurred in the year by the Authority in making any repayments of grants or other sums paid to the Authority by the Secretary of State. 20
- (4C) In estimating under subsection (5)(a) of section 85 above in the case of a functional body, the Authority shall take into account the amount of any expenditure which it estimates will be incurred in the year in making by or in respect of the body any repayments of grants or other sums paid to or for the body by the Secretary of State. 25
- (4D) In estimating under subsection (5)(a) of section 85 above in the case of the Mayor’s Office for Policing and Crime, the Authority must use such amounts as may be prescribed by the Secretary of State as the sums that are payable to the Mayor’s Office for Policing and Crime in respect of the following items – 30
- (a) redistributed non-domestic rates,
- (b) revenue support grant,
- (c) general GLA grant, and
- (d) additional grant. 35
- (4E) In subsection (4D) above, “prescribed” means specified in, or determined in accordance with, either –
- (a) the appropriate report or determination, or
- (b) regulations made by the Secretary of State, 40
- as the Secretary of State may determine in the case of any particular item and any particular financial year or years.
- (4F) In subsection (4E) above, “the appropriate report or determination” means –
- (a) in the case of an item specified in paragraph (a) or (b) of subsection (4D), the local government finance report for the financial year in question, 45

- (b) in the case of the item specified in paragraph (c) of that subsection, the determination under section 100 below for the financial year in question, and
 - (c) in the case of the item specified in paragraph (d) of that subsection, the report under section 85 of the Local Government Finance Act 1988 relating to that item.” 5
- (14) In subsection (5)(b) for “(4)” substitute “(4F)”.
- (15) Omit subsection (6).

62 Calculation of basic amount of tax by the Greater London Authority

- (1) Section 88 of the Greater London Authority Act 1999 (calculation of basic amount of tax) is amended as follows. 10
- (2) In subsection (1) for “44” substitute “42B”.
- (3) For subsection (2) substitute –
- “(2) In relation to each financial year the Authority shall calculate the basic amount of its council tax by applying the formula – 15

$$\frac{(R - A)}{T}$$

where –

- R is the amount calculated (or last calculated) by the Authority under section 85(8) above as its consolidated council tax requirement for the year; 20
- A is the amount of the special item;
- T is the aggregate of the amounts which are calculated by the billing authorities to which the Authority issues precepts (“the billing authorities concerned”) as their council tax bases for the year for their areas and are notified by them to the Authority within the prescribed period.” 25
- (4) Omit subsections (3) to (5).
- (5) In subsection (8) for paragraph (b) substitute –
- “(b) provide for rules governing the making of any calculation under that subsection (whether by adding provisions to, or deleting or amending provisions of, this section, or by a combination of those methods).” 30
- (6) Section 89 of that Act (additional calculations: special item for part of Greater London) is amended as follows.

- (7) For subsection (4) substitute –
- “(4) For dwellings in any part of Greater London to which the special item relates, the amount in respect of the special item is given by the formula –
- $$\frac{S2}{TP2}$$
- 5
- where –
- S2 is the amount of the special item;
- TP2 is the aggregate of the amounts which are calculated by the billing authorities to which the Authority has power to issue precepts as respects the special item (“the billing authorities concerned”) as their council tax bases for the year for their areas and are notified by them to the Authority within the prescribed period.”
- 10
- (8) Omit subsections (5) and (6).
- (9) In subsection (9) for paragraph (b) substitute –
- 15
- “(b) provide for rules governing the making of any calculation under or by virtue of that subsection (whether by adding provisions to, or deleting or amending provisions of, this section, or by a combination of those methods).”
- 63 Council tax calculation by local precepting authorities in England** 20
- Before section 50 of the Local Government Finance Act 1992 insert –
- “49A Calculation of council tax requirement by authorities in England**
- (1) In relation to each financial year a local precepting authority in England must make the calculations required by this section.
- (2) The authority must calculate the aggregate of – 25
- (a) the expenditure the authority estimates it will incur in the year in performing its functions and will charge to a revenue account for the year in accordance with proper practices,
- (b) such allowance as the authority estimates will be appropriate for contingencies in relation to amounts to be charged or credited to a revenue account for the year in accordance with proper practices, 30
- (c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure, and 35
- (d) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for.
- (3) The authority must calculate the aggregate of – 40
- (a) the income which it estimates will accrue to it in the year and which it will credit to a revenue account for the year in

- accordance with proper practices, other than income which it estimates will accrue to it in respect of any precept issued by it, and
- (b) the amount of the financial reserves which the authority estimates that it will use in order to provide for the items mentioned in paragraphs (a) and (b) of subsection (2) above. 5
- (4) If the aggregate calculated under subsection (2) above exceeds that calculated under subsection (3) above, the authority must calculate the amount equal to the difference; and the amount so calculated is to be its council tax requirement for the year. 10
- (5) For the purposes of subsection (2)(c) above an authority’s estimated future expenditure is –
- (a) that which the authority estimates it will incur in the financial year following the year in question, will charge to a revenue account for the year in accordance with proper practices and will have to defray in the year before the following sums are sufficiently available, namely, sums – 15
- (i) which will be payable to it for the year, and
- (ii) in respect of which amounts will be credited to a revenue account for the year in accordance with proper practices, and 20
- (b) that which the authority estimates it will incur in the financial year referred to in paragraph (a) above or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year in accordance with proper practices. 25
- (6) This section is subject to section 52ZV below (which requires a direction to a local precepting authority that the referendum provisions in Chapter 4ZA are not to apply to the authority for a financial year to state the amount of the authority’s council tax requirement for the year). 30

49B Substitute calculations

- (1) A local precepting authority which has made calculations in accordance with section 49A above in relation to a financial year (originally or by way of substitute) may make calculations in substitution in relation to the year in accordance with that section. 35
- (2) None of the substitute calculations are to have any effect if the amount calculated under section 49A(4) above would exceed that so calculated in the previous calculations.
- (3) Subsection (2) above does not apply if the previous calculation under subsection (4) of section 49A above has been quashed because of a failure to comply with that section in making the calculation.” 40

64 Council tax: minor and consequential amendments

Schedule 7 (council tax: minor and consequential amendments) has effect.

65 Council tax revaluations in Wales

- (1) The Local Government Finance Act 1992 is amended as follows.
- (2) In section 22B(3) (new Welsh valuation lists to be prepared on earlier of tenth anniversary of compilation of previous list and 1 April in such year as may be specified by the Welsh Ministers) for the words from “the earlier” to the end substitute “1 April in each year specified by order made by the Welsh Ministers.” 5
- (3) In section 22B (compilation and maintenance of new valuation lists) after subsection (11) insert—
 - “(12) No order under subsection (3) may be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the National Assembly for Wales.” 10
- (4) In section 113(1) and (2) (orders and regulations may make differential and incidental etc provision) for “National Assembly for Wales” substitute “Welsh Ministers”. 15
- (5) In section 113(2) for “, they or it thinks” substitute “or they think”.
- (6) In section 113(4) (power of National Assembly for Wales to make orders or regulations is exercisable by statutory instrument) for “National Assembly for Wales” substitute “Welsh Ministers”.

CHAPTER 3 20

COMMUNITY RIGHT TO CHALLENGE

66 Duty to consider expression of interest

- (1) A relevant authority must consider an expression of interest in accordance with this Chapter if—
 - (a) it is submitted to the authority by a relevant body, and 25
 - (b) it is made in writing and complies with such other requirements for expressions of interest as the Secretary of State may specify by regulations.

This is subject to section 67 (timing of expressions of interest).
- (2) In this Chapter “relevant authority” means— 30
 - (a) a county council in England,
 - (b) a district council,
 - (c) a London borough council, or
 - (d) such other person or body carrying on functions of a public nature as the Secretary of State may specify by regulations. 35
- (3) In this Chapter “expression of interest”, in relation to a relevant authority, means an expression of interest in providing or assisting in providing a relevant service on behalf of the authority.
- (4) In this Chapter “relevant service”, in relation to a relevant authority, means a service provided by or on behalf of that authority in the exercise of any of its functions, other than a service of a kind specified in regulations made by the Secretary of State. 40

- (5) In this Chapter “relevant body” means –
- (a) a voluntary or community body,
 - (b) a body of persons or a trust which is established for charitable purposes only,
 - (c) a parish council, 5
 - (d) in relation to a relevant authority, two or more employees of that authority, or
 - (e) such other person or body as may be specified by the Secretary of State by regulations.
- (6) For the purposes of subsection (5) “voluntary body” means a body, other than a public or local authority, the activities of which are not carried on for profit. 10
- (7) The fact that a body’s activities generate a surplus does not prevent it from being a voluntary body for the purposes of subsection (5) so long as that surplus is used for the purposes of those activities or invested in the community. 15
- (8) For the purposes of subsection (5) “community body” means a body that carries on activities primarily for the benefit of the community.
- (9) The Secretary of State may by regulations –
- (a) amend or repeal any of paragraphs (a) to (d) of subsection (5);
 - (b) amend or repeal any of subsections (6) to (8); 20
 - (c) make other amendments to this Chapter (including amendments to any power to make regulations) in consequence of provision made under subsection (2)(d) or (5)(e) or paragraph (a) or (b) of this subsection.
- 67 Timing of expressions of interest**
- (1) Subject as follows, a relevant body may submit an expression of interest to a relevant authority at any time. 25
- (2) A relevant authority may specify periods during which expressions of interest, or expressions of interest in respect of a particular relevant service, may be submitted to the authority.
- (3) The relevant authority must publish details of each specification under subsection (2) in such manner as it thinks fit (which must include publication on the authority’s website). 30
- (4) The relevant authority may refuse to consider an expression of interest submitted outside a period specified under subsection (2).
- (5) The Secretary of State may by regulations specify minimum periods that may be specified by relevant authorities under subsection (2). 35
- 68 Consideration of expression of interest**
- (1) The relevant authority must –
- (a) accept the expression of interest, or
 - (b) reject the expression of interest. 40
- This is subject to section 69(1) (modification of expression of interest).

-
- (2) If the relevant authority accepts the expression of interest it must carry out a procurement exercise relating to the provision on behalf of the authority of the relevant service to which the expression of interest relates.
- (3) The exercise required by subsection (2) must be such as is appropriate having regard to the value and nature of the contract that may be awarded as a result of the exercise. 5
- (4) The Secretary of State may by regulations specify –
- (a) the minimum period that must elapse between the date of the relevant authority’s decision to accept an expression of interest and the date on which it begins the exercise referred to in subsection (2), and 10
- (b) the maximum period that may elapse between those dates.
- (5) A relevant authority must, in considering an expression of interest, consider whether acceptance of the expression of interest would promote or improve the social, economic or environmental well-being of the authority’s area.
- (6) A relevant authority must, in carrying out the exercise referred to in subsection (2), consider how it might promote or improve the social, economic or environmental well-being of the authority’s area by means of that exercise. 15
- (7) Subsection (6) applies only so far as is consistent with the law applying to the awarding of contracts for the provision on behalf of the authority of the relevant service in question. 20
- (8) The relevant authority may reject the expression of interest only on one or more grounds specified by the Secretary of State by regulations.
- 69 Consideration of expression of interest: further provisions**
- (1) A relevant authority that is considering an expression of interest from a relevant body may modify the expression of interest. 25
- (2) A relevant authority may exercise the power in subsection (1) only if –
- (a) the authority thinks that the expression of interest would not otherwise be capable of acceptance, and
- (b) the relevant body agrees to the modification.
- (3) A relevant authority must make a decision in respect of an expression of interest within such time as may be specified by the Secretary of State by regulations. 30
- (4) The relevant authority must –
- (a) notify the relevant body in writing of the decision within such time as may be specified by the Secretary of State by regulations, and 35
- (b) if the authority’s decision is to modify or reject the expression of interest, give reasons for that decision in the notification.
- (5) The relevant authority must publish the notification in such manner as it thinks fit (which must include publication on the authority’s website).
- (6) A relevant body may withdraw an expression of interest after submitting it to a relevant authority (whether before or after a decision has been made by the authority in respect of the expression of interest). 40
- (7) The withdrawal of an expression of interest, or the refusal of a relevant body to agree to modification of an expression of interest, does not prevent the relevant

authority from proceeding as described in section 68(2) if the relevant authority thinks that it is appropriate to do so.

70 Supplementary

- (1) The Secretary of State may by regulations make further provision about the consideration by a relevant authority of an expression of interest submitted by a relevant body. 5
- (2) A relevant authority must, in exercising its functions under or by virtue of this Chapter, have regard to guidance issued by the Secretary of State.

CHAPTER 4

ASSETS OF COMMUNITY VALUE 10

List of assets of community value

71 List of assets of community value

- (1) A local authority must maintain a list of land in its area that is land of community value.
- (2) The list maintained under subsection (1) by a local authority is to be known as its list of assets of community value. 15
- (3) Where land is included in a local authority's list of assets of community value, the entry for that land is to be removed from the list with effect from the end of the period of 5 years beginning with the date of that entry (unless the entry has been removed with effect from some earlier time in accordance with provision in regulations under subsection (5)). 20
- (4) The appropriate authority may by order amend subsection (3) for the purpose of substituting, for the period specified in that subsection for the time being, some other period.
- (5) The appropriate authority may by regulations make further provision in relation to a local authority's list of assets of community value, including (in particular) provision about – 25
 - (a) the form in which the list is to be kept;
 - (b) contents of an entry in the list (including matters not to be included in an entry); 30
 - (c) modification of an entry in the list;
 - (d) removal of an entry from the list;
 - (e) cases where land is to be included in the list and –
 - (i) different parts of the land are in different ownership or occupation, or 35
 - (ii) there are multiple estates or interests in the land or any part or parts of it;
 - (f) combination of the list with the local authority's list of land nominated by unsuccessful community nominations.

- (6) Subject to any provision made by or under this Chapter, it is for a local authority to decide the form and contents of its list of assets of community value.

72 Land of community value

- (1) For the purposes of this Chapter, whether or not a building or other land is land of community value is to be determined in accordance with regulations made by the appropriate authority. 5
- (2) Regulations under subsection (1) may (in particular) –
- (a) provide that a building or other land is land of community value, or that a building or other land is not land of community value, if the building or other land is specified in the regulations or is of a description specified in the regulations; 10
 - (b) provide that a building or other land in a local authority’s area is land of community value, or that a building or other land in a local authority’s area is not land of community value, if the local authority or some other person specified in the regulations considers that the building or other land is of a description specified in the regulations; 15
 - (c) make provision as to matters that are, or as to matters that are not, to be taken into account by a local authority or other person when deciding whether land is of community value. 20
- (3) A description specified under subsection (2) may be framed by reference to such matters as the appropriate authority considers appropriate.
- (4) In relation to any land, those matters include (in particular) –
- (a) the owner of any estate or interest in any of the land or in other land;
 - (b) any occupier of any of the land or of other land; 25
 - (c) the nature of any estate or interest in any of the land or in other land;
 - (d) any use to which any of the land or other land has been, is being or could be put;
 - (e) statutory provisions, or things done under statutory provisions, that have effect (or do not have effect) in relation to – 30
 - (i) any of the land or other land, or
 - (ii) any of the matters within paragraphs (a) to (d);
 - (f) any price, or value for any purpose, of any of the land or other land.
- (5) In this section –
- “legislation” means – 35
 - (a) an Act, or
 - (b) a Measure or Act of the National Assembly for Wales;
 - “statutory provision” means a provision of –
 - (a) legislation, or
 - (b) an instrument made under legislation. 40

73 Procedure for including land in list

- (1) Land in a local authority’s area which is of community value may be included by a local authority in its list of assets of community value –
- (a) in response to a community nomination, or
 - (b) where permitted by regulations made by the appropriate authority. 45

- (2) For the purposes of this Chapter “community nomination”, in relation to a local authority, means a nomination which –
- (a) nominates land in the local authority’s area for inclusion in the local authority’s list of assets of community value, and
 - (b) is made –
 - (i) by a parish council in respect of land in England in the parish council’s area,
 - (ii) by a community council in respect of land in Wales in the community council’s area, or
 - (iii) by a person specified, or of a description specified, in regulations made by the appropriate authority.
- (3) Regulations under subsection (1)(b) may (in particular) permit land to be included in a local authority’s list of assets of community value –
- (a) in response to a nomination other than a community nomination;
 - (b) by the local authority acting on its own initiative.
- (4) The appropriate authority may by regulations make provision as to –
- (a) the contents of community nominations;
 - (b) the contents of any other nominations which, as a result of regulations under subsection (1)(b), may give rise to land being included in a local authority’s list of assets of community value.
- (5) The appropriate authority may by regulations make provision for, or in connection with, the procedure to be followed where a local authority is considering whether land should be included in its list of assets of community value.
- 74 Procedure on community nominations**
- (1) This section applies if a local authority receives a community nomination.
- (2) The authority must consider the nomination.
- (3) The authority must accept the nomination if the land nominated –
- (a) is in the authority’s area, and
 - (b) is of community value.
- (4) If the authority is required by subsection (3) to accept the nomination, the authority must cause the land to be included in the authority’s list of assets of community value.
- (5) The nomination is unsuccessful if subsection (3) does not require the authority to accept the nomination.
- (6) If the nomination is unsuccessful, the authority must give, to the person who made the nomination, the authority’s written reasons for its decision that the land could not be included in its list of assets of community value.
- 75 Notice of inclusion or removal**
- (1) Subsection (2) applies where land –
- (a) is included in, or
 - (b) removed from,
- a local authority’s list of assets of community value.

-
- (2) The authority must give written notice of the inclusion or removal to the following persons –
- (a) the owner of the land,
 - (b) the occupier of the land if the occupier is not also the owner,
 - (c) if the land was included in the list in response to a community nomination, the person who made the nomination, and
 - (d) any person specified, or of a description specified, in regulations made by the appropriate authority.
- (3) A notice under subsection (2) of inclusion of land in the list must describe the provision made by and under this Chapter, drawing particular attention to –
- (a) the consequences for the land and its owner of the land’s inclusion in the list, and
 - (b) the right to ask for review under section 76.
- (4) A notice under subsection (2) of removal of land from the list must state the reasons for the removal.
- (5) The appropriate authority may by regulations make further provision about a notice under subsection (2) including (in particular) provision about –
- (a) its contents;
 - (b) how it is to be given;
 - (c) how it is to be brought to the attention of a person –
 - (i) to whom it is required to be given, but
 - (ii) for whom the local authority does not have both a name and an address.

76 Review of decision to include land in list

- (1) The owner of land included in a local authority’s list of assets of community value may ask the authority to review the authority’s decision to include the land in the list.
- (2) If a request is made –
- (a) under subsection (1), and
 - (b) in accordance with the time limits (if any) provided for in regulations under subsection (5),
- the authority concerned must review its decision.
- (3) Where under subsection (2) an authority reviews a decision, the authority must notify the person who asked for the review –
- (a) of the decision on the review, and
 - (b) of the reasons for the decision.
- (4) If the decision on a review under subsection (2) is that the land concerned should not have been included in the authority’s list of assets of community value –
- (a) the authority must remove the entry for the land from the list, and
 - (b) where the land was included in the list in response to a community nomination –
 - (i) the nomination becomes unsuccessful, and
 - (ii) the authority must give a written copy of the reasons mentioned in subsection (3)(b) to the person who made the nomination.

- (5) The appropriate authority may by regulations make provision as to the procedure to be followed in connection with a review under this section.
- (6) Regulations under subsection (5) may (in particular) include—
 - (a) provision as to time limits;
 - (b) provision requiring the decision on the review to be made by a person of appropriate seniority who was not involved in the original decision; 5
 - (c) provision as to the circumstances in which the person asking for the review is entitled to an oral hearing, and whether and by whom that person may be represented at the hearing;
 - (d) provision for appeals against the decision on the review. 10

List of land nominated by unsuccessful community nominations

77 List of land nominated by unsuccessful community nominations

- (1) A local authority must maintain a list of land in its area that has been nominated by an unsuccessful community nomination (see sections 74(5) and 76(4)(b)(i)). 15
- (2) The list maintained under subsection (1) by a local authority is to be known as its list of land nominated by unsuccessful community nominations.
- (3) Where land is included in a local authority’s list of land nominated by unsuccessful community nominations, the entry in the list for the land is to include the reasons given under section 74(6) or 76(3)(b) for not including the land in the authority’s list of assets of community value. 20
- (4) The appropriate authority may by regulations make further provision in relation to a local authority’s list of land nominated by unsuccessful community nominations, including (in particular) provision about—
 - (a) the form in which the list is to be kept; 25
 - (b) contents of an entry in the list (including matters not to be included in an entry);
 - (c) modification of an entry in the list;
 - (d) removal of an entry from the list;
 - (e) cases where land is to be included in the list and— 30
 - (i) different parts of the land are in different ownership or occupation, or
 - (ii) there are multiple estates or interests in the land or any part or parts of it;
 - (f) combination of the list with the local authority’s list of assets of community value. 35
- (5) Subject to any provision made by or under this Chapter, it is for a local authority to decide the form and contents of its list of land nominated by unsuccessful community nominations.

Provisions common to both lists 40

78 Publication and inspection of lists

- (1) A local authority must publish—

- (a) its list of assets of community value, and
 - (b) its list of land nominated by unsuccessful community nominations.
- (2) The appropriate authority may by regulations make provision about how the duty under subsection (1) is to be discharged.
- (3) A local authority must at a place in its area make available, for free inspection by any person, both – 5
- (a) a copy of its list of assets of community value, and
 - (b) a copy of its list of land nominated by unsuccessful community nominations.
- (4) A local authority must provide a free copy of its list of assets of community value to any person who asks it for a copy, but is not required to provide to any particular person more than one free copy of the same version of the list. 10
- (5) A local authority must provide a free copy of its list of land nominated by unsuccessful community nominations to any person who asks it for a copy, but is not required to provide to any particular person more than one free copy of the same version of the list. 15
- (6) In this section “free” means free of charge.

Moratorium on disposing of listed land

79 Moratorium

- (1) An owner of land included in a local authority’s list of assets of community value must not enter into a relevant disposal of the land unless each of conditions A to C is met. 20
- (2) Condition A is that the owner has notified the local authority in writing of the owner’s wish to enter into a relevant disposal of the land.
- (3) Condition B is that either – 25
- (a) the interim moratorium period has ended without the local authority or the owner having received during that period, from any community interest group, a written request (however expressed) for the group to be treated as a potential bidder in relation to the land, or
 - (b) the full moratorium period has ended. 30
- (4) Condition C is that the protected period has not ended.
- (5) Subsection (1) does not apply in relation to a relevant disposal of land in cases of a description specified in regulations made by the appropriate authority.
- (6) In subsection (3) – 35
- “community interest group” means a person specified, or of a description specified, in regulations made by the appropriate authority,
 - “the full moratorium period”, in relation to a relevant disposal, means the prescribed period beginning with the date on which the local authority receives notification under subsection (2) in relation to the disposal,
 - “the interim moratorium period”, in relation to a relevant disposal, means the prescribed period beginning with the date on which the local authority receives notification under subsection (2) in relation to the disposal, and 40

“the protected period”, in relation to a relevant disposal, means the prescribed period beginning with the date on which the local authority receives notification under subsection (2) in relation to the disposal.

- (7) In subsection (6) “prescribed” means prescribed by regulations made by the appropriate authority, and – 5
- (a) the period prescribed for the purposes of the definition of the full moratorium period must not be shorter than the period prescribed for the purposes of the definition of the interim moratorium period, and
 - (b) the period prescribed for the purposes of the definition of the protected period must not be shorter than the period prescribed for the purposes of the definition of the full moratorium period. 10
- (8) For the meaning of “relevant disposal”, and for when a relevant disposal is entered into, see section 80.

80 Meaning of “relevant disposal” etc in section 79

- (1) This section applies for the purposes of section 79. 15
- (2) A disposal of the freehold estate in land is a relevant disposal of the land if it is a disposal with vacant possession.
- (3) A grant, assignment or surrender of a qualifying leasehold estate in land is a relevant disposal of the land if it is a grant, assignment or surrender with vacant possession. 20
- (4) If a relevant disposal within subsection (2) or (3) is made in pursuance of a binding agreement to make it, the disposal is entered into when the agreement becomes binding.
- (5) Subject to subsection (4), a relevant disposal within subsection (2) or (3) is entered into when it takes place. 25
- (6) In this section “qualifying leasehold estate”, in relation to any land, means an estate by virtue of a lease of the land for a term which, when granted, had at least 25 years to run.
- (7) The appropriate authority may by order amend this section.

81 Publicising receipt of notice under section 79(2) 30

- (1) This section applies if a local authority receives notice under section 79(2) in respect of land included in the authority’s list of assets of community value.
- (2) The authority must cause the entry in the list for the land to reveal – 35
- (a) that notice under section 79(2) has been received in respect of the land,
 - (b) the date when the authority received the notice, and
 - (c) the ends of the initial moratorium period, the full moratorium period and the protected period that apply under section 79 as a result of the notice.
- (3) If the land is included in the list in response to a community nomination, the authority must give written notice, to the person who made the nomination, of the matters mentioned in subsection (2)(a), (b) and (c). 40
- (4) The authority must make arrangements for those matters to be publicised in the area where the land is situated.

82 Compensation

- (1) The appropriate authority may by regulations make provision for the payment of compensation in connection with the operation of this Chapter.
- (2) Regulations under subsection (1) may (in particular) –
- (a) provide for any entitlement conferred by the regulations to apply only in cases specified in the regulations; 5
 - (b) provide for any entitlement conferred by the regulations to be subject to conditions, including conditions as to time limits;
 - (c) make provision about –
 - (i) who is to pay compensation payable under the regulations; 10
 - (ii) who is to be entitled to compensation under the regulations;
 - (iii) what compensation under the regulations is to be paid in respect of;
 - (iv) the amount, or calculation, of compensation under the regulations; 15
 - (v) the procedure to be followed in connection with claiming compensation under the regulations;
 - (vi) the review of decisions made under the regulations.

Miscellaneous

83 Local land charge 20

If land is included in a local authority’s list of assets of community value –

- (a) inclusion in the list is a local land charge, and
- (b) that authority is the originating authority for the purposes of the Local Land Charges Act 1975.

84 Enforcement 25

- (1) The appropriate authority may by regulations make provision –
- (a) with a view to preventing, or reducing the likelihood, of contraventions of section 79(1);
 - (b) as to the consequences applicable in the event of contraventions of section 79(1). 30
- (2) The provision that may be made under subsection (1) includes (in particular) –
- (a) provision for transactions entered into in breach of section 79(1) to be set aside or to be ineffective;
 - (b) provision about entries on registers relating to land.
- (3) The provision that may be made under subsection (1) includes provision amending –
- (a) legislation, or
 - (b) an instrument made under legislation. 35
- (4) In subsection (3) “legislation” means –
- (a) an Act, or 40
 - (b) a Measure or Act of the National Assembly for Wales.

85 Crown application

This Chapter binds the Crown.

Interpretation of Chapter

86 Meaning of “local authority”

- (1) In this Chapter “local authority” in relation to England means – 5
 - (a) a district council,
 - (b) a county council for an area in England for which there are no district councils,
 - (c) a London borough council,
 - (d) the Common Council of the City of London, or 10
 - (e) the Council of the Isles of Scilly.
- (2) The Secretary of State may by order amend this section for the purpose of changing the meaning in this Chapter of “local authority” in relation to England.
- (3) In this Chapter “local authority” in relation to Wales means – 15
 - (a) a county council in Wales, or
 - (b) a county borough council.
- (4) The Welsh Ministers may by order amend this section for the purpose of changing the meaning in this Chapter of “local authority” in relation to Wales.

87 Meaning of “owner” 20

- (1) In this Chapter “owner”, in relation to land, is to be read as follows.
- (2) The owner of any land is the person in whom the freehold estate in the land is vested, but not if there is a qualifying leasehold estate in the land.
- (3) If there is just one qualifying leasehold estate in any land, the owner of the land is the person in whom that estate is vested. 25
- (4) If there are two or more qualifying leasehold estates in the same land, the owner of the land is the person in whom is vested the qualifying leasehold estate that is more or most distant (in terms of the number of intervening leasehold estates) from the freehold estate.
- (5) In this section “qualifying leasehold estate”, in relation to any land, means an estate by virtue of a lease of the land for a term which, when granted, had at least 25 years to run. 30
- (6) The appropriate authority may by order amend this section –
 - (a) for the purpose of changing the definition of “owner” for the time being given by this section; 35
 - (b) for the purpose of defining “owner” for the purposes of this Chapter in a case where, for the time being, this section does not define that expression.

88 Interpretation of Chapter: general

- (1) In this Chapter – 40

- “appropriate authority” –
- (a) in relation to England means the Secretary of State, and
 - (b) in relation to Wales means the Welsh Ministers;
- “building” includes part of a building;
- “community nomination” has the meaning given by section 73(2); 5
- “land” includes –
- (a) part of a building,
 - (b) part of any other structure, and
 - (c) mines and minerals, whether or not held with the surface;
- “land of community value” is to be read in accordance with section 72; 10
- “local authority” is to be read in accordance with section 86;
- “owner”, in relation to any land, is to be read in accordance with section 87;
- “unsuccessful”, in relation to a community nomination, has the meaning given by sections 74(5) and 76(4)(b)(i).
- (2) For the meaning of “list of assets of community value” see section 71(2). 15
- (3) For the meaning of “list of land nominated by unsuccessful community nominations” see section 77(2).

PART 5

PLANNING

CHAPTER 1

20

PLANS AND STRATEGIES

89 Abolition of regional strategies

- (1) The following provisions are repealed –
- (a) sections 82(1) and 83 of the Local Democracy, Economic Development and Construction Act 2009 (effect of regional strategies), and 25
 - (b) the remaining provisions of Part 5 of that Act (regional strategy).
- (2) Subsection (1)(b) does not apply to –
- (a) section 85(1) (consequential provision) of that Act,
 - (b) Schedule 5 to that Act (regional strategy: amendments) (but see Part 14 of Schedule 24 to this Act), or 30
 - (c) Part 4 of Schedule 7 to that Act (regional strategy: repeals).
- (3) The regional strategies under Part 5 of that Act are revoked.
- (4) A direction given by the Secretary of State under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 (directions preserving development plan policies) is revoked if and so far as it relates to a policy contained in a structure plan. 35
- (5) Schedule 8 (which contains amendments that are consequential on this section) has effect.

90 Duty to co-operate in relation to planning of sustainable development

In Part 2 of the Planning and Compulsory Purchase Act 2004 (local 40

development) after section 33 insert –

“33A Duty to co-operate in relation to planning of sustainable development

- (1) Each person who is –
(a) a local planning authority, or
(b) a body, or other person, that is prescribed or of a prescribed description, 5
must co-operate with every other person who is within paragraph (a) or (b) in maximising the effectiveness with which activities within subsection (3) are undertaken.
- (2) In particular, the duty imposed on a person by subsection (1) requires the person to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken. 10
- (3) The activities within this subsection are –
(a) the preparation of development plan documents, 15
(b) the preparation of other local development documents, and
(c) other activities that support the planning of development, so far as relating to sustainable development and use of land including, in particular, sustainable development and use of land for or in connection with strategic infrastructure. 20
- (4) The engagement required of a person by subsection (2) includes, in particular –
(a) giving a substantive response if consulted under this Part in connection with the undertaking of activities within subsection (3)(a), and 25
(b) giving a substantive response to any request received from a person within subsection (1)(a) or (b) for information to assist the maker of the request to discharge responsibilities in connection with the undertaking of activities within subsection (3). 30
- (5) A person subject to the duty under subsection (1) must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.
- (6) A person, or description of persons, may be prescribed for the purposes of subsection (1)(b) only if the person, or persons of that description, exercise functions for the purposes of an enactment.” 35

91 Local development schemes

- (1) Section 15 of the Planning and Compulsory Purchase Act 2004 (preparation, revision and promulgation of local development schemes) is amended as follows. 40
- (2) Omit subsection (3) (requirements as to preparation of schemes).
- (3) In subsection (4) (Secretary of State or Mayor of London may direct that scheme be amended) after “thinks appropriate” insert “for the purpose of ensuring effective coverage of the authority’s area by the development plan documents (taken as a whole) for that area”. 45

-
- (4) In subsection (6A)(b) (provision about directions given by Mayor of London under subsection (4)) for “the scheme is not to be brought into effect” substitute “effect is not to be given to the direction”.
- (5) For subsection (7) (regulations about publicity, inspection and bringing schemes into effect) substitute – 5
- “(7) To bring the scheme into effect, the local planning authority must resolve that the scheme is to have effect and in the resolution specify the date from which the scheme is to have effect.”
- (6) After subsection (8A) insert –
- “(8AA) A direction may be given under subsection (8)(b) only if the person giving the direction thinks that revision of the scheme is necessary for the purpose of ensuring effective coverage of the authority’s area by the development plan documents (taken as a whole) for that area.” 10
- (7) After subsection (9) insert –
- “(9A) The local planning authority must make the following available to the public – 15
- (a) the up-to-date text of the scheme,
- (b) a copy of any amendments made to the scheme, and
- (c) up-to-date information showing the state of the authority’s compliance (or non-compliance) with the timetable mentioned in subsection (2)(f).” 20

92 Adoption and withdrawal of development plan documents

- (1) The Planning and Compulsory Purchase Act 2004 is amended as follows.
- (2) For section 20(7) (independent examiner must make recommendations with reasons) substitute – 25
- “(7) Where the person appointed to carry out the examination –
- (a) has carried it out, and
- (b) considers that, in all the circumstances, it would be reasonable to conclude that the document satisfies the requirements mentioned in subsection (5)(a) and is sound, 30
- the person must recommend that the document is adopted and give reasons for the recommendation.
- (7A) Where the person appointed to carry out the examination –
- (a) has carried it out, and
- (b) is not required by subsection (7) to recommend that the document is adopted, 35
- the person must recommend non-adoption of the document and give reasons for the recommendation.
- (7B) If asked to do so by the local planning authority, the person appointed to carry out the examination must recommend modifications of the document that would make it one that – 40
- (a) satisfies the requirements mentioned in subsection (5)(a), and
- (b) is sound.”
- (3) For section 23(2) and (3) (adoption of development plan documents, whether

as prepared or with modifications, must be in accordance with independent examiner’s recommendations) substitute –

“(2) If the person appointed to carry out the independent examination of a development plan document recommends that it is adopted, the authority may adopt the document – 5

- (a) as it is, or
- (b) with modifications that (taken together) do not materially affect the policies set out in it.

(2A) Subsection (3) applies if the person appointed to carry out the independent examination of a development plan document – 10

- (a) recommends non-adoption, and
- (b) under section 20(7B) recommends modifications (“the main modifications”).

(3) The authority may adopt the document –

- (a) with the main modifications, or 15
- (b) with the main modifications and additional modifications if the additional modifications (taken together) do not materially affect the policies that would be set out in the document if it was adopted with the main modifications but no other modifications.” 20

(4) Omit section 22(2) (development plan document not to be withdrawn once submitted for independent examination unless examiner or Secretary of State directs that it be withdrawn).

(5) In section 21 (intervention by Secretary of State) after subsection (9) insert –

“(9A) The Secretary of State may at any time – 25

- (a) after a development plan document has been submitted for independent examination under section 20, but
- (b) before it is adopted under section 23,
direct the local planning authority to withdraw the document.”

(6) The amendments made by subsections (2) and (3) apply in relation to all adoptions of development plan documents that take place after the coming into force of those subsections, including an adoption where steps in relation to the document have taken place before then. 30

93 Local development: monitoring reports

(1) Section 35 of the Planning and Compulsory Purchase Act 2004 (local planning authority must make annual report to Secretary of State) is amended as follows. 35

(2) Omit subsection (1) (duty to make annual report).

(3) In subsection (2) (contents of annual report) for “The annual report must contain” substitute “Every local planning authority must prepare reports containing” 40

(4) In subsection (3) (rules about annual reports) for the words from the beginning to the end of paragraph (b) substitute –

“A report under subsection (2) must –

- (a) be in respect of a period –
 - (i) which the authority considers appropriate in the interests of transparency,
 - (ii) which begins with the end of the period covered by the authority’s most recent report under subsection (2), and 5
 - (iii) which is not longer than 12 months or such shorter period as is prescribed;”.
- (5) After subsection (3) insert –
 - “(4) The authority must make the authority’s reports under this section available to the public.” 10
- (6) In the heading for “Annual” substitute “Authorities” and for “report” substitute “reports”.

CHAPTER 2

COMMUNITY INFRASTRUCTURE LEVY

- 94 Community Infrastructure Levy: approval of charging schedules** 15
- (1) The Planning Act 2008 is amended as follows.
 - (2) In section 211 (amount of levy) after subsection (7) insert –
 - “(7A) A charging authority must use appropriate available evidence to inform the charging authority’s preparation of a charging schedule.
 - (7B) CIL regulations may make provision about the application of subsection (7A) including, in particular – 20
 - (a) provision as to evidence that is to be taken to be appropriate,
 - (b) provision as to evidence that is to be taken to be not appropriate,
 - (c) provision as to evidence that is to be taken to be available, 25
 - (d) provision as to evidence that is to be taken to be not available,
 - (e) provision as to how evidence is, and as to how evidence is not, to be used,
 - (f) provision as to evidence that is, and as to evidence that is not, to be used, 30
 - (g) provision as to evidence that may, and as to evidence that need not, be used, and
 - (h) provision as to how the use of evidence is to inform the preparation of a charging schedule.”
 - (3) For section 212(4) to (7) (draft must be accompanied by declaration of compliance with requirements, and examiner must consider the requirements and make recommendations with reasons) substitute – 35
 - “(4) In this section and sections 212A and 213 “the drafting requirements” means the requirements of this Part and CIL regulations (including the requirements to have regard to the matters listed in section 211(2) and (4)), so far as relevant to the drafting of the schedule. 40
 - (7) The examiner must consider whether the drafting requirements have been complied with and –

- (a) make recommendations in accordance with section 212A, and
- (b) give reason for the recommendations.”

(4) After section 212 insert –

“212A Charging schedule: examiner’s recommendations

- (1) This section applies in relation to the examination, under section 212, of a draft charging schedule. 5
- (2) If the examiner considers –
 - (a) that there is any respect in which the drafting requirements have not been complied with, and
 - (b) that the non-compliance with the drafting requirements cannot be remedied by the making of modifications to the draft, the examiner must recommend that the draft be rejected. 10
- (3) Subsection (4) applies if the examiner considers –
 - (a) that there is any respect in which the drafting requirements have not been complied with, and 15
 - (b) that the non-compliance with the drafting requirements could be remedied by the making of modifications to the draft.
- (4) The examiner must –
 - (a) specify the respects in which the drafting requirements have not been complied with, 20
 - (b) recommend modifications that the examiner considers sufficient and necessary to remedy that non-compliance, and
 - (c) recommend that the draft be approved with –
 - (i) those modifications, or
 - (ii) other modifications sufficient and necessary to remedy that non-compliance. 25
- (5) Subject to subsections (2) to (4), the examiner must recommend that the draft be approved.
- (6) If the examiner makes recommendations under subsection (4), the examiner may recommend other modifications with which the draft should be approved in the event that it is approved. 30
- (7) If the examiner makes recommendations under subsection (5), the examiner may recommend modifications with which the draft should be approved in the event that it is approved.”
- (5) For section 213(1) (charging authority has to follow examiner’s recommendations when approving charging schedule) substitute – 35
 - “(1) A charging authority may approve a charging schedule only if –
 - (a) the examiner makes recommendations under section 212A(4) or (5), and
 - (b) the charging authority has had regard to those recommendations and the examiner’s reasons for them. 40
- (1A) Accordingly, a charging authority may not approve a charging schedule if, under section 212A(2), the examiner recommends rejection.

-
- (1B) If the examiner makes recommendations under section 212A(4), the charging authority may approve the charging schedule only if it does so with modifications that are sufficient and necessary to remedy the non-compliance specified under section 212A(4)(a) (although those modifications need not be the ones recommended under section 212A(4)(b)). 5
- (1C) If a charging authority approves a charging schedule, it may do so with all or none, or some one or more, of the modifications (if any) recommended under section 212A(6) or (7).
- (1D) The modifications with which a charging schedule may be approved include only – 10
- (a) modifications required by subsection (1B), and
- (b) modifications allowed by subsection (1C).”
- (6) In section 213 (approval of charging schedules) after subsection (3) insert –
- “(3A) Subsection (3B) applies if – 15
- (a) the examiner makes recommendations under section 212A(4), and
- (b) the charging schedule is approved by the charging authority.
- (3B) The charging authority must publish a report setting out how the charging schedule as approved remedies the non-compliance specified under section 212A(4)(a). 20
- (3C) CIL regulations may make provision about the form or contents of a report under subsection (3B).”
- (7) In section 213 after subsection (4) insert –
- “(5) In this section “examiner” means examiner under section 212.” 25
- (8) The amendments made by this section do not apply in relation to cases where an examiner submits recommendations to a charging authority before the coming into force of this section, but subject to that the cases in relation to which the amendments apply include a case in which steps in relation to the charging schedule have been taken before then. 30
- 95 Use of Community Infrastructure Levy**
- (1) The Planning Act 2008 is amended as follows.
- (2) In section 205 (establishment and overall purpose of the levy) after subsection (2) (overall purpose relates to funding of costs incurred in providing infrastructure) insert – 35
- “(2A) In subsection (2) “providing”, in relation to infrastructure, includes –
- (a) providing it initially, and
- (b) providing it on an ongoing basis.”
- (3) In section 216 (application of levy) – 40
- (a) in subsection (4) (matters that may be specified by regulations) after paragraph (a) insert –
- “(aa) maintenance, operational and promotional activities that may or are to be, or may not be, funded by CIL,” and

- (b) in subsection (6)(b) (regulations about funding may permit levy to be reserved for expenditure on future projects) after “future projects” insert “or for expenditure on future ongoing costs”.

(4) After section 216 insert –

“216A Duty to pass receipts to other persons 5

- (1) CIL regulations may require that CIL received in respect of development of land in an area is to be passed by the charging authority that charged the CIL to a person other than that authority.
- (2) CIL regulations must contain provision to secure that money passed to a person in discharge of a duty under subsection (1) is used to fund infrastructure to support the development of – 10
 - (a) the area to which the duty relates, or
 - (b) any part of that area.
- (3) A duty under subsection (1) may relate to – 15
 - (a) the whole of a charging authority’s area or the whole of the combined area of two or more charging authorities, or
 - (b) part only of such an area or combined area.
- (4) CIL regulations may make provision about the persons to whom CIL may or must, or may not, be passed in discharge of a duty under subsection (1). 20
- (5) A duty under subsection (1) may relate – 25
 - (a) to all CIL (if any) received in respect of the area to which the duty relates, or
 - (b) such part of that CIL as is specified in, or determined under or in accordance with, CIL regulations.
- (6) CIL regulations may make provision in connection with the timing of payments in discharge of a duty under subsection (1).
- (7) CIL regulations may, in relation to CIL passed to a person in discharge of a duty under subsection (1), make provision about – 30
 - (a) accounting for the CIL,
 - (b) monitoring its use,
 - (c) reporting on its use,
 - (d) responsibilities of charging authorities for things done by the person in connection with the CIL,
 - (e) recovery of the CIL, and any income or profits accruing in respect of it or from its application, in cases where – 35
 - (i) infrastructure to be funded by it has not been provided, or
 - (ii) it has been misapplied,including recovery of sums or other assets representing it or any such income or profits, and 40
 - (f) use of anything recovered in cases where – 45
 - (i) infrastructure to be funded by the CIL has not been provided, or
 - (ii) the CIL has been misapplied.
- (8) This section does not limit section 216(7)(f).”

CHAPTER 3

NEIGHBOURHOOD PLANNING

96	Neighbourhood planning	
(1)	Schedule 9 (which makes provision about neighbourhood development orders and neighbourhood development plans) has effect.	5
(2)	After Schedule 4A to the Town and Country Planning Act 1990 insert the Schedule 4B set out in Schedule 10 to this Act.	
(3)	After the inserted Schedule 4B to that Act insert the Schedule 4C set out in Schedule 11 to this Act.	
97	Charges for meeting costs relating to neighbourhood planning	10
(1)	The Secretary of State may with the consent of the Treasury make regulations providing for the imposition of charges for the purpose of meeting expenses incurred (or expected to be incurred) by local planning authorities in, or in connection with, the exercise of their neighbourhood planning functions.	
(2)	A local planning authority’s “neighbourhood planning functions” are any of their functions exercisable under any provision made by or under –	15
(a)	any of sections 61E to 61O of, or Schedule 4B or 4C to, the Town and Country Planning Act 1990 (neighbourhood development orders),	
(b)	any of sections 38A to 38C of the Planning and Compulsory Purchase Act 2004 (neighbourhood development plans), or	20
(c)	this section.	
(3)	The regulations must secure –	
(a)	that the charges are payable in relation to development for which planning permission is granted by a neighbourhood development order made under section 61E of the Town and Country Planning Act 1990,	25
(b)	that the charges become payable when the development is commenced (determined in accordance with the regulations), and	
(c)	that the charges are payable to local planning authorities.	
(4)	The regulations may authorise local planning authorities to set the amount of charges imposed by the regulations; and, if so, the regulations may –	30
(a)	provide for the charges not to be payable at any time unless at that time a document (a “charging document”) has been published by the authority setting out the amounts chargeable under the regulations in relation to development in their area,	35
(b)	make provision about the approval and publication of a charging document,	
(c)	prescribe matters to which the authorities must have regard in setting the charges,	
(d)	require the authorities, in setting the charges, to disregard such expenditure expected to be incurred as mentioned in subsection (1) as falls within a description prescribed by the regulations,	40
(e)	authorise the authorities to set different charges for different cases, circumstances or areas (either generally or only to the extent specified in the regulations), and	45

- (f) authorise the authorities to make exceptions (either generally or only to the extent specified in the regulations).
 - (5) The regulations must make provision about liability to pay a charge imposed by the regulations.
 - (6) The regulations may make provision – 5
 - (a) enabling any person to assume (in accordance with any procedural provision made by the regulations) the liability to pay a charge imposed by the regulations before it becomes payable,
 - (b) about assumption of partial liability,
 - (c) about the withdrawal of assumption of liability, 10
 - (d) about the cancellation by a local planning authority of assumption of liability,
 - (e) for the owner or developer of land to be liable to pay the charge in cases prescribed by the regulations,
 - (f) about joint liability (with or without several liability), 15
 - (g) about liability of partnerships,
 - (h) about apportionment of liability, including provision for referral to a specified body or other person for determination and provision for appeals, and
 - (i) about transfer of liability (whether before or after the charge becomes due and whether or not liability has been assumed). 20
 - (7) In subsection (6)(e) –
 - (a) “owner” of land means a person who owns an interest in land, and
 - (b) “developer” means a person who is wholly or partly responsible for carrying out a development. 25
 - (8) The provision for appeals that may be made as a result of subsection (6)(h) includes provision about –
 - (a) the period within which the right of appeal may be exercised,
 - (b) the procedure on appeals, and
 - (c) the payment of fees, and award of costs, in relation to appeals (including provision requiring local planning authorities to bear expenses incurred in connection with appeals). 30
- 98 Regulations under section 97: collection and enforcement**
- (1) Regulations under section 97 must include provision about the collection of charges imposed by the regulations. 35
 - (2) The regulations may make provision –
 - (a) for payment on account or by instalments,
 - (b) about repayment (with or without interest) in cases of overpayment, and
 - (c) about the source of payments in respect of a Crown interest or Duchy interest (within the meaning of section 227(3) or (4) of the Planning Act 2008). 40
 - (3) Regulations under section 97 must include provision about enforcement of charges imposed by the regulations; and that provision must include provision – 45

- (a) for a charge (or other amount payable under the regulations) to be treated as a civil debt due to a local planning authority, and
 - (b) for the debt to be recoverable summarily.
- (4) The regulations may make provision –
- (a) about the consequences of failure to assume liability, to give a notice or to comply with another procedure under the regulations, 5
 - (b) for the payment of interest (at a rate specified in, or determined in accordance with, the regulations),
 - (c) for the imposition of a penalty or surcharge (of an amount specified in, or determined in accordance with, the regulations), 10
 - (d) replicating or applying (with or without modifications) any provision made by any of sections 324 to 325A of the Town and Country Planning Act 1990 (rights of entry), and
 - (e) for enforcement in the case of death or insolvency of a person liable for the charge. 15

99 Regulations under section 97: supplementary

- (1) Regulations under section 97 may make provision about procedures to be followed in connection with charges imposed by the regulations.
- (2) The regulations may make provision about –
- (a) procedures to be followed by a local planning authority proposing to start or stop imposing a charge, 20
 - (b) procedures to be followed by a local planning authority in relation to the imposition of a charge,
 - (c) the arrangements of a local planning authority for the making of any decision prescribed by the regulations, 25
 - (d) consultation,
 - (e) the publication or other treatment of reports,
 - (f) timing and methods of publication,
 - (g) making documents available for inspection,
 - (h) providing copies of documents (with or without charge), 30
 - (i) the form and content of documents,
 - (j) giving notice,
 - (k) serving notices or other documents, and
 - (l) procedures to be followed in connection with actual or potential liability for a charge. 35
- (3) Provision made by the regulations as a result of subsection (2)(c) is to have effect despite provision made by any enactment as to the arrangements of a local planning authority for the exercise of their functions (such as section 101 of the Local Government Act 1972 or section 13 of the Local Government Act 2000). 40
- (4) Regulations under section 97 may make provision binding the Crown.
- (5) Regulations under section 97 may make –
- (a) provision applying any enactment (with or without modifications), and
 - (b) provision for exceptions.

- (6) A local planning authority must have regard to any guidance issued by the Secretary of State in the exercise of any of their functions under regulations under section 97.
- (7) For the purposes of sections 97 and 98 and this section “local planning authority” means an authority that have made or have power to make – 5
 - (a) a neighbourhood development order under section 61E of the Town and Country Planning Act 1990, or
 - (b) a neighbourhood development plan under section 38A of the Planning and Compulsory Purchase Act 2004.
- (8) Nothing in section 97, 98 or this section that authorises the inclusion of any particular kind of provision in regulations under section 97 is to be read as restricting the generality of the provision that may be included in the regulations. 10

100 Financial assistance in relation to neighbourhood planning

- (1) *The Secretary of State may provide financial assistance, or make arrangements for the provision of financial assistance, to any body or other person – 15*
 - (a) *for the purpose of publicising or promoting the making of neighbourhood development orders or neighbourhood development plans and the benefits expected to arise from their making, or*
 - (b) *for the purpose of assisting anyone to make proposals for such orders or plans or to do anything else for the purposes of, or in connection with, such proposals or such orders or plans. 20*
- (2) *In this section –*
 - (a) *any reference to the provision of financial assistance is to the provision of financial assistance by any means (including the making of a loan and the giving of a guarantee or indemnity), 25*
 - (b) *any reference to a neighbourhood development order is to a neighbourhood development order under section 61E of the Town and Country Planning Act 1990, and*
 - (c) *any reference to a neighbourhood development plan is to a neighbourhood development plan under section 38A of the Planning and Compulsory Purchase Act 2004. 30*

101 Consequential amendments

Schedule 12 (neighbourhood planning: consequential amendments) has effect.

CHAPTER 4

35

CONSULTATION

102 Consultation before applying for planning permission

- (1) In the Town and Country Planning Act 1990, before section 62 (and before the

italic heading which precedes that section) insert –

“Consultation before applying for planning permission

61W Requirement to carry out pre-application consultation

- (1) Where –
- (a) a person proposes to make an application for planning permission for the development of any land in England, and 5
 - (b) the proposed development is of a description specified in a development order,
- the person must (whether before or after this subsection comes into force) carry out consultation on the proposed application in accordance with subsections (2) and (3). 10
- (2) The person must publicise the proposed application in such manner as the person reasonably considers is likely to bring the proposed application to the attention of a majority of the persons who live at, or otherwise occupy, premises in the vicinity of the land. 15
- (3) The person must consult each specified person about the proposed application.
- (4) Publicity under subsection (2) must –
- (a) set out how the person (“P”) may be contacted by persons wishing to comment on, or collaborate with P on the design of, the proposed development, and 20
 - (b) give such information about the proposed timetable for the consultation as is sufficient to ensure that persons wishing to comment on the proposed development may do so in good time. 25
- (5) In subsection (3) “specified person” means a person specified in, or of a description specified in, a development order.
- (6) Subsection (1) does not apply –
- (a) if the proposed application is an application under section 293A, or 30
 - (b) in cases specified in a development order.
- (7) A person subject to the duty imposed by subsection (1) must, in complying with that subsection, have regard to the advice (if any) given by the local planning authority about local good practice.

61X Duty to take account of responses to consultation 35

- (1) Subsection (2) applies where a person –
- (a) has been required by section 61W(1) to carry out consultation on a proposed application for planning permission, and
 - (b) proposes to go ahead with making an application for planning permission (whether or not in the same terms as the proposed application). 40
- (2) The person must, when deciding whether the application that the person is actually to make should be in the same terms as the proposed application, have regard to any responses to the consultation that the person has received. 45

61Y Power to make supplementary provision

- (1) A development order may make provision about, or in connection with, consultation which section 61W(1) requires a person to carry out on a proposed application for planning permission.
- (2) The provision that may be made under subsection (1) includes (in particular) –
- (a) provision about, or in connection with, publicising the proposed application;
 - (b) provision about, or in connection with, the ways of responding to the publicity;
 - (c) provision about, or in connection with, consultation under section 61W(3);
 - (d) provision about, or in connection with, collaboration between the person and others on the design of the proposed development;
 - (e) provision as to the timetable (including deadlines) for –
 - (i) compliance with section 61W(1),
 - (ii) responding to publicity under section 61W(2), or
 - (iii) responding to consultation under section 61W(3);
 - (f) provision for the person to prepare a statement setting out how the person proposes to comply with section 61W(1);
 - (g) provision for the person to comply with section 61W(1) in accordance with a statement required by provision under paragraph (f).
- (3) Provision under subsection (1) may be different for different cases.”
- (2) In section 62 of the Town and Country Planning Act 1990 (applications for planning permission) after subsection (6) insert –
- “(7) In subsection (8) “a relevant application” means the application for planning permission in a case where a person –
- (a) has been required by section 61W(1) to carry out consultation on a proposed application for planning permission, and
 - (b) is going ahead with making an application for planning permission (whether or not in the same terms as the proposed application).
- (8) A development order must require that a relevant application be accompanied by particulars of –
- (a) how the person complied with section 61W(1),
 - (b) any responses to the consultation that were received by the person, and
 - (c) the account taken of those responses.”
- (3) The amendments made by subsections (1) and (2) cease to have effect at the end of 7 years beginning with the day on which the inserted section 61W(1) comes fully into force, but this is subject to subsection (4).
- (4) The Secretary of State may by order provide that the amendments are, instead of ceasing to have effect at the time they would otherwise cease to have effect, to cease to have effect at the end of a period of not more than 7 years from that time.

CHAPTER 5

ENFORCEMENT

103 Retrospective planning permission

- (1) The Town and Country Planning Act 1990 is amended as follows.
- (2) After section 70B insert – 5
- “70C Power to decline to determine retrospective application**
- A local planning authority in England may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which an enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.” 10
- (3) In section 78(2)(aa) (which refers to an authority not having given notice that it has exercised its power under section 70A or 70B to decline to determine an application) after “or 70B” insert “or 70C”. 15
- (4) In section 174 (appeal against enforcement notice) after subsection (2) insert –
- “(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if – 20
- (a) the land to which the enforcement notice relates is in England, and
- (b) the enforcement notice was issued at a time – 25
- (i) after the making of a related application for planning permission, but
- (ii) before the end of the period applicable under section 78(2) in the case of that application. 25
- (2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.” 30
- (5) In section 177 (grant or modification of planning permission on appeals against enforcement notice) after subsection (1B) insert –
- “(1C) If the land to which the enforcement notice relates is in England, subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).” 35
- (6) In section 177(5) (deemed application for planning permission where appeal brought against enforcement notice) for the words from the beginning to “the appellant” substitute – 40
- “Where an appeal against an enforcement notice is brought under section 174 and –
- (a) the land to which the enforcement notice relates is in Wales, or

- (b) that land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a), the appellant”.

104 Time limits for enforcing concealed breaches of planning control

- (1) In the Town and Country Planning Act 1990 after section 171B insert – 5

“171BA Time limits in cases involving concealment

- (1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land in England, the authority may apply to a magistrates’ court for an order under this subsection (a “planning enforcement order”) in relation to that apparent breach of planning control. 10

- (2) If a magistrates’ court makes a planning enforcement order in relation to an apparent breach of planning control, the local planning authority may take enforcement action in respect of – 15
- (a) the apparent breach, or
- (b) any of the matters constituting the apparent breach, at any time in the enforcement year.

- (3) “The enforcement year” for a planning enforcement order is the year that begins at the end of 22 days beginning with the day on which the court’s decision to make the order is given, but this is subject to subsection (4). 20

- (4) If an application under section 111(1) of the Magistrates’ Courts Act 1980 (statement of case for opinion of High Court) is made in respect of a planning enforcement order, the enforcement year for the order is the year beginning with the day on which the proceedings arising from that application are finally determined or withdrawn. 25

- (5) Subsection (2) – 30
- (a) applies whether or not the time limits under section 171B have expired, and
- (b) does not prevent the taking of enforcement action after the end of the enforcement year but within those time limits.

171BB Planning enforcement orders: procedure

- (1) An application for a planning enforcement order in relation to an apparent breach of planning control may be made within the 6 months beginning with the date on which evidence of the apparent breach of planning control sufficient in the opinion of the local planning authority to justify the application came to the authority’s knowledge. 35

- (2) For the purposes of subsection (1), a certificate – 40
- (a) signed on behalf of the local planning authority, and
- (b) stating the date on which evidence sufficient in the authority’s opinion to justify the application came to the authority’s knowledge,
- is conclusive evidence of that fact.

- (3) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved. 45

- (4) Where the local planning authority apply to a magistrates’ court for a planning enforcement order in relation to an apparent breach of planning control in respect of any land, the authority must serve a copy of the application –
- (a) on the owner and on the occupier of the land, and 5
 - (b) on any other person having an interest in the land that is an interest which, in the opinion of the authority, would be materially affected by the taking of enforcement action in respect of the apparent breach.
- (5) The persons entitled to appear before, and be heard by, the court hearing an application for a planning enforcement order in relation to an apparent breach of planning control in respect of any land include –
- (a) the applicant, 10
 - (b) any person on whom a copy of the application was served under subsection (4), and 15
 - (c) any other person having an interest in the land that is an interest which, in the opinion of the court, would be materially affected by the taking of enforcement action in respect of the apparent breach.
- (6) In this section “planning enforcement order” means an order under section 171BA(1). 20

171BC Making a planning enforcement order

- (1) A magistrates’ court may make a planning enforcement order in relation to an apparent breach of planning control only if –
- (a) the court is satisfied, on the balance of probabilities, that the actions of a person or persons have resulted in, or contributed to, full or partial concealment of the apparent breach or any of the matters constituting the apparent breach, and 25
 - (b) the court considers it just to make the order having regard to all the circumstances. 30
- (2) For the purposes of subsection (1), a person’s actions are to be taken to include –
- (a) representations made by the person, and
 - (b) inaction on the person’s part.
- (3) A planning enforcement order must –
- (a) identify the apparent breach of planning control to which it relates, and 35
 - (b) state the date on which the court’s decision to make the order was given.
- (4) In this section “planning enforcement order” means an order under section 171BA(1).” 40
- (2) In section 188 of the Town and Country Planning Act 1990 (register of enforcement and stop notices) –
- (a) in subsection (1) (matters to which registers apply) before paragraph (a) insert – 45
 - “(za) to planning enforcement orders,”,

- (b) in subsection (2)(a) (development order may make provision about removal of entries from register) –
 - (i) before “enforcement notice” insert “planning enforcement order,”,
 - (ii) before “any such notice” insert “any planning enforcement order or”, and
 - (iii) after “specified in the” insert “development”,
 - (c) in subsection (2)(b) (development order may make provision about supply of information by county planning authority) after “served by” insert “, and planning enforcement orders made on applications made by,”,
 - (d) after subsection (3) insert –
 - “(4) In this section “planning enforcement order” means an order under section 171BA(1).”, and
 - (e) in the heading after “and stop notices” insert “and other enforcement action”.
- (3) In section 191 of the Town and Country Planning Act 1990 (certificate of lawfulness of existing use or development) after subsection (3) insert –
- “(3A) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if –
- (a) the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,
 - (b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or
 - (c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.”

105 Planning offences: time limits and penalties

- (1) The Town and Country Planning Act 1990 is amended as follows.
- (2) In section 187A(12) (maximum penalty of level 3 on standard scale for offence of being in breach of a breach of condition notice) for “fine not exceeding level 3 on the standard scale” substitute “fine –
 - (a) not exceeding level 4 on the standard scale if the land is in England;
 - (b) not exceeding level 3 on the standard scale if the land is in Wales”.
- (3) In section 210 (penalties for non-compliance with tree preservation regulations) after subsection (4) insert –
 - “(4A) Proceedings for an offence under subsection (4) may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor’s knowledge.

-
- (4B) Subsection (4A) does not authorise the commencement of proceedings for an offence more than 3 years after the date on which the offence was committed.
- (4C) For the purposes of subsection (4A), a certificate –
- (a) signed by or on behalf of the prosecutor, and 5
 - (b) stating the date on which evidence sufficient in the prosecutor’s opinion to justify the proceedings came to the prosecutor’s knowledge,
- is conclusive evidence of that fact.
- (4D) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved. 10
- (4E) Subsection (4A) does not apply in relation to an offence in respect of a tree in Wales.”
- (4) In section 224 (enforcement of control as to advertisements) after subsection (6) insert – 15
- “(7) Proceedings for an offence under subsection (3) may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor’s knowledge.
- (8) Subsection (7) does not authorise the commencement of proceedings for an offence more than 3 years after the date on which the offence was committed. 20
- (9) For the purposes of subsection (7), a certificate –
- (a) signed by or on behalf of the prosecutor, and
 - (b) stating the date on which evidence sufficient in the prosecutor’s opinion to justify the proceedings came to the prosecutor’s knowledge, 25
- is conclusive evidence of that fact.
- (10) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved. 30
- (11) Subsection (7) does not apply in relation to an offence in respect of an advertisement in Wales.”
- (5) An amendment made by this section applies only in relation to offences committed after the amendment has come into force.
- 106 Powers in relation to: unauthorised advertisements; defacement of premises 35**
- (1) In Part 8 of the Town and Country Planning Act 1990 (special controls) in Chapter 3 (advertisements) after section 225 insert –
- “225A Power to remove structures used for unauthorised display**
- (1) Subject to subsections (2), (3) and (5), the local planning authority for an area in England may remove, and then dispose of, any display structure – 40
- (a) which is in their area; and

- (b) which, in the local planning authority’s opinion, is used for the display of advertisements in contravention of regulations made under section 220.
- (2) Subsection (1) does not authorise the removal of a display structure in a building to which there is no public right of access. 5
- (3) The local planning authority may not under subsection (1) remove a display structure unless the local planning authority have first served a removal notice on a person who appears to the local planning authority to be responsible for the erection or maintenance of the display structure. 10
- (4) Subsection (3) applies only if there is a person –
 - (a) who appears to the local planning authority to be responsible for the erection or maintenance of the display structure; and
 - (b) whose name and address are either known by the local planning authority or could be ascertained by the local planning authority after reasonable enquiry. 15
- (5) If subsection (3) does not apply, the local planning authority may not under subsection (1) remove a display structure unless the local planning authority have first –
 - (a) fixed a removal notice to the display structure or exhibited a removal notice in the vicinity of the display structure; and 20
 - (b) served a copy of that notice on the occupier of the land on which the display structure is situated.
- (6) Subsection (5)(b) applies only if the local planning authority know who the occupier is or could identify the occupier after reasonable enquiry. 25
- (7) Where –
 - (a) the local planning authority has served a removal notice in accordance with subsection (3) or (5)(b), and
 - (b) the display structure is not removed within the period specified in the removal notice, 30

the local planning authority may recover, from any person on whom the removal notice has been served under subsection (3) or (5)(b), expenses reasonably incurred by the local planning authority in exercising the local planning authority’s power under subsection (1).
- (8) Expenses are not recoverable under subsection (7) from a person if the person satisfies the local planning authority that the person was not responsible for the erection of the display structure and is not responsible for its maintenance. 35
- (9) Where in the exercise of power under subsection (1) any damage is caused to land or chattels, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power, but compensation is not recoverable under this subsection or section 325(6) –
 - (a) for damage caused to the display structure; or
 - (b) for damage reasonably caused in removing the display structure. 40
- (10) The provisions of section 118 apply in relation to compensation under subsection (9) as they apply in relation to compensation under Part 4. 45

-
- (11) In this section “removal notice”, in relation to a display structure, means notice –
- (a) stating that in the local planning authority’s opinion the display structure is used for the display of advertisements in contravention of regulations under section 220; 5
 - (b) stating that the local planning authority intend after a time specified in the notice to remove the display structure; and
 - (c) stating the effect of subsections (7) and (8).
- (12) A time specified under subsection (11)(b) may not be earlier than the end of 22 days beginning with the date of the notice. 10
- (13) In this section “display structure” means (subject to subsection (14)) –
- (a) a hoarding or similar structure used, or designed or adapted for use, for the display of advertisements;
 - (b) anything (other than a hoarding or similar structure) principally used, or designed or adapted principally for use, for the display of advertisements; 15
 - (c) a structure that is itself an advertisement; or
 - (d) fitments used to support anything within any of paragraphs (a) to (c).
- (14) Something is a “display structure” for the purpose of this section only if – 20
- (a) its use for the display of advertisement requires consent under this Chapter, and
 - (b) that consent has not been granted and is not deemed to have been granted. 25
- (15) In subsection (13) “structure” includes movable structure.

225B Remediating persistent problems with unauthorised advertisements

- (1) Subsections (2) and (3) apply if the local planning authority for an area in England have reason to believe that there is a persistent problem with the display of unauthorised advertisements on a surface of – 30
- (a) any building, wall, fence or other structure or erection; or
 - (b) any apparatus or plant.
- (2) The local planning authority may serve an action notice on the owner or occupier of the land in or on which the surface is situated.
- (3) If after reasonable enquiry the local planning authority – 35
- (a) are unable to ascertain the name and address of the owner, and
 - (b) are unable to ascertain the name and address of the occupier,
- the local planning authority may fix an action notice to the surface.
- (4) For the purposes of this section “an action notice”, in relation to a surface, is a notice requiring the owner or occupier of the land in or on which the surface is situated to carry out the measures specified in the notice by a time specified in the notice. 40
- (5) A time may be specified in an action notice if it is a reasonable time not earlier than the end of 28 days beginning with the date of the notice.

- (6) Measures may be specified in an action notice if they are reasonable measures to prevent or reduce the frequency of the display of unauthorised advertisements on the surface concerned.
- (7) The time by which an owner or occupier must comply with an action notice may be postponed by the local planning authority. 5
- (8) This section has effect subject to –
 - (a) the other provisions of the enactments relating to town and country planning;
 - (b) the provisions of the enactments relating to historic buildings and ancient monuments; and 10
 - (c) Part 2 of the Food and Environmental Protection Act 1985 (which relates to deposits in the sea).
- (9) Subsection (10) applies if –
 - (a) an action notice is served under subsection (2) or fixed under subsection (3); and 15
 - (b) the measures specified in the notice are not carried out by the time specified in the notice.
- (10) The local planning authority may –
 - (a) carry out the measures; and
 - (b) recover expenses reasonably incurred by the local planning authority in doing that from the person required by the action notice to do it. 20
- (11) Power under subsection (10)(a) is subject to the right of appeal under section 225C.
- (12) Where in the exercise of power under subsection (10)(a) any damage is caused to land or chattels, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power, but compensation is not recoverable under this subsection for damage reasonably caused in carrying out the measures. 25
- (13) The provisions of section 118 apply in relation to compensation under subsection (12) as they apply in relation to compensation under Part 4. 30
- (14) The local planning authority may not recover expenses under subsection (10)(b) in respect of a surface that –
 - (a) forms part of a flat or a dwellinghouse;
 - (b) is within the curtilage of a dwellinghouse; or 35
 - (c) forms part of the boundary of the curtilage of a dwellinghouse.
- (15) Each of sections 275 and 291 of the Public Health Act 1936 (provision for authority to agree to take the required measures at expense of owner or occupier, and provision for expenses to be recoverable also from owner’s successor or from occupier and to be charged on premises concerned) applies as if the reference in that section to that Act included a reference to this section. 40
- (16) In this section –
 - “dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building; 45

“flat” means a separate and self-contained set of premises constructed or adapted for use as a dwelling and forming part of a building from some other part of which it is divided horizontally;

“unauthorised advertisement” means an advertisement in respect of which an offence – 5

(a) under section 224(3), or

(b) under section 132 of the Highways Act 1980 (unauthorised marks on highway),

is committed after the coming into force of this section. 10

225C Right to appeal against notice under section 225B

(1) A person on whom notice has been served under section 225B(2) may appeal to a magistrates’ court on any of the following grounds –

(a) that there is no problem with the display of unauthorised advertisements on the surface concerned or any such problem is not a persistent one; 15

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the time within which the measures specified in the notice are to be carried out is not reasonably sufficient for the purpose; 20

(d) that the notice should have been served on another person.

(2) The occupier or owner of premises which include a surface to which a notice has been fixed under section 225B(3) may appeal to a magistrates’ court on any of the following grounds –

(a) that there is no problem with the display of unauthorised advertisements on the surface concerned or any such problem is not a persistent one; 25

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the time within which the measures specified in the notice are to be carried out is not reasonably sufficient for the purpose. 30

(3) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (2)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the notice under section 225B(2) should have been served. 35

(5) If –

(a) notice under section 225B(2) is served on a person, and 40

(b) the local planning authority bring proceedings against the person for the recovery under section 225B(10)(b) of any expenses,

it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1). 45

225D Applying section 225B to statutory undertakers’ operational land

- (1) Subsection (2) and (3) apply where the local planning authority serves a notice under section 225B(2) requiring a statutory undertaker to carry out measures in respect of the display of unauthorised advertisements on a surface on its operational land. 5
 - (2) The statutory undertaker may, within 28 days beginning with the date of service of the notice, serve a counter-notice on the local planning authority specifying alternative measures which will in the statutory undertaker’s reasonable opinion have the effect of preventing or reducing the frequency of the display of unauthorised advertisements on the surface to at least the same extent as the measures specified in the notice. 10
 - (3) Where a counter-notice is served under subsection (2), the notice under section 225B(2) is to be treated – 15
 - (a) as requiring the alternative measures specified in the counter-notice to be carried out (instead of the measures actually required by the notice under section 225B(2)); and
 - (b) as having been served on the date on which the counter-notice is served.
 - (4) The time by which a statutory undertaker must carry out the measures specified in a counter-notice served under subsection (2) may be postponed by the local planning authority.” 20
- (2) In Part 8 of the Town and Country Planning Act 1990 (special controls) after Chapter 3 insert –

“CHAPTER 4 25

REMEDYING DEFACEMENT OF PREMISES

225E Power to remedy defacement of premises

- (1) Subsections (2) and (3) apply if – 30
 - (a) premises in England include a surface that is readily visible from a place to which the public have access;
 - (b) either –
 - (i) the surface does not form part of the operational land of a statutory undertaker, or
 - (ii) the surface forms part of the operational land of a statutory undertaker and subsection (11) applies to the surface; 35
 - (c) there is a sign on the surface; and
 - (d) the local planning authority consider the sign to be detrimental to the amenity of the area or offensive.
- (2) The local planning authority may serve on the occupier of the premises a notice requiring the occupier to remove or obliterate the sign by a time specified in the notice. 40
- (3) If it appears to the local planning authority that there is no occupier of the premises, the local planning authority may fix to the surface a notice

- requiring the owner or occupier of the premises to remove or obliterate the sign by a time specified in the notice.
- (4) A time specified under subsection (2) or (3) may not be earlier than the end of 15 days beginning the date of service or fixing of the notice.
- (5) Subsection (6) applies if – 5
- (a) a notice is served under subsection (2) or fixed under subsection (3); and
 - (b) the sign is neither removed nor obliterated by the time specified in the notice.
- (6) The local planning authority may – 10
- (a) remove or obliterate the sign; and
 - (b) recover expenses reasonably incurred by the local planning authority in doing that from the person required by the notice to do it.
- (7) Power under subsection (6)(a) is subject to the right of appeal under section 225H. 15
- (8) Expenses may not be recovered under subsection (6)(b) if the surface –
- (a) forms part of a flat or a dwellinghouse;
 - (b) is within the curtilage of a dwellinghouse; or
 - (c) forms part of the boundary of the curtilage of a dwellinghouse. 20
- (9) Section 291 of the Public Health Act 1936 (provision for expenses to be recoverable also from owner’s successor or from occupier and to be charged on premises concerned) applies as if the reference in that section to that Act included a reference to this section.
- (10) For the purposes of this section, a universal postal service provider is treated as being the occupier of any plant or apparatus that consists of a universal postal service letter box or a universal postal service pouch-box belonging to it. 25
- (11) This subsection applies to a surface if the surface abuts on, or is one to which access is given directly from, either – 30
- (a) a street; or
 - (b) any place, other than a street, to which the public have access as of right.
- (12) In this section –
- “dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building; 35
 - “flat” means a separate and self-contained set of premises constructed or adapted for use as a dwelling and forming part of a building from some other part of which it is divided horizontally; 40
 - “premises” means building, wall, fence or other structure or erection, or apparatus or plant;
 - “sign” –
 - (a) includes any writing, letter, picture, device or representation, but 45
 - (b) does not include an advertisement;

“statutory undertaker” does not include a relevant airport operator (within the meaning of Part 5 of the Airports Act 1986);	
“street” includes any highway, any bridge carrying a highway and any road, lane, mews, footway, square, court, alley or passage, whether a thoroughfare or not;	5
“universal postal service letter box” has the meaning given in section 86(4) of the Postal Services Act 2000;	
“universal postal service pouch-box” has the meaning given in paragraph 1(10) of Schedule 6 to that Act.	
225F Notices under section 225E in respect of post boxes	10
(1) The local planning authority may serve a notice under section 225E(2) on a universal service provider in respect of a universal postal service letter box, or universal postal service pouch box, belonging to the provider only if –	
(a) the authority has served on the provider written notice of the authority’s intention to do so; and	15
(b) the period of 28 days beginning with the date of service of that notice has ended.	
(2) In this section –	
“universal postal service letter box” has the meaning given in section 86(4) of the Postal Services Act 2000;	20
“universal postal service pouch-box” has the meaning given in paragraph 1(10) of Schedule 6 to that Act.	
225G Section 225E powers as respects bus shelters and other street furniture	
(1) The local planning authority may exercise the power conferred by section 225E(6)(a) to remove or obliterate a sign from any surface on a bus shelter, or other street furniture, of a statutory undertaker that is not situated on operational land of the statutory undertaker only if –	25
(a) the authority has served on the statutory undertaker notice of the authority’s intention to do so;	30
(b) the notice specified the bus shelter, or other street furniture, concerned; and	
(c) the period of 28 days beginning with the date of service of the notice has ended.	
(2) In this section “statutory undertaker” does not include an airport operator (within the meaning of Part 5 of the Airports Act 1986).	35
225H Right to appeal against notice under section 225E	
(1) A person on whom notice has been served under section 225E(2) may appeal to a magistrates’ court on any of the following grounds –	
(a) that the sign concerned is neither detrimental to the amenity of the area nor offensive;	40
(b) that there has been some informality, defect or error in, or in connection with, the notice;	
(c) that the time within which the sign concerned is to be removed or obliterated is not reasonably sufficient for the purpose;	45
(d) that the notice should have been served on another person.	

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- (2) The occupier or owner of premises which include a surface to which a notice has been fixed under section 225E(3) may appeal to a magistrates’ court on any of the following grounds –
- (a) that the sign concerned is neither detrimental to the amenity of the area nor offensive; 5
 - (b) that there has been some informality, defect or error in, or in connection with, the notice;
 - (c) that the time within which the sign concerned is to be removed or obliterated is not reasonably sufficient for the purpose.
- (3) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (2)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one. 10
- (4) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the notice under section 225E(2) should have been served. 15
- (5) If –
- (a) notice under section 225E(2) is served on a person, and
 - (b) the local planning authority bring proceedings against the person for the recovery under section 225E(6)(b) of any expenses, 20
- it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1).
- 225I Remedying defacement at owner or occupier’s request**
- (1) Subsection (2) applies if – 25
- (a) premises in England include a surface that is readily visible from a place to which the public have access;
 - (b) there is a sign on the surface; and
 - (c) the owner or occupier of the premises asks the local planning authority to remove or obliterate the sign. 30
- (2) The local planning authority may –
- (a) remove or obliterate the sign; and
 - (b) recover expenses reasonably incurred by the local planning authority in doing that from the person who asked the local planning authority to do it. 35
- (3) In this section “premises” means building, wall, fence or other structure or erection, or apparatus or plant.
- (4) In this section “sign” –
- (a) includes –
 - (i) any writing, letter, picture, device or representation, and 40
 - (ii) any advertisement, but
 - (b) does not include an advertisement for the display of which deemed or express consent has been granted under Chapter 3.

CHAPTER 5

APPLICATION OF PROVISIONS OF CHAPTERS 3 AND 4 TO STATUTORY UNDERTAKERS

225J Action under sections 225A, 225B and 225E: operational land

- (1) This section applies in relation to the exercise by the local planning authority of—
 - (a) power conferred by section 225A(1), or section 324(3) so far as applying for the purposes of section 225A(1), to—
 - (i) enter on any operational land of a statutory undertaker, or
 - (ii) remove a display structure situated on operational land of a statutory undertaker;
 - (b) power conferred by section 225B(10)(a), or section 324(3) so far as applying for the purposes of section 225B(10)(a), to—
 - (i) enter on any operational land of a statutory undertaker, or
 - (ii) carry out any measures to prevent or reduce the frequency of the display of unauthorised advertisements on a surface on operational land of a statutory undertaker; or
 - (c) power conferred by section 225E(6)(a), or section 324(3) so far as applying for the purposes of section 225E(6)(a), to—
 - (i) enter on any operational land of a statutory undertaker, or
 - (ii) remove or obliterate a sign on a surface of premises that are, or are on, operational land of a statutory undertaker.
- (2) The authority may exercise the power only if—
 - (a) the authority has served on the statutory undertaker notice of the authority’s intention to do so;
 - (b) the notice specified the display structure, surface or sign concerned and its location; and
 - (c) the period of 28 days beginning with the date of service of the notice has ended.
- (3) Subsection (4) applies if a notice under subsection (2) is served on a statutory undertaker.
- (4) If—
 - (a) a notice under subsection (2) is served on a statutory undertaker, and
 - (b) within 28 days beginning with the date the notice is served, the statutory undertaker serves a counter-notice on the local planning authority specifying conditions subject to which the power is to be exercised,the power may only be exercised subject to, and in accordance with, the conditions specified in the counter-notice.
- (5) The conditions which may be specified in a counter-notice under subsection (4) are conditions which are—

- (a) necessary or expedient in the interests of safety or the efficient and economic operation of the undertaking concerned; or
- (b) for the protection of any works, apparatus or other property not vested in the statutory undertaker which are lawfully present on, in, under or over the land upon which entry is proposed to be made. 5
- (6) If—
- (a) a notice under subsection (2) is served on a statutory undertaker, and
- (b) within 28 days beginning with the date the notice is served, the statutory undertaker serves a counter-notice on the local planning authority requiring the local planning authority to refrain from exercising the power, 10
- the power may not be exercised.
- (7) A counter-notice under subsection (6) may be served only if the statutory undertaker has reasonable grounds to believe, for reasons connected with the operation of its undertaking, that the power cannot be exercised under the circumstances in question— 15
- (a) without risk to the safety of any person; or
- (b) without unreasonable risk to the efficient and economic operation of the statutory undertaker’s undertaking. 20
- (8) In this section “statutory undertaker” does not include an airport operator (within the meaning of Part 5 of the Airports Act 1986).”
- (3) In section 324(3) of the Town and Country Planning Act 1990 (power of entry where necessary for purposes of section 225) after “225” insert “, 225A(1), 225B(10)(a) or 225E(6)(a)”. 25
- (4) In the London Local Authorities Act 1995 (c. x) omit sections 11 to 13 (provision as respects London which is generally superseded as a result of the provision as respects England made by the preceding provisions of this section).
- (5) In section 11 of the London Local Authorities Act 2007 (c. ii) after subsection (10) insert— 30
- “(11) The definition of “an advertising offence” given by section 4 of this Act applies for the purposes of subsection (10) above with—
- (a) the omission of paragraphs (a) and (b), and
- (b) in paragraph (d), the substitution of “paragraph” for “paragraphs (a) to”.” 35

CHAPTER 6

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

107 Abolition of Infrastructure Planning Commission

- (1) The Infrastructure Planning Commission ceases to exist on the day on which this subsection comes into force. 40
- (2) Schedule 13 (amendments in consequence of Commission’s abolition, including amendments transferring its functions to Secretary of State) has effect.

-
- (3) On the coming into force of this subsection, the property, rights and liabilities of the Infrastructure Planning Commission vest by virtue of this subsection in the Secretary of State.
- (4) Subsection (3) operates in relation to property, rights and liabilities –
- (a) whether or not they would otherwise be capable of being transferred, 5
 - (b) without any instrument or other formality being required, and
 - (c) irrespective of any requirement for consent that would otherwise apply.
- (5) The transfer by virtue of subsections (2) to (4) is to be treated as a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) if it would not otherwise be a relevant transfer for those purposes. 10
- (6) Subsections (3) and (4) do not affect the operation of those Regulations in relation to that transfer.
- 108 Transitional provision in connection with abolition 15**
- (1) The Secretary of State may, in connection with the operation of the abolition provisions, give a direction about the handling on and after the abolition date of –
- (a) an application received by the Infrastructure Planning Commission before the abolition date that purports to be an application for an order granting development consent under the Planning Act 2008, 20
 - (b) a proposed application notified to the Commission under section 46 of that Act before the abolition date, or
 - (c) an application received by the Secretary of State on or after the abolition date where – 25
 - (i) the application purports to be an application for an order granting development consent under that Act, and
 - (ii) a proposed application that has become that application was notified to the Commission under section 46 of that Act before the abolition date. 30
- (2) A direction under subsection (1) may (in particular) –
- (a) make provision about the effect on and after the abolition date of things done before that date;
 - (b) provide for provisions of or made under the Planning Act 2008 to apply on and after that date as they applied before that date, with or without modifications specified in the direction; 35
 - (c) provide for provisions of or made under that Act to apply on and after the abolition date with modifications specified in the direction;
 - (d) make provision for a person who immediately before the abolition date – 40
 - (i) is a member of the Commission, and
 - (ii) is a member of the Panel, or is the single Commissioner, handling an application for an order granting development consent under that Act,
 to be, or to be treated as being, a member of the Panel that under Chapter 2 of Part 6 of that Act, or the appointed person who under Chapter 3 of that Part, is to handle the application on and after the abolition date; 45

- (e) make other transitional provision and savings;
- (f) make provision binding the Crown.

(3) In this section –

“the abolition date” means the date on which section 107(1) comes into force; 5

“the abolition provisions” means section 107, Schedule 13 and Part 18 of Schedule 24.

109 National policy statements

(1) The Planning Act 2008 is amended as follows.

(2) In section 5(4) (statement may be designated as national policy statement only if consultation, publicity and parliamentary requirements have been complied with) after “have been complied with in relation to it” insert “and – 10

(a) the consideration period for the statement has expired without the House of Commons resolving during that period that the statement should not be proceeded with, or 15

(b) the statement has been approved by resolution of the House of Commons –

(i) after being laid before Parliament under section 9(8), and

(ii) before the end of the consideration period.” 20

(3) In section 5 (national policy statements) after subsection (4) insert –

“(4A) In subsection (4) “the consideration period”, in relation to a statement, means the period of 21 sitting days beginning with the first sitting day after the day on which the statement is laid before Parliament under section 9(8), and here “sitting day” means a day on which the House of Commons sits.” 25

(4) In section 5(9) omit paragraph (b) (designated statement must be laid before Parliament).

(5) In section 6(7) (national policy statement may be amended only if consultation, publicity and parliamentary requirements have been complied with) after “have been complied with in relation to the proposed amendment” insert “and – 30

(a) the consideration period for the amendment has expired without the House of Commons resolving during that period that the amendment should not be proceeded with, or 35

(b) the amendment has been approved by resolution of the House of Commons –

(i) after being laid before Parliament under section 9(8), and

(ii) before the end of the consideration period.” 40

(6) In section 6 (review and amendment of national policy statements) after subsection (7) insert –

“(7A) In subsection (7) “the consideration period”, in relation to an amendment, means the period of 21 sitting days beginning with the first sitting day after the day on which the amendment is laid before 45

Parliament under section 9(8), and here “sitting day” means a day on which the House of Commons sits.”

(7) In section 6(8) (subsections (6) and (7) do not apply if amendment does not materially affect national policy) for “and (7)” substitute “to (7A)”.

(8) After section 6 insert – 5

“6A Interpretation of sections 5(4) and 6(7)

(1) This section applies for the purposes of section 5(4) and 6(7).

(2) The consultation and publicity requirements set out in section 7 are to be treated as having been complied with in relation to a statement or proposed amendment (“the final proposal”) if – 10

(a) they have been complied with in relation to a different statement or proposed amendment (“the earlier proposal”),

(b) the final proposal is a modified version of the earlier proposal, and

(c) the Secretary of State thinks that the modifications do not materially affect the policy as set out in the earlier proposal. 15

(3) The consultation and publicity requirements set out in section 7 are also to be treated as having been complied with in relation to a statement or proposed amendment (“the final proposal”) if –

(a) they have been complied with – 20

(i) in relation to a different statement or proposed amendment (“the earlier proposal”), and

(ii) in relation to modifications of the earlier proposal (“the main modifications”),

(b) the final proposal is a modified version of the earlier proposal, and 25

(c) there are no modifications other than the main modifications or, where the modifications include modifications other than the main modifications, the Secretary of State thinks that those other modifications do not materially affect the policy as set out in the earlier proposal modified by the main modifications. 30

(4) If section 9(8) has been complied with in relation to a statement or proposed amendment (“the final proposal”), the parliamentary requirements set out in section 9(2) to (7) are to be treated as having been complied with in relation to the final proposal where – 35

(a) the final proposal is not the same as what was laid under section 9(2), but

(b) those requirements have been complied with in relation to what was laid under section 9(2).

(5) Ignore any corrections of clerical or typographical errors in what was laid under section 9(8). 40

6B Extension of consideration period under section 5(4A) or 6(7A)

(1) The Secretary of State may –

(a) in relation to a proposed national policy statement, extend the period mentioned in section 5(4A), or 45

- (b) in relation to a proposed amendment of a national policy statement, extend the period mentioned in section 6(7A), by 21 sitting days or less.
- (2) The Secretary of State does that by laying before the House of Commons a statement – 5
- (a) indicating that the period is to be extended, and
- (b) setting out the length of the extension.
- (3) The statement under subsection (2) must be laid before the period would have expired without the extension.
- (4) The Secretary of State must publish the statement under subsection (2) in a way the Secretary of State thinks appropriate. 10
- (5) The period may be extended more than once.”
- (9) In section 8(1)(a) (local authorities within subsection (2) or (3) to be consulted about publicity required for proposed statement identifying a location) for “or (3)” substitute “, (3) or (3A)”. 15
- (10) In section 8(3) (consultation with local authorities that share a boundary with the local authority (“B”) whose area contains a location) before the “and” at the end of paragraph (a) insert –
- “(aa) B is a unitary council or a lower-tier district council.”
- (11) In section 8 (consultation on publicity requirements) after subsection (3) insert – 20
- “(3A) If any of the locations concerned is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this subsection if –
- (a) D is not a lower-tier district council, and
- (b) any part of the boundary of D’s area is also part of the boundary of C’s area.” 25
- (12) In section 8, after subsection (4) (meaning of “local authority”) insert –
- “(5) In this section –
- “lower-tier district council” means a district council in England for an area for which there is a county council; 30
- “unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;
- “upper-tier county council” means a county council in England for each part of whose area there is a district council.” 35
- (13) In section 9 (parliamentary requirements for national policy statements and their amendments) after subsection (7) insert –
- “(8) After the end of the relevant period, but not before the Secretary of State complies with subsection (5) if it applies, the Secretary of State must lay the proposal before Parliament. 40
- (9) If after subsection (8) has been complied with –
- (a) something other than what was laid under subsection (8) becomes the proposal, or

- (b) what was laid under subsection (8) remains the proposal, or again becomes the proposal, despite the condition in section 5(4)(a) not having been met in relation to it, subsection (8) must be complied with anew.
- (10) For the purposes of subsection (9)(a) and (b) ignore any proposal to correct clerical or typographical errors in what was laid under subsection (8).” 5
- (14) Section 12 (power to designate pre-commencement statements of policy and to take account of pre-commencement consultation etc) is repealed.
- 110 Power to alter effect of requirement for development consent on other consent regimes 10**
- (1) The Planning Act 2008 is amended as follows.
- (2) In section 33 (effect of requirement for development consent on other consent regimes) after subsection (4) insert –
- “(5) The Secretary of State may by order – 15
- (a) amend subsection (1) or (2) –
- (i) to add or remove a type of consent, or
- (ii) to vary the cases in relation to which a type of consent is within that subsection;
- (b) make further provision, or amend or repeal provision, about – 20
- (i) the types of consent that are, and are not, within subsection (1) or (2), or
- (ii) the cases in relation to which a type of consent is, or is not, within either of those subsections.
- (6) In subsection (5) “consent” means – 25
- (a) a consent or authorisation that is required, under legislation, to be obtained for development,
- (b) a consent, or authorisation, that –
- (i) may authorise development, and
- (ii) is given under legislation, or 30
- (c) a notice that is required by legislation to be given in relation to development.
- (7) Any reference in subsection (5) to subsection (1) or (2) is a reference to that subsection so far as relating to development that – 35
- (a) is not in Wales, and
- (b) is not in waters adjacent to Wales up to the seaward limits of the territorial sea.
- (8) In subsection (6) “legislation” means an Act or an instrument made under an Act.
- (9) An order under subsection (5)(b) may amend this Act.” 40
- (3) In section 232 (orders and regulations) –
- (a) in subsection (5)(d) (orders not subject to annulment by either House of Parliament) after “14(3),” insert “33(5),” and

- (b) in subsection (6) (orders that must be approved in draft by both Houses of Parliament before being made) after “14(3),” insert “33(5),”.
- (4) In paragraph 4 of Schedule 12 (application of section 33 to Scotland: modifications) –
- (a) in sub-paragraph (a) for paragraph (i) substitute – 5
“(i) for “none of the following is” there were substituted “the following are not”, and”,
- (b) omit the “and” at the end of sub-paragraph (a),
- (c) in sub-paragraph (b) for “subsections (2) to (4)” substitute “paragraphs (a) to (c) of subsection (2), and subsections (3) and (4),” and 10
- (d) after sub-paragraph (b) insert “, and
(c) in subsection (7) “Act” includes an Act of the Scottish Parliament.”
- 111 Secretary of State’s directions in relation to projects of national significance**
- (1) Section 35 of the Planning Act 2008 (directions in relation to projects of national significance) is amended in accordance with subsections (2) to (9). 15
- (2) In subsection (1) (circumstances in which the Secretary of State may give directions) –
- (a) omit paragraph (a) (requirement that an application for a consent or authorisation mentioned in section 33(1) or (2) has been made), and 20
- (b) in paragraph (b) –
(i) omit “the”, and
(ii) after “project” insert “, or proposed project,”.
- (3) For subsection (4) (directions the Secretary of State may give) substitute –
- “(4) The Secretary of State may direct the development to be treated as development for which development consent is required. 25
- (4A) If no relevant application has been made, the power under subsection (4) is exercisable only in response to a qualifying request.
- (4B) If the Secretary of State gives a direction under subsection (4), the Secretary of State may – 30
- (a) if a relevant application has been made, direct the application to be treated as an application for an order granting development consent;
- (b) if a person proposes to make a relevant application, direct the proposed application to be treated as a proposed application for development consent. 35
- (4C) A direction under subsection (4) or (4B) may be given so as to apply for specified purposes or generally.”
- (4) In subsection (5) (power to modify application of statutory provisions in relation to an application etc) – 40
- (a) for “subsection (4)” substitute “subsection (4B)”,
- (b) in paragraph (a) after “application” insert “, or proposed application”, and
- (c) in paragraph (b) after “application” insert “or proposed application”.

-
- (5) In subsection (6) (authority to which an application for a consent or authorisation mentioned in section 33(1) or (2) has been made to refer the application to the Commission) –
- (a) for “subsection (4)” substitute “subsection (4B)”, and
 - (b) after “application” insert “, or proposed application,”. 5
- (6) In subsection (7) (power to direct authority considering application for consent or authorisation mentioned in section 33(1) or (2) to take no further action) –
- (a) for “subsection (4)” substitute “subsection (4B)”, and
 - (b) after “application” insert “, or proposed application,”.
- (7) In subsection (8) (power to require authority considering application for consent or authorisation mentioned in section 33(1) or (2) to provide information) for “the relevant authority” substitute “an authority within subsection (8A)”. 10
- (8) After subsection (8) insert –
- “(8A) An authority is within this subsection if a relevant application has been, or may be, made to it.” 15
- (9) After subsection (9) insert –
- “(10) In this section –
- “qualifying request” means a written request, for a direction under subsection (4) or (4B), that – 20
 - (a) specifies the development to which it relates, and
 - (b) explains why the conditions in subsection (1)(b) and (c) are met in relation to the development;
 - “relevant application” means an application, relating to the development, for a consent or authorisation mentioned in section 33(1) or (2); 25
 - “relevant authority” –
 - (a) in relation to a relevant application that has been made, means the authority to which the application was made, and 30
 - (b) in relation to a relevant application that a person proposes to make, means the authority to which the person proposes to make the application.”
- (10) In the Planning Act 2008 after section 35 insert –
- “35A Timetable for deciding request for direction under section 35” 35**
- (1) This section applies if the Secretary of State receives a qualifying request from a person (“R”).
 - (2) The Secretary of State must make a decision on the qualifying request before the primary deadline, subject to subsection (3).
 - (3) Subsection (2) does not apply if, before the primary deadline, the Secretary of State asks R to provide the Secretary of State with information for the purpose of enabling the Secretary of State to decide – 40
 - (a) whether to give the direction requested, and
 - (b) the terms in which it should be given. 45

- (4) If R—
- (a) is asked under subsection (3) to provide information, and
 - (b) provides the information sought within the period of 14 days beginning with the day on which R is asked to do so,
- the Secretary of State must make a decision on the qualifying request before the end of the period of 28 days beginning with the day the Secretary of State receives the information. 5
- (5) In this section—
- “the primary deadline” means the end of the period of 28 days beginning with the day on which the Secretary of State receives the qualifying request; 10
 - “qualifying request” has the meaning given by section 35(10).”

112 Pre-application consultation with local authorities

- (1) Section 43 of the Planning Act 2008 (local authorities for the purposes of the consultation requirements in section 42) is amended as follows. 15
- (2) In subsection (2) (provision requiring consultation with local authorities that share a boundary with the local authority (“B”) in whose area the development is to take place) before the “and” at the end of paragraph (a) insert—
- “(aa) B is a unitary council or a lower-tier district council,”.
- (3) After subsection (2) insert— 20
- “(2A) If the land is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this section if—
- (a) D is not a lower-tier district council, and
 - (b) any part of the boundary of D’s area is also part of the boundary of C’s area.” 25
- (4) For subsection (3) (definition of local authority) substitute—
- “(3) In this section—
- “local authority” means—
- (a) a county council, or district council, in England;
 - (b) a London borough council; 30
 - (c) the Common Council of the City of London;
 - (d) the Council of the Isles of Scilly;
 - (e) a county council, or county borough council, in Wales;
 - (f) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994; 35
 - (g) a National Park authority;
 - (h) the Broads Authority;
- “lower-tier district council” means a district council in England for an area for which there is a county council;
- “unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority; 40
- “upper-tier county council” means a county council in England for each part of whose area there is a district council.”

113 Reform of duties to publicise community consultation statement

In section 47(6) of the Planning Act 2008 (duties of applicant for development consent to publicise the statement setting out how the applicant proposes to consult the local community) –

- (a) for “must publish it –” substitute “must –” 5
 - (za) make the statement available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land,”
- (b) in paragraph (a) (duty to publish statement in local newspaper) – 10
 - (i) at the beginning insert “publish,” and
 - (ii) after “land” insert “, a notice stating where and when the statement can be inspected”, and
- (c) in paragraph (b) (duty to publish statement in any other prescribed manner) for “in such other manner” substitute “publish the statement in such manner”. 15

114 Claimants of compensation for effects of development

- (1) The Planning Act 2008 is amended as follows.
- (2) In section 52(1) (obtaining information about interests in land) for “subsection (2) applies” substitute “subsections (2) and (2A) apply”.
- (3) In section 52 after subsection (2) insert – 20
 - “(2A) The Secretary of State may authorise the applicant to serve a notice on a person mentioned in subsection (3) requiring the person (“the recipient”) to give to the applicant in writing the name and address of any person the recipient believes is a person who, if the order sought by the application or proposed application were to be made and fully implemented, would or might be entitled – 25
 - (a) as a result of the implementing of the order,
 - (b) as a result of the order having been implemented, or
 - (c) as a result of the use of the land once the order has been implemented, 30
- to make a relevant claim.”
- (4) In section 52(4), (6) and (7) after “subsection (2)” insert “or (2A)”.
- (5) In section 52 after subsection (5) insert –
 - “(5A) A notice under subsection (2A) must explain the circumstances in which a person would or might be entitled as mentioned in that subsection.” 35
- (6) In section 52(10) for “(2) and (3)” substitute “(2) to (3)”.
- (7) In section 52 after subsection (11) insert –
 - “(12) In subsection (3) as it applies for the purposes of subsection (2A) “the land” also includes any relevant affected land (see subsection (13)). 40
 - (13) Where the applicant believes that, if the order sought by the application or proposed application were to be made and fully implemented, there would or might be persons entitled –
 - (a) as a result of the implementing of the order,

- (b) as a result of the order having been implemented, or
(c) as a result of the use of the land once the order has been implemented,
to make a relevant claim in respect of any land or in respect of an interest in any land, that land is “relevant affected land” for the purposes of subsection (12). 5
- (14) In this section “relevant claim” means –
- (a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for compulsory purchase of land or not made for injurious affection resulting from compulsory purchase); 10
- (b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);
- (c) a claim under section 152(3).” 15
- (8) In section 44(6) (meaning of “relevant claim” in section 44(4)) after paragraph (b) insert “;
(c) a claim under section 152(3).”
- (9) In section 57(6) (meaning of “relevant claim” in section 57(4)) after paragraph (b) insert “;
(c) a claim under section 152(3).” 20
- (10) In Schedule 12 (application of Act to Scotland: modifications) in paragraph 6 (application of section 52) after sub-paragraph (c) insert –
“(d) in subsection (14) for paragraph (a) there were substituted –
“(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42);”, and
(e) in subsection (14)(b) the reference to Part 1 of the Land Compensation Act 1973 were a reference to Part 1 of the Land Compensation (Scotland) Act 1973.” 25 30

115 Rights of entry for surveying etc in connection with applications

- (1) The Planning Act 2008 is amended as follows.
- (2) In section 53(1) (person may be authorised to enter land for the purpose of surveying and taking levels of it) after “taking levels of it” insert “, or in order to facilitate compliance with the provisions mentioned in subsection (1A),”. 35
- (3) In section 53 after subsection (1) insert –
“(1A) Those provisions are any provision of or made under an Act for the purpose of implementing –
(a) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended from time to time, 40
(b) Council Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended from time to time, or
(c) any EU instrument from time to time replacing all or any part of either of those Directives.” 45

- (4) Omit section 53(2)(b) and (c) (until proposed application is made, entry for surveying may be authorised only if compulsory acquisition may be involved and section 42 has been complied with).
- (5) In section 53 after subsection (3) insert –
 - “(3A) Power conferred by subsection (1) for the purpose of complying with the provisions mentioned in subsection (1A) includes power to take, and process, samples of or from any of the following found on, in or over the land –
 - (a) water,
 - (b) air,
 - (c) soil or rock,
 - (d) its flora,
 - (e) bodily excretions, or dead bodies, of non-human creatures, or
 - (f) any non-living thing present as a result of human action.”
- (6) In section 54(1) (application of section 53(1) to (3) to Crown land) for “to (3)” substitute “to (3A)”.
- (7) In paragraph 7 of Schedule 12 (modifications of section 53 for the purposes of its application to Scotland) before sub-paragraph (a) insert –
 - “(za) in subsection (1A), the reference to an Act included an Act of the Scottish Parliament,”.

116 Procedural changes relating to applications for development consent

- (1) The Planning Act 2008 is amended as follows.
- (2) In section 56(2) (persons to be notified of the acceptance of an application for an order granting development consent) for paragraph (b) (relevant local authorities under section 102(5)) substitute –
 - “(b) each local authority that is within section 56A,”.
- (3) After section 56 insert –
 - “**56A Local authorities for the purposes of sections 56(2)(b) and 60(2)(a)**
 - (1) A local authority is within this section if the land is in the authority’s area.
 - (2) A local authority (“A”) is within this section if –
 - (a) the land is in the area of another local authority (“B”),
 - (b) B is a unitary council or a lower-tier district council, and
 - (c) any part of the boundary of A’s area is also a part of the boundary of B’s area.
 - (3) If the land is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this section if –
 - (a) D is not a lower-tier district council, and
 - (b) any part of the boundary of D’s area is also part of the boundary of C’s area.
 - (4) In this section –
 - “the land” means the land to which the application concerned relates or any part of that land;

- “local authority” has the meaning given in section 102(8);
“lower-tier district council” means a district council in England for an area for which there is a county council;
“unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority; 5
“upper-tier county council” means a county council in England for each part of whose area there is a district council.”
- (4) In section 60(2) (persons who the Commission must invite to submit local impact reports) for paragraph (a) (relevant local authorities under section 102(5)) substitute – 10
“(a) each local authority that is within section 56A, and”.
- (5) In section 88 (initial assessment of issues, and preliminary meeting) –
(a) in subsection (3) (persons who must be invited to preliminary meeting) omit the “and” at the end of paragraph (a), 15
(b) in that subsection after paragraph (b) insert –
“(c) each statutory party, and
(d) each local authority that is within section 88A,” and
(c) after that subsection insert –
“(3A) In subsection (3)(c) “statutory party” means a person specified in, or of a description specified in, regulations made by the Secretary of State.” 20
- (6) After section 88 insert –
“88A Local authorities for the purposes of section 88(3)(d)”
(1) A local authority (“A”) is within this section if – 25
(a) the land is in the area of another local authority (“B”),
(b) B is a unitary council or a lower-tier district council, and
(c) any part of the boundary of A’s area is also a part of the boundary of B’s area.
(2) If the land is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this section if – 30
(a) D is not a lower-tier district council, and
(b) any part of the boundary of D’s area is also part of the boundary of C’s area.
(3) In this section – 35
“the land” means the land to which the application relates or any part of that land;
“local authority” has the meaning given in section 102(8);
“lower-tier district council” means a district council in England for an area for which there is a county council; 40
“unitary council” means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;
“upper-tier county council” means a county council in England for each part of whose area there is a district council.” 45
- (7) In section 89 (Examining authority’s decisions about how application is to be

- examined and the notification of those decisions to parties) after subsection (2) insert –
- “(2A) Upon making the decisions required by subsection (1), the Examining authority must inform each person mentioned in section 88(3)(c) and (d) – 5
- (a) of those decisions, and
 - (b) that the person may notify the Examining authority in writing that the person is to become an interested party.”
- (8) In section 102 (interpretation of Chapter 4: “interested party” and other expressions) – 10
- (a) in subsection (1) for paragraph (b) (statutory party is interested party) substitute –
 - “(aa) the person has been notified of the acceptance of the application in accordance with section 56(2)(d),
 - (ab) the Examining authority has under section 102A decided that it considers that the person is within one or more of the categories set out in section 102B,” 15
 - (b) in subsection (1) for paragraph (c) (relevant local authority is interested party) insert –
 - “(c) the person is a local authority in whose area the land is located,
 - (ca) the person –
 - (i) is mentioned in section 88(3)(c) or (d), and
 - (ii) has notified the Examining authority as mentioned in section 89(2A)(b),” 20
 - (c) after subsection (1) (definition of interested party) insert –
 - “(1ZA) But a person ceases to be an “interested party” for the purposes of this Chapter upon notifying the Examining authority in writing that the person no longer wishes to be an interested party.” 25
 - (d) omit subsection (3) (definition of statutory party),
 - (e) omit subsections (5) to (7) (which further define the local authorities that are relevant local authorities), and
 - (f) in subsection (8) (definition of local authority) for “subsections (5) to (7)” substitute “subsection (1)(c)”. 30
- (9) After section 102 insert –
- “102A Persons in certain categories may ask to become interested parties etc**
- (1) Subsection (2) applies if –
 - (a) a person makes a request to the Examining authority to become an interested party, 40
 - (b) the request states that the person claims to be within one or more of the categories set out in section 102B,
 - (c) the person has not been notified of the acceptance of the application in accordance with section 56(2)(d), and
 - (d) the applicant has issued a certificate under section 58 in relation to the application. 45

- (2) The Examining authority must decide whether it considers that the person is within one or more of the categories set out in section 102B.
- (3) If the Examining authority decides that it considers that the person is within one or more of the categories set out in section 102B, the Examining authority must notify the person, and the applicant, that the person has become an interested party under section 102(1)(ab). 5
- (4) If the Examining authority thinks that a person might successfully make a request mentioned in subsection (1)(a), the Examining authority may inform the person about becoming an interested party under section 102(1)(ab). 10
But the Examining authority is under no obligation to make enquiries in order to discover persons who might make such a request.
- 102B Categories for the purposes of section 102A**
- (1) A person is within Category 1 if the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land. 15
- (2) A person is within Category 2 if the person –
(a) is interested in the land, or
(b) has power –
(i) to sell and convey the land, or
(ii) to release the land. 20
- (3) An expression, other than “the land”, that appears in subsection (2) of this section and also in section 5(1) of the Compulsory Purchase Act 1965 has in subsection (2) the meaning that it has in section 5(1) of that Act.
- (4) A person is within Category 3 if, should the order sought by the application be made and fully implemented, the person would or might be entitled – 25
(a) as a result of the implementing of the order,
(b) as a result of the order having been implemented, or
(c) as a result of use of the land once the order has been implemented, 30
to make a relevant claim.
- (5) In subsection (4) “relevant claim” means –
(a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase); 35
(b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);
(c) a claim under section 152(3). 40
- (6) In this section “the land” means the land to which the application relates or any part of that land.”
- (10) In Schedule 12 (application of Act to Scotland: modifications) after paragraph 9 insert –
“9A Section 102B applies as if – 45

- (a) in subsection (2)(b), the words from “or” to the end were omitted,
 - (b) in subsection (3), references to section 5(1) of the Compulsory Purchase Act 1965 were references to section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, and 5
 - (c) in subsection (5) –
 - (i) for paragraph (a) there were substituted –
 - “(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947”; and 10
 - (ii) in paragraph (b), the reference to Part 1 of the Land Compensation Act 1973 were a reference to Part 1 of the Land Compensation (Scotland) Act 1973.”
- 117 Development consent subject to requirement for further approval 15**
- In section 120(2) of the Planning Act 2008 (provision relating to requirements that may be included in order granting development consent) –
- (a) after “in particular include” insert “ –
 - (a) ”, and
 - (b) after “development” insert “; 20
 - (b) requirements to obtain the approval of the Secretary of State or any other person, so far as not within paragraph (a)”.
- 118 Changes to notice requirements for compulsory acquisition**
- (1) Section 134 of the Planning Act 2008 (notice of authorisation of compulsory acquisition) is amended as follows. 25
 - (2) In subsection (3) (steps the prospective purchaser must take after order granting development consent is made that includes provision authorising compulsory acquisition) –
 - (a) before paragraph (a) insert – 30
 - “(za) make a copy of the order available, at a place in the vicinity of the land, for inspection by the public at all reasonable hours,”, and
 - (b) in paragraph (a) omit “and a copy of the order”.
 - (3) In subsection (7) (contents of a compulsory acquisition notice) before the “and” at the end of paragraph (c) insert – 35
 - “(ca) stating where and when a copy of the order is available for inspection in accordance with subsection (3)(za),”.
 - (4) Omit subsection (8) (compulsory acquisition notice affixed to object on or near the order land to say where order granting development consent can be inspected). 40

CHAPTER 7

OTHER PLANNING MATTERS

119 Powers of the National Assembly for Wales

- (1) In Part 1 of Schedule 5 to the Government of Wales Act 2006 (Assembly Measures: matters), Field 18 (Town and Country Planning) is amended as follows. 5
- (2) After Matter 18.3 insert –
- “Matter 18.4*
Applications for planning permission.
This does not include – 10
- (a) the cases in which planning permission is required,
 - (b) obligations, entered into in connection with applications, that –
 - (i) restrict, or require, the doing of anything in, on, under or over any land, or 15
 - (ii) require payments to be made,
 - (c) applications for urgent development made –
 - (i) by or on behalf of the Crown, or
 - (ii) in respect of land in which there is any Crown interest, or 20
 - (d) appeals (and further appeals) and other challenges in respect of –
 - (i) decisions made on applications, or
 - (ii) failures to make decisions. 25
- Matter 18.5* 25
The exercise or discharge, otherwise than by the authority whose functions they are, of functions of an authority in its capacity as a local planning authority.
- Matter 18.6*
Planning permission ceasing to have effect where the development to which it relates has been begun but not completed. 30
- Matter 18.7*
Enforcement –
- (a) where things are done without any planning permission that is required, 35
 - (b) where there is a failure to comply with any condition or limitation subject to which planning permission has been granted,
 - (c) of prohibitions or requirements imposed for the preservation, in the interests of amenity, of particular trees or woodlands, and 40
 - (d) of provisions restricting or regulating, in the interests of amenity or public safety, the display of advertisements. 45
- Not included in matters 18.4, 18.5, 18.6 and 18.7*
Matters 18.4, 18.5, 18.6 and 18.7 do not include –

- (a) criminal liability for acts or omissions done or suffered by or on behalf of the Crown, or
 - (b) any requirement for consent in relation to any step taken for the purposes of enforcement in relation to land in which there is any Crown interest.” 5
- (3) In the Interpretation of the field, before the definition of “local planning authority” insert –
 - ““Crown interest” includes an interest –
 - (a) belonging to Her Majesty in right of the Crown, in right of the Duchy of Lancaster or in right of Her private estates, 10
 - (b) vested in a government department or held in trust for Her Majesty for the purposes of a government department, or
 - (c) belonging to the Duchy of Cornwall;”. 15

120 Application of this Part to the Crown

An amendment made by this Part in –

- (a) the Town and Country Planning Act 1990,
 - (b) the Planning (Listed Buildings and Conservation Areas) Act 1990,
 - (c) the Planning and Compulsory Purchase Act 2004, or 20
 - (d) the Planning Act 2008,
- binds the Crown.

PART 6

HOUSING

CHAPTER 1 25

ALLOCATION AND HOMELESSNESS

Allocation

121 Allocation of housing accommodation

- (1) Section 159 of the Housing Act 1996 (allocation of housing accommodation) is amended as follows. 30
- (2) After subsection (4) insert –
 - “(4A) Subject to subsection (4B), the provisions of this Part do not apply to an allocation of housing accommodation by a local housing authority in England to a person who is already –
 - (a) a secure or introductory tenant, or 35
 - (b) an assured tenant of housing accommodation held by a private registered provider of social housing or a registered social landlord.
 - (4B) The provisions of this Part apply to an allocation of housing accommodation by a local housing authority in England to a person who falls within subsection (4A)(a) or (b) if – 40

- (a) the allocation involves a transfer of housing accommodation for that person,
 - (b) the application for the transfer is made by that person, and
 - (c) the authority is satisfied that the person is to be given reasonable preference under section 166A(3).” 5
- (3) In subsection (5) after “accommodation” (in the first place it occurs) insert “by a local housing authority in Wales”.

122 Allocation only to eligible and qualifying persons: England

- (1) In the Housing Act 1996 before section 160A insert –
- “160ZA Allocation only to eligible and qualifying persons: England 10**
- (1) A local housing authority in England shall not allocate housing accommodation –
 - (a) to a person from abroad who is ineligible for an allocation of housing accommodation by virtue of subsection (2) or (4), or
 - (b) to two or more persons jointly if any of them is a person mentioned in paragraph (a). 15
 - (2) A person subject to immigration control within the meaning of the Asylum and Immigration Act 1996 is ineligible for an allocation of housing accommodation by a local housing authority in England unless he is of a class prescribed by regulations made by the Secretary of State. 20
 - (3) No person who is excluded from entitlement to housing benefit by section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) shall be included in any class prescribed under subsection (2).
 - (4) The Secretary of State may by regulations prescribe other classes of persons from abroad who are ineligible to be allocated housing accommodation by local housing authorities in England. 25
 - (5) Nothing in subsection (2) or (4) affects the eligibility of a person who falls within section 159(4B).
 - (6) Except as provided by subsection (1), a person may be allocated housing accommodation by a local housing authority in England (whether on his application or otherwise) if that person –
 - (a) is a qualifying person within the meaning of subsection (7), or
 - (b) is one of two or more persons who apply for accommodation jointly, and one or more of the other persons is a qualifying person within the meaning of subsection (7). 35
 - (7) Subject to subsections (2) and (4) and any regulations under subsection (8), a local housing authority may decide what classes of persons are, or are not, qualifying persons.
 - (8) The Secretary of State may by regulations –
 - (a) prescribe classes of persons who are, or are not, to be treated as qualifying persons by local housing authorities in England, and
 - (b) prescribe criteria that may not be used by local housing authorities in England in deciding what classes of persons are not qualifying persons. 40
- 45

- (9) If a local housing authority in England decide that an applicant for housing accommodation –
(a) is ineligible for an allocation by them by virtue of subsection (2) or (4), or
(b) is not a qualifying person,
they shall notify the applicant of their decision and the grounds for it. 5
- (10) That notice shall be given in writing and, if not received by the applicant, shall be treated as having been given if it is made available at the authority’s office for a reasonable period for collection by him or on his behalf. 10
- (11) A person who is not being treated as a qualifying person may (if he considers that he should be treated as a qualifying person) make a fresh application to the authority for an allocation of housing accommodation by them.”
- (2) Section 160A (allocation only to eligible persons) is amended as follows – 15
- (a) in the heading after “persons” insert “: Wales”,
(b) in subsection (1) after “authority” insert “in Wales”,
(c) in subsection (2) after “authority” insert “in Wales”,
(d) in subsection (3) after “authority” insert “in Wales”,
(e) in subsection (5) – 20
- (i) after “authorities” insert “in Wales”,
(ii) after “authority” insert “in Wales”,
(f) in subsection (6) after “authority” insert “in Wales”,
(g) in subsection (7) after “authority” insert “in Wales”,
(h) in subsection (9) after “authority” insert “in Wales”, 25
(i) in subsection (11) after “authority” insert “in Wales”.

123 Allocation schemes

- (1) The Housing Act 1996 is amended as follows.
- (2) In section 166 (applications for housing accommodation) – 30
- (a) after subsection (1) insert –
- “(1A) A local housing authority in England shall secure that an applicant for an allocation of housing accommodation is informed that he has the rights mentioned in section 166A(9).”
- (b) in subsection (2) after “authority” insert “in Wales”.
- (3) For the heading before section 167 substitute “Allocation schemes”. 35
- (4) Before section 167 insert –

“166A Allocation in accordance with allocation scheme: England

- (1) Every local housing authority in England must have a scheme (their “allocation scheme”) for determining priorities, and as to the procedure to be followed, in allocating housing accommodation. 40
- For this purpose “procedure” includes all aspects of the allocation process, including the persons or descriptions of persons by whom decisions are taken.

-
- (2) The scheme must include a statement of the authority’s policy on offering people who are to be allocated housing accommodation –
- (a) a choice of housing accommodation; or
 - (b) the opportunity to express preferences about the housing accommodation to be allocated to them. 5
- (3) As regards priorities, the scheme shall, subject to subsection (4), be framed so as to secure that reasonable preference is given to –
- (a) people who are homeless (within the meaning of Part 7);
 - (b) people who are owed a duty by any local housing authority under section 190(2), 193(2) or 195(2) (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any such authority under section 192(3); 10
 - (c) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions; 15
 - (d) people who need to move on medical or welfare grounds (including any grounds relating to a disability); and
 - (e) people who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others). 20
- The scheme may also be framed so as to give additional preference to particular descriptions of people within this subsection (being descriptions of persons with urgent housing needs).
- (4) People are to be disregarded for the purposes of subsection (3) if they would not have fallen within paragraph (a) or (b) of that subsection without the local housing authority having had regard to a restricted person (within the meaning of Part 7). 25
- (5) The scheme may contain provision for determining priorities in allocating housing accommodation to people within subsection (3); and the factors which the scheme may allow to be taken into account include –
- (a) the financial resources available to a person to meet his housing costs;
 - (b) any behaviour of a person (or of a member of his household) which affects his suitability to be a tenant; 35
 - (c) any local connection (within the meaning of section 199) which exists between a person and the authority’s district.
- (6) Subject to subsection (3), the scheme may contain provision about the allocation of particular housing accommodation –
- (a) to a person who makes a specific application for that accommodation; 40
 - (b) to persons of a particular description (whether or not they are within subsection (3)).
- (7) The Secretary of State may by regulations –
- (a) specify further descriptions of people to whom preference is to be given as mentioned in subsection (3), or
 - (b) amend or repeal any part of subsection (3). 45

-
- (8) The Secretary of State may by regulations specify factors which a local housing authority in England must not take into account in allocating housing accommodation.
- (9) The scheme must be framed so as to secure that an applicant for an allocation of housing accommodation— 5
- (a) has the right to request such general information as will enable him to assess—
 - (i) how his application is likely to be treated under the scheme (including in particular whether he is likely to be regarded as a member of a group of people who are to be given preference by virtue of subsection (3)); and 10
 - (ii) whether housing accommodation appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available for allocation to him; 15 - (b) has the right to request the authority to inform him of any decision about the facts of his case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to him; and
 - (c) has the right to request a review of a decision mentioned in paragraph (b), or in section 160ZA(9), and to be informed of the decision on the review and the grounds for it. 20
- (10) As regards the procedure to be followed, the scheme must be framed in accordance with such principles as the Secretary of State may prescribe by regulations. 25
- (11) Subject to the above provisions, and to any regulations made under them, the authority may decide on what principles the scheme is to be framed.
- (12) A local housing authority in England must, in preparing or modifying its allocation scheme, have regard to— 30
- (a) its current homelessness strategy under section 1 of the Homelessness Act 2002,
 - (b) its current tenancy strategy under section 126 of the Localism Act 2011, and
 - (c) in the case of an authority that is a London borough council, the London housing strategy. 35
- (13) Before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, a local housing authority in England must—
- (a) send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlord with which they have nomination arrangements (see section 159(4)), and 40
 - (b) afford those persons a reasonable opportunity to comment on the proposals. 45
- (14) A local housing authority in England shall not allocate housing accommodation except in accordance with their allocation scheme.”
- (5) Section 167 (allocation in accordance with allocation scheme) is amended as follows—

- (a) in the heading after “scheme” insert “: Wales”,
 - (b) in subsection (1) after “authority” insert “in Wales”,
 - (c) in subsection (4) after “authority” insert “in Wales”,
 - (d) in subsection (7) after “authority” insert “in Wales”,
 - (e) in subsection (8) after “authority” insert “in Wales”. 5
- (6) In section 172(2) (regulations) before “167(3)” insert “166A(7) or”.
- (7) In section 174 (index of defined expressions: Part VI) in the entry for “allocation scheme” before “167” insert “166A and”.

Homelessness

- 124 Duties to homeless persons** 10
- (1) Section 193 of the Housing Act 1996 (duty to persons with priority need who are not homeless intentionally) is amended as follows.
- (2) Omit subsection (3A).
- (3) For subsection (5) substitute –
- “(5) The local housing authority shall cease to be subject to the duty under this section if –
- (a) the applicant, having been informed by the authority of the possible consequence of refusal or acceptance and of the right to request a review of the suitability of the accommodation, refuses an offer of accommodation which the authority are satisfied is suitable for the applicant, 20
 - (b) that offer of accommodation is not an offer of accommodation under Part 6 or a private rented sector offer, and
 - (c) the authority notify the applicant that they regard themselves as ceasing to be subject to the duty under this section.” 25
- (4) In subsection (7) after “refusal” insert “or acceptance”.
- (5) In subsection (7AA) –
- (a) omit “In a restricted case”,
 - (b) after “informed” insert “in writing”, and
 - (c) in paragraph (a) for “private accommodation offer” substitute “private rented sector offer”. 30
- (6) In subsection (7AB) –
- (a) in paragraph (a) after “refusal” insert “or acceptance”, and
 - (b) at the end of paragraph (b) insert “, and
 - (c) the effect under section 195A of a further application to the authority within two years of acceptance of the offer.” 35
- (7) In subsection (7AC) for “private accommodation offer” substitute “private rented sector offer”.
- (8) Omit subsections (7B) to (7E). 40
- (9) In subsection (7F) –
- (a) at the end of paragraph (a) insert “or”,

- (b) in paragraph (ab) for “private accommodation offer” substitute “private rented sector offer”,
 - (c) omit paragraph (b), and
 - (d) in the words following that paragraph for “it is reasonable to accept the offer” substitute “subsection (8) does not apply to the applicant.” 5
- (10) For subsection (8) substitute –
- “(8) This subsection applies to an applicant if –
 - (a) the applicant is under contractual or other obligations in respect of the applicant’s existing accommodation, and
 - (b) the applicant is not able to bring those obligations to an end before being required to take up the offer.” 10
- (11) After subsection (9) insert –
- “(10) The appropriate authority may provide by regulations that subsection (7AC)(c) is to have effect as if it referred to a period of the length specified in the regulations. 15
 - (11) Regulations under subsection (10) –
 - (a) may not specify a period of less than 12 months, and
 - (b) may not apply to restricted cases.
 - (12) In subsection (10) “the appropriate authority” –
 - (a) in relation to local housing authorities in England, means the Secretary of State; 20
 - (b) in relation to local housing authorities in Wales, means the Welsh Ministers.”

125 Duties to homeless persons: further amendments

- (1) The Housing Act 1996 is amended as follows. 25
- (2) In section 188 after subsection (1) insert –
 - “(1A) But if the local housing authority have reason to believe that the duty under section 193(2) may apply in relation to an applicant in the circumstances referred to in section 195A(1), they shall secure that accommodation is available for the applicant’s occupation pending a decision of the kind referred to in subsection (1) regardless of whether the applicant has a priority need.” 30
- (3) In section 195 omit subsection (3A).
- (4) After section 195 insert –
 - “195A Re-application after private rented sector offer 35**
 - (1) If within two years beginning with the date on which an applicant accepts an offer under section 193(7AA) (private rented sector offer), the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and the local housing authority –
 - (a) is satisfied that the applicant is homeless and eligible for assistance, and 40
 - (b) is not satisfied that the applicant became homeless intentionally,

- the duty under section 193(2) applies regardless of whether the applicant has a priority need.
- (2) For the purpose of subsection (1), an applicant in respect of whom a valid notice under section 21 of the Housing Act 1988 (orders for possession on expiry or termination of assured shorthold tenancy) has been given is to be treated as homeless from the date on which that notice expires. 5
- (3) If within two years beginning with the date on which an applicant accepts an offer under section 193(7AA), the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and the local housing authority – 10
- (a) is satisfied that the applicant is threatened with homelessness and eligible for assistance, and
- (b) is not satisfied that the applicant became threatened with homelessness intentionally, 15
- the duty under section 195(2) applies (regardless of whether the applicant has a priority need).
- (4) For the purpose of subsection (3), an applicant in respect of whom a valid notice under section 21 of the Housing Act 1988 has been given is to be treated as threatened with homelessness from the date on which that notice is given. 20
- (5) Subsection (1) or (3) does not apply to a case where the local housing authority would not be satisfied as mentioned in that subsection without having regard to a restricted person.
- (6) Subsection (1) or (3) does not apply to a re-application of the kind referred to in that subsection if – 25
- (a) the applicant has previously made a re-application of the kind referred to in subsection (1) or (3) to the housing authority, and
- (b) section 193(2) or 195(2) applied as mentioned in that subsection on that previous re-application.” 30
- (5) Section 198 (referral to another local housing authority) is amended as follows.
- (6) After subsection (2) insert –
- “(2ZA) The conditions for referral of the case to another authority are also met if –
- (a) the application is made within the period of two years beginning with the date on which the applicant accepted an offer from the other authority under section 193(7AA), and 35
- (b) neither the applicant nor any person who might reasonably be expected to reside with the applicant will run the risk of domestic violence in the district of the other authority.” 40
- (7) In subsection (2A) after “(2)” insert “or (2ZA)”.
- (8) In subsection (3) after “(2)” insert “, (2ZA)”.
- (9) In section 202(1)(g) (right to request review of decision) for “private accommodation offer” substitute “private rented sector offer”.

CHAPTER 2

SOCIAL HOUSING: TENURE REFORM

Tenancy strategies

- 126 Tenancy strategies**
- (1) A local housing authority in England must prepare and publish a strategy (a “tenancy strategy”) setting out the matters to which the registered providers of social housing in its district are to have regard in formulating policies relating to—
- (a) the kinds of tenancies they grant,
 - (b) the circumstances in which they will grant a tenancy of a particular kind,
 - (c) where they grant tenancies for a term certain, the lengths of the terms, and
 - (d) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.
- (2) The tenancy strategy must summarise those policies or explain where they may be found.
- (3) A local housing authority must have regard to its tenancy strategy in exercising its housing management functions.
- (4) A local housing authority must publish its tenancy strategy before the end of the period of 12 months beginning with the day on which this section comes into force.
- (5) A local housing authority must keep its tenancy strategy under review, and may modify or replace it from time to time.
- (6) If a local housing authority modifies its tenancy strategy, it must publish the modifications or the strategy as modified (as it considers appropriate).
- (7) A local housing authority must—
- (a) make a copy of everything published under this section available at its principal office for inspection at all reasonable hours, without charge, by members of the public, and
 - (b) provide (on payment if required by the authority of a reasonable charge) a copy of anything so published by any member of the public who asks for one.
- (8) In this section and section 127 (preparation of tenancy strategy)—
- (a) references to a registered provider of social housing for a district are to a registered provider who grants tenancies of dwelling-houses in that district, and
 - (b) “district”, “dwelling house” and “local housing authority” have the same meaning as in the Housing Act 1985.
- 127 Preparation of tenancy strategy**
- (1) Before adopting a tenancy strategy, or making a modification to it reflecting a major change of policy, the authority must—

-
- (a) send a copy of the draft strategy, or proposed modification, to every private registered provider of social housing for its district, and
- (b) give the private registered provider a reasonable opportunity to comment on those proposals.
- (2) Before adopting a tenancy strategy, or making a modification to it reflecting a major change of policy, the authority must also –
- (a) consult such other persons as the Secretary of State may by regulations prescribe, and
- (b) in the case of an authority that is a London borough council, consult the Mayor of London.
- (3) The authority must, in preparing or modifying a tenancy strategy, have regard to –
- (a) its current allocation scheme under section 166A of the Housing Act 1996,
- (b) its current homelessness strategy under section 1 of the Homelessness Act 2002, and
- (c) in the case of an authority that is a London borough council, the London housing strategy.
- 128 Standards about tenancies etc**
- In section 197 of that Act (power of Secretary of State to give directions to regulators) in subsection (2) after paragraph (a) insert –
- “(aa) tenure.”
- 129 Relationship between schemes and strategies**
- In section 3 of the Homelessness Act 2002 (homelessness strategy) after subsection (7) insert –
- “(7A) In formulating or modifying a homelessness strategy, a local housing authority in England shall have regard to –
- (a) its current allocation scheme under section 166A of the Housing Act 1996,
- (b) its current tenancy strategy under section 126 of the Localism Act 2011, and
- (c) in the case of an authority that is a London borough council, the current London housing strategy.”
- Flexible tenancies*
- 130 Flexible tenancies**
- After section 106A of the Housing Act 1985 insert –
- “Flexible tenancies*
- 107A Flexible tenancies**
- (1) For the purposes of this Act, a flexible tenancy is a secure tenancy to which any of the following subsections applies.

- (2) This subsection applies to a secure tenancy if –
 - (a) it is granted by a landlord in England for a term certain of not less than two years, and
 - (b) before it was granted the person who became the landlord under the tenancy served a written notice on the person who became the tenant under the tenancy stating that the tenancy would be a secure tenancy. 5
- (3) This subsection applies to a secure tenancy if –
 - (a) it becomes a secure tenancy by virtue of a notice under paragraph 4ZA(2) of Schedule 1 (family intervention tenancies becoming secure tenancies), 10
 - (b) the landlord under the family intervention tenancy in question was a local housing authority in England,
 - (c) the family intervention tenancy was granted to a person on the coming to an end of a flexible tenancy under which the person was a tenant (“the original flexible tenancy”), and 15
 - (d) the notice states that the tenancy is to become a secure tenancy for a term certain that is a flexible tenancy.
- (4) This subsection applies to a secure tenancy if –
 - (a) it is created by virtue of section 137A of the Housing Act 1996 (introductory tenancies becoming flexible tenancies), or 20
 - (b) it arises by virtue of section 143MA of that Act (demoted tenancies becoming flexible tenancies).
- 107B Review of decisions relating to flexible tenancies**
- (1) This section applies if a person (“the prospective landlord”) – 25
 - (a) offers to grant a flexible tenancy (whether or not on the coming to an end of an existing tenancy of any kind), or
 - (b) serves a notice under section 137A of the Housing Act 1996 stating that, on the coming to an end of an introductory tenancy, it will become a flexible tenancy. 30
- (2) A person to whom the offer is made or on whom the notice is served (“the person concerned”) may request a review of the prospective landlord’s decision about the length of the term of the tenancy.
- (3) The review may only be requested on the basis that the length of the term does not accord with a policy of the prospective landlord as to the length of the terms of the flexible tenancies it grants. 35
- (4) A request for a review must be made before the end of –
 - (a) the period of 21 days beginning with the day on which the person concerned first receives the offer or notice, or
 - (b) such longer period as the the prospective landlord may in writing allow. 40
- (5) On a request being duly made to it, the prospective landlord must review its decision.
- (6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section. 45

- (7) The regulations may, in particular, make provision –
- (a) requiring the decision on the review to be made by a person of appropriate seniority who was not involved in the original decision, and
 - (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom the person may be represented at such a hearing. 5
- (8) The prospective landlord must notify the person concerned in writing of the decision on the review.
- (9) If the decision is to confirm the original decision, the prospective landlord must also notify the person of the reasons for the decision. 10
- (10) Regulations under this section –
- (a) may contain transitional or saving provision;
 - (b) are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament. 15

107C Termination of flexible tenancy by tenant

- (1) It is a term of every flexible tenancy that the tenant may terminate the tenancy in accordance with the following provisions of this section.
- (2) The tenant must serve a notice in writing on the landlord stating that the tenancy will be terminated on the date specified in the notice. 20
- (3) That date must be after the end of the period of four weeks beginning with the date on which the notice is served.
- (4) The landlord may agree with the tenant to dispense with the requirement in subsection (2) or (3). 25
- (5) The tenancy is terminated on the date specified in the notice or (as the case may be) determined in accordance with arrangements made under subsection (4) only if on that date –
- (a) no arrears of rent are payable under the tenancy, and
 - (b) the tenant is not otherwise materially in breach of a term of the tenancy. 30

107D Recovery of possession on expiry of flexible tenancy

- (1) Subject as follows, on or after the coming to an end of a flexible tenancy a court must make an order for possession of the dwelling-house let on the tenancy if it is satisfied that the following conditions are met. 35
- (2) Condition 1 is that the flexible tenancy has come to an end and no further secure tenancy (whether or not a flexible tenancy) is for the time being in existence, other than a secure tenancy that is a periodic tenancy (whether or not arising by virtue of section 86).
- (3) Condition 2 is that the landlord has given the tenant not less than six months' notice in writing –
- (a) stating that the landlord does not propose to grant another tenancy on the expiry of the flexible tenancy,
 - (b) setting out the landlord's reasons for not proposing to grant another tenancy, and 45

- (c) informing the tenant of the tenant’s right to request a review of the landlord’s proposal and of the time within which such a request must be made.
- (4) Condition 3 is that the landlord has given the tenant not less than two months’ notice in writing stating that the landlord requires possession of the dwelling-house. 5
- (5) A notice under subsection (4) may be given before or on the day on which the tenancy comes to an end.
- (6) The court may refuse to grant an order for possession under this section if – 10
 - (a) the tenant has in accordance with section 107E requested a review of the landlord’s proposal not to grant another tenancy on the expiry of the flexible tenancy, and
 - (b) the court is satisfied that the landlord has failed to carry out the review in accordance with provision made by or under that section or that the decision on the review is otherwise wrong in law. 15
- (7) If a court refuses to grant an order for possession by virtue of subsection (6) it may make such directions as to the holding of a review or further review under section 107E as it thinks fit. 20
- (8) This section has effect notwithstanding that, on the coming to an end of the flexible tenancy, a periodic tenancy arises by virtue of section 86.
- (9) Where a court makes an order for possession of a dwelling-house by virtue of this section, any periodic tenancy arising by virtue of section 86 on the coming to an end of the flexible tenancy comes to an end (without further notice and regardless of the period) in accordance with section 82(2). 25
- (10) This section is without prejudice to any right of the landlord under a flexible tenancy to recover possession of the dwelling-house let on the tenancy in accordance with this Part. 30

107E Review of decision to seek possession

- (1) A request for a review of a landlord’s decision to seek an order for possession of a dwelling-house let under a flexible tenancy must be made before the end of the period of 21 days beginning with the day on which the notice under section 107D(3) is served. 35
- (2) On a request being duly made to it, the landlord must review its decision.
- (3) The review must, in particular, consider whether the decision is in accordance with any policy of the landlord as to the circumstances in which it will grant a further tenancy on the coming to an end of an existing flexible tenancy. 40
- (4) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section.
- (5) The regulations may, in particular, make provision – 45

-
- (a) requiring the decision on the review to be made by a person of appropriate seniority who was not involved in the original decision, and
- (b) as to the circumstances in which the person concerned is entitled to an oral hearing and whether and by whom the person may be represented at such a hearing. 5
- (6) The landlord must notify the tenant in writing of the decision on the review.
- (7) If the decision is to confirm the original decision, the landlord must also notify the tenant of the reasons for the decision. 10
- (8) The review must be carried out, and the tenant notified, before the date specified in the notice of proceedings as the date after which proceedings for the possession of the dwelling-house may be begun.
- (9) Regulations under this section – 15
- (a) may contain transitional or saving provision;
- (b) are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.”
- 131 Flexible tenancies: other amendments**
- (1) In section 83(1) of the Housing Act 1985 (proceedings for possession of dwelling-house let on a secure tenancy: notice requirements) after “section 82(1A)” insert “, other than proceedings under section 107D (recovery of possession on expiry of flexible tenancy),”.
- (2) In section 84(1) of that Act (grounds and orders for possession of dwelling-house let on a secure tenancy) at the end insert “or in accordance with section 107D (recovery of possession on expiry of flexible tenancy)”.
- (3) In section 97 (tenant’s improvements require consent) after subsection (4) insert –
- “(5) In this section “secure tenancy” does not include a secure tenancy that is a flexible tenancy.” 30
- (4) In section 99A of that Act (right to compensation for improvement) after subsection (8) insert –
- “(9) In this section – 35
- (a) “secure tenancy” does not include a secure tenancy that is a flexible tenancy, and
- (b) “secure tenant” does not include a tenant under a secure tenancy that is a flexible tenancy.”
- (5) In section 117 (index of defined expressions: Part 4) at the appropriate place insert –
- “flexible tenancy section 107A”.
- (6) In section 188 (index of defined expressions: Part 5) at the appropriate place

insert –

“flexible tenancy section 107A”.

- (7) After section 137 of the Housing Act 1996 (introductory tenancies) insert –

“Introductory tenancies that are to become flexible tenancies

137A Introductory tenancies that are to become flexible tenancies 5

- (1) Where this section applies, a tenancy of a dwelling-house in England that ceases to be a introductory tenancy and becomes a secure tenancy in accordance with this Chapter becomes a flexible tenancy for the purposes of the Housing Act 1985.
- (2) This section applies if, before entering into or adopting the introductory tenancy, the person who became the landlord under the tenancy served a written notice on the person who was or became the tenant under the tenancy –
- (a) stating that, on ceasing to be an introductory tenancy, the tenancy would become a secure tenancy for a fixed term that was a flexible tenancy, and 15
- (b) specifying the length of the term of the tenancy.”
- (8) In section 143 of that Act (index of defined expressions: introductory tenancies) at the appropriate place insert –

“flexible tenancy section 230”.

- (9) After section 143M of that Act (demoted tenancies) insert –

“Demoted tenancies that are to become flexible tenancies

143MA Demoted tenancies that are to become flexible tenancies

- (1) This section applies to a demoted tenancy of a dwelling-house in England that – 25
- (a) was created on the termination of a flexible tenancy, and
- (b) ceases to be a demoted tenancy and becomes a secure tenancy in accordance with this Chapter.
- (2) On ceasing to be a demoted tenancy, the tenancy becomes a secure tenancy for a term certain that is a flexible tenancy.” 30
- (10) In section 230 of that Act (minor definitions: general) at the appropriate place insert –
- ““flexible tenancy” has the meaning given by section 107A of the Housing Act 1985;”.

Other provisions relating to tenancies of social housing

132 Secure and assured tenancies: transfer of tenancy

- (1) This section applies if the tenants (“the relevant tenants”) under two or more tenancies of dwelling-houses in England (“the existing tenancies”) make a request in writing to the landlord under each existing tenancy asking the landlord to— 5
- (a) permit the relevant tenant or tenants under the existing tenancy to surrender it, and
 - (b) grant a new tenancy of the dwelling-house let under the tenancy to another relevant tenant or other relevant tenants. 10
- (2) The landlord must comply with the request if the following conditions are met.
- (3) The first condition is that at least one of the existing tenancies is—
- (a) a secure tenancy that is not a flexible tenancy, or
 - (b) an assured tenancy- 15
 - (i) which is not an assured shorthold tenancy, and
 - (ii) under which the landlord is the Regulator of Social Housing, a private registered provider of social housing or a housing trust which is a charity.
- (4) The second condition is that at least one of the existing tenancies is— 20
- (a) a secure tenancy that is a flexible tenancy, or
 - (b) an assured shorthold tenancy under which the landlord is the Regulator of Social Housing, a private registered provider of social housing or a housing trust which is a charity.
- (5) The third condition is that the remaining existing tenancies (if any) fall within subsection (3) or (4). 25
- (6) The fourth condition is that at least one of the existing tenancies to which subsection (3) applies was granted before the day on which this section came into force.
- (7) The fifth condition is that none of the landlords under the existing tenancies has refused to comply with the request (and see further section 133). 30
- (8) Subsection (9) applies where a relevant tenant’s existing tenancy is—
- (a) a secure tenancy that is not a flexible tenancy, or
 - (b) an assured tenancy that is not an assured shorthold tenancy.
- (9) The new tenancy granted to the relevant tenant pursuant to this section must be— 35
- (a) a secure tenancy that is not a flexible tenancy, or
 - (b) an assured tenancy that is not an assured shorthold tenancy, according to the landlord’s capacity to grant a tenancy of either kind.
- (10) The Secretary of State may by regulations provide that this section does not apply in relation to an assured shorthold tenancy of a kind specified in the regulations. 40

133 Further provisions about transfer of tenancy under section 132

- (1) A landlord may refuse to comply with a request under section 132 only on one or more of the grounds set out in Schedule 14 (and in that Schedule references to the new tenancy are to the tenancy that the landlord has been requested to grant under that section). 5
- (2) If the landlord refuses to comply with the request otherwise than on one of those grounds, the landlord is treated for the purposes of section 132 as not having refused to comply with the request.
- (3) A landlord may not rely on any of the grounds set out in Schedule 14 unless the landlord has, within the period of 42 days beginning with receipt of the relevant tenants' request, given each of the tenants a notice specifying the ground and giving particulars of it. 10
- (4) The duty imposed on a landlord by section 132 is enforceable by injunction.
- (5) A county court has jurisdiction to entertain any proceedings brought pursuant to subsection (4). 15
- (6) In section 132, this section and Schedule 14 –
 - (a) “secure tenancy” has the meaning given by section 79 of the Housing Act 1985,
 - (b) “flexible tenancy” has the meaning given by section 107A of that Act,
 - (c) “assured tenancy” and “assured shorthold tenancy” have the same meaning as in Part 1 of the Housing Act 1988, and 20
 - (d) other expressions defined in the Housing Act 1985 or the Housing Act 1988 have the same meaning as in that Act (and, if they are defined in both Acts, have the same meaning as in the Housing Act 1985).
- (7) In section 160(1) of the Housing Act 1996 (cases where provisions about allocations do not apply), for the “or” at the end of paragraph (d) substitute –
“(da) is granted in response to a request under section 132 of the Localism Act 2011 (transfer of tenancy), or”. 25

134 Succession to secure tenancies

- (1) Before section 87 of the Housing Act 1985 insert – 30
“86A Persons qualified to succeed tenant: England
 - (1) A person (“P”) is qualified to succeed the tenant under a secure tenancy of a dwelling-house in England if –
 - (a) P occupies the dwelling house as P’s only or principal home at the time of the tenant’s death, and 35
 - (b) P is the tenant’s spouse or civil partner.
 - (2) Subsection (1) does not apply if the tenant was a successor as defined in section 88.
 - (3) In such a case, a person (“P”) (whether or not the tenant’s spouse or civil partner) is qualified to succeed the tenant if – 40
 - (a) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and
 - (b) P’s succession is in accordance with that term.

- (4) For the purposes of this section –
- (a) a person who was living with the tenant as the tenant’s wife or husband is to be treated as the tenant’s spouse, and
 - (b) a person who was living with the tenant as if they were civil partners is to be treated as the tenant’s civil partner. 5
- (5) Subsection (6) applies if, on the death of the tenant, there is by virtue of subsection (4) more than one person who fulfils the condition in subsection (1)(b).
- (6) Such one of those persons as may be agreed between them or as may, where there is no such agreement, be selected by the landlord is for the purpose of this section to be treated (according to whether that one of them is of the opposite sex to, or of the same sex as, the tenant) as the tenant’s spouse or civil partner. 10
- (7) This section does not apply to a secure tenancy that –
- (a) was entered into before the day on which section 134 of the Localism Act 2011 came into force, or
 - (b) came into being by virtue of section 86 (periodic tenancy arising on termination of fixed term) on the coming to an end of a secure tenancy within paragraph (a).” 15
- (2) In section 87 (persons qualified to succeed secure tenant) – 20
- (a) in the section heading at the end insert “: Wales”, and
 - (b) after “secure tenancy” insert “of a dwelling-house in Wales”.
- (3) In section 89 (succession to periodic tenancy) is amended as follows.
- (4) After subsection (1) insert –
- “(1A) Where there is a person qualified to succeed the tenant under section 86A, the tenancy vests by virtue of this section – 25
- (a) in that person, or
 - (b) if there is more than one such person, such of one them as may be agreed between them or as may, where there is no agreement, be selected by the landlord.” 30
- (5) In subsection (2) after “tenant” insert “under section 87”.

135 Succession to assured tenancies

- (1) Section 17 of the Housing Act 1988 (succession to assured periodic tenancy by spouse) is amended as follows.
- (2) In the heading for “assured periodic tenancy by spouse” substitute “assured tenancy”. 35
- (3) In subsection (1) –
- (a) at the beginning insert “Subject to subsection (1B),” and
 - (b) omit paragraph (c).
- (4) After that subsection insert – 40
- “(1A) Subject to subsection (1B), in any case where –
- (a) there is an assured tenancy of a dwelling-house in England for a fixed term of not less than two years under which –

- (i) the landlord is a private registered provider of social housing, and
 - (ii) the tenant is a sole tenant,
 - (b) the tenant under the tenancy dies, and
 - (c) immediately before the death, the tenant’s spouse or civil partner was occupying the dwelling-house as his or her only or principal home,
 - then, on the death, the tenancy vests by virtue of this section in the spouse or civil partner (and, accordingly, does not devolve under the tenant’s will or intestacy).
 - (1B) Subsection (1) or (1A) does not apply if the tenant was himself a successor as defined in subsection (2) or subsection (3) below.
 - (1C) In such a case, on the death, the tenancy vests by virtue of this section in a person (“P”) (whether or not the tenant’s spouse or civil partner) if, and only if –
 - (a) (in a case within subsection (1)) the tenancy is of a dwelling-house in England under which –
 - (i) the landlord is a private registered provider of social housing, and
 - (ii) the tenant who has died was a sole tenant,
 - (b) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and
 - (c) P’s succession is in accordance with that term.”
 - (5) After that subsection insert –
 - “(6) If, on the death of the tenant, there is more than one person in whom the tenancy would otherwise vest by virtue of subsection (1C), the tenancy vests in such of one as may be agreed between them or, in default of agreement, as is determined by the county court.”
 - (6) The amendments made by this section do not apply in relation to an assured tenancy that –
 - (a) was granted before the day on which this section comes into force, or
 - (b) came into being by virtue of section 5 of the Housing Act 1988 (periodic tenancy arising on termination of fixed term) on the coming to an end of an assured shorthold tenancy within paragraph (a).
- 136 Assured shorthold tenancies following family intervention tenancies**
- After section 20B of the Housing Act 1988 insert –
- “20C Assured shorthold tenancies following family intervention tenancies**
- (1) An assured tenancy that arises by virtue of a notice under paragraph 12ZA(2) of Schedule 1 in respect of a family intervention tenancy is an assured shorthold tenancy if –
 - (a) the landlord under the assured tenancy is a private registered provider of social housing,
 - (b) the family intervention tenancy was granted to a person on the coming to an end of an assured shorthold tenancy under which the person was a tenant, and

- (c) the notice states that the family intervention tenancy is to be regarded as an assured shorthold tenancy.
- (2) This section does not apply if the family intervention tenancy was granted before the coming into force of section 136 of the Localism Act 2011.”

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137 Assured shorthold tenancies: notice requirements

- (1) In section 21 of the Housing Act 1988 (recovery of possession on expiry or termination of assured shorthold tenancy) after subsection (1) insert –
 - “(2A) Subsection (2B) applies to an assured shorthold tenancy if –
 - (a) it is a fixed term tenancy for a term certain of not less than two years, and
 - (b) the landlord is a private registered provider of social housing.
 - (2B) The court may not make an order for possession of the dwelling-house let on the tenancy unless the landlord has given to the tenant not less than six months’ notice in writing –
 - (a) stating that the landlord does not propose to grant another tenancy on the expiry of the fixed term tenancy, and
 - (b) informing the tenant of how to obtain help or advice about the notice and, in particular, of any obligation of the landlord to provide help or advice.”
- (2) The amendments made by this section do not apply in relation to an assured shorthold tenancy that –
 - (a) was granted before the day on which this section comes into force, or
 - (b) came into being by virtue of section 5 of the Housing Act 1988 (periodic tenancy arising on termination of fixed term) on the coming to an end of an assured shorthold tenancy within paragraph (a).

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138 Assured shorthold tenancies: rights to acquire

- (1) Section 180 of the Housing and Regeneration Act 2008 (social housing: right to acquire) is amended as follows.
- (2) In subsection (2)(a) (conditions to be met in relation to tenancies) omit “an assured shorthold tenancy or”.
- (3) After subsection (2) insert –
 - “(2A) The Secretary of State may by regulations provide that an assured shorthold tenancy of a description specified in the regulations is not a tenancy within subsection (2).”
- (4) The amendments made by this section do not apply in relation to an assured shorthold tenancy that –
 - (a) was granted before the day on which this section comes into force, or
 - (b) came into being by virtue of section 5 of the Housing Act 1988 (periodic tenancy arising on termination of fixed term) on the coming to an end of an assured shorthold tenancy within paragraph (a).

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139 Repairing obligations in leases of seven years or more

In section 13 of the Landlord and Tenant Act 1985 (leases to which the provisions about repairing obligations in section 11 of that Act apply) after subsection (1) insert –

- “(1A) Section 11 also applies to a lease of a dwelling-house granted on or after the day on which section 139 of the Localism Act 2011 came into force which – 5
- (a) is a secure tenancy for a fixed term of seven years or more granted by a person within section 80(1) of the Housing Act 1985 (secure tenancies: the landlord condition), or 10
 - (b) an assured tenancy for a fixed term of seven years or more granted by a private registered provider of social housing.”

CHAPTER 3

HOUSING FINANCE

140 Abolition of Housing Revenue Account subsidy in England 15

Schedule 15 (abolition of Housing Revenue Account subsidy in England) has effect.

141 Settlement payments

- (1) *The Secretary of State may make a determination providing for the calculation of the amount of a payment (referred to in this Chapter as a “settlement payment”) in relation to each local housing authority in England that keeps a Housing Revenue Account. 20*
- (2) *A determination under this section may, in particular, provide for all or part of the amount to be calculated in accordance with a formula or formulae.*
- (3) *In determining a formula for this purpose, the Secretary of State may, in particular, include variables framed by reference to – 25*
 - (a) *the amounts (if any) that, during such period and on such assumptions as the Secretary of State may determine, are to be treated as amounts that will be received by the local housing authority in connection with the exercise of its functions relating to houses and other property within its Housing Revenue Account, 30*
 - (b) *the amounts (if any) that, during such period and on such assumptions as the Secretary of State may determine, are to be treated as amounts that will be paid by the authority in connection with the exercise of those functions, and*
 - (c) *the amount (if any) that, at such time and on such assumptions as the Secretary of State may determine, is to be treated as the amount of debt held by the authority in connection with the exercise of those functions. 35*
- (4) *A determination under this section may provide for an assumption to be made about an amount whether or not the assumption is, or is likely to be, borne out by events.*
- (5) *A determination under this section may provide that the effect of the calculation in relation to a local housing authority is that – 40*
 - (a) *a settlement payment must be made by the Secretary of State to the local housing authority,*

- (b) *a settlement payment must be made by the local housing authority to the Secretary of State, or*
- (c) *the amount of a settlement payment in relation to that authority is nil.*

142 Further payments

- (1) *This section applies if a settlement payment has been made in respect of a local housing authority.* 5
- (2) *The Secretary of State may from time to time make a determination that a further payment calculated in accordance with the determination must be made –*
 - (a) *by the Secretary of State to the local housing authority, or*
 - (b) *by the local housing authority to the Secretary of State.* 10
- (3) *The Secretary of State may make a determination under this section only if there has been a change in any matter that was taken into account in making –*
 - (a) *the determination relating to the settlement payment or a calculation under that determination, or*
 - (b) *a previous determination under this section relating to the local housing authority or a calculation under that determination.* 15
- (4) *A determination under this section may be varied or revoked by a subsequent determination.*

143 Further provisions about payments

- (1) *A payment under this Chapter must be made in such instalments, at such times and in accordance with such arrangements as the Secretary of State may determine.* 20
- (2) *Arrangements under subsection (1) may include arrangements for payments to be made –*
 - (a) *by a person or body other than the Secretary of State to a local housing authority, or* 25
 - (b) *to a person or body other than the Secretary of State by a local housing authority.*
- (3) *A payment under this Chapter by a local housing authority must be accompanied by such information as the Secretary of State may require.* 30
- (4) *The Secretary of State may charge a local housing authority interest, at such rates and for such periods as the Secretary of State may determine, on any sum payable by the local housing authority under this Chapter that is not paid by a time determined under this section for its payment.*
- (5) *The Secretary of State may charge a local housing authority an amount equal to any additional costs incurred by the Secretary of State as a result of any sum payable by the local housing authority under this Chapter not being paid by a time determined under this section for its payment.* 35
- (6) *A payment under this Chapter other than a payment under subsection (4) or (5) –* 40
 - (a) *if made by a local housing authority, is to be treated by the authority as capital expenditure for the purposes of Chapter 1 of Part 1 of the Local Government Act 2003;*

- (b) if made to a local housing authority, is to be treated by the authority as a capital receipt for the purposes of that Chapter.
- (7) A determination under this Chapter may require a payment to a local housing authority made under this Chapter to be used by the authority for a purpose specified in the determination. 5
- (8) A local housing authority to which such a requirement applies must comply with it.
- (9) In Schedule 4 to the Local Government and Housing Act 1989 (the keeping of the housing revenue account) in Part 2 (debits to the account) after item 5 insert – 10
- “Item 5A: sums payable under section 143 of the Localism Act 2011*
- Sums payable for the year to the Secretary of State under section 143(4) or (5) of the Localism Act 2011 (interest etc charged as a result of late payment of settlement payments etc).”*
- 144 Limits on indebtedness** 15
- (1) The Secretary of State may from time to time make a determination providing for the calculation in relation to each local housing authority in England that keeps a Housing Revenue Account of –
- (a) the amount of housing debt that, at such time and on such assumptions as the Secretary of State may determine, is to be treated as held by the authority, and 20
- (b) the maximum amount of such housing debt that the authority may hold.
- (2) A determination under this section may, in particular, provide for all or part of an amount to be calculated in accordance with a formula or formulae. 25
- (3) A determination under this section may provide for assumptions to be made in making a calculation whether or not those assumption are, or are likely to be, borne out by events.
- (4) A determination under this section may be varied or revoked by a subsequent determination. 30
- (5) A local housing authority may not hold debt in contravention of a determination under this section.
- (6) In this section “housing debt”, in relation to a local housing authority, means debt –
- (a) which is held by the authority in connection with the exercise of its functions relating to houses and other property within its Housing Revenue Account, and 35
- (b) interest and other charges in respect of which are required to be carried to the debit of that account.
- 145 Power to obtain information** 40
- (1) A local housing authority in England must supply the Secretary of State with such information as the Secretary of State may specify for the purposes of enabling the Secretary of State to exercise functions under this Chapter.

- (2) The Secretary of State may exercise the powers under this section either generally or in relation to a particular case.
- (3) If a local housing authority fails to comply with this section before the end of such period as the Secretary of State may specify, the Secretary of State may exercise functions under this Chapter on the basis of such assumptions and estimates as the Secretary of State thinks fit. 5

146 Determinations under this Chapter

- (1) A determination under this Chapter may make different provision for different cases or descriptions of case, including different provision – 10
- (a) for different areas,
 - (b) for different local housing authorities, or
 - (c) for different descriptions of local housing authority.
- (2) Before making a determination under this Chapter that relates to all local housing authorities or a description of local housing authority, the Secretary of State must consult such representatives of local government and relevant professional bodies as the Secretary of State thinks appropriate. 15
- (3) Before making a determination under this Chapter relating to a particular local housing authority, the Secretary of State must consult that local housing authority.
- (4) As soon as practicable after making a determination under this Chapter, the Secretary of State must send a copy of the determination to the local housing authority or authorities to which it relates. 20
- (5) Section 87(4) to (7) (electronic communications) of the Local Government and Housing Act 1989 applies to a determination under this Chapter as it applies to a determination under Part 6 of that Act. 25

147 Interpretation

In this Chapter “local housing authority” has the same meaning as in the Housing Act 1985.

CHAPTER 4

HOUSING MOBILITY 30

148 Standards facilitating exchange of tenancies

- (1) In section 193 of the Housing and Regeneration Act 2008 (power for regulator to set standards for registered providers) in subsection (2) after paragraph (g) insert – 35
- “(ga) methods of assisting tenants to exchange tenancies,”
- (2) In section 197(2) of that Act (power of Secretary of State to give directions to regulator) after paragraph (c) insert “, or
- (d) methods of assisting tenants to exchange tenancies.”

149 Assisting tenants of social landlords to become home owners

In section 122 of the Housing and Regeneration Act 2008 (registered providers of social housing in England: restriction on gifts and distributions to members etc) after subsection (5) (the third class of permitted payments) insert –

- “(5A) Class 4 is payments which – 5
- (a) are in accordance with the constitution of the registered provider,
 - (b) are paid for the benefit of tenants of the provider, and
 - (c) are in any particular case paid to assist the tenant to obtain other accommodation by acquiring a freehold, or long-leasehold, interest in a dwelling. 10
- (5B) For the purposes of subsection (5A) –
- “long-leasehold interest”, in relation to a dwelling, means the lessee’s interest under a lease of the dwelling granted, for a premium, for a term certain exceeding 21 years; 15
 - “acquiring”, in relation to a long-leasehold interest in a dwelling, includes acquiring by grant and acquiring by assignment.”

CHAPTER 5

REGULATION OF SOCIAL HOUSING

150 Transfer of functions from the Office for Tenants and Social Landlords to the Homes and Communities Agency 20

- (1) Schedule 16 (transfer of functions from the Office for Tenants and Social Landlords to the Homes and Communities Agency) has effect.
- (2) In that Schedule –
- Part 1 amends the Housing and Regeneration Act 2008 (regulation of social housing) so as to – 25
 - (a) abolish the Office for Tenants and Social Landlords (“the Office”),
 - (b) create the Regulation Committee of the Homes and Communities Agency (“the HCA”), and 30
 - (c) transfer the functions of the Office to the HCA acting through the Committee,
 - Part 2 makes consequential amendments to other enactments,
 - Part 3 contains provision transferring property, rights and liabilities of the Office to the HCA, and 35
 - Part 4 contains transitional and saving provisions.

151 Regulation of social housing

Schedule 17 (regulation of social housing) has effect.

CHAPTER 6

OTHER HOUSING MATTERS

*Wales***152 Powers of the National Assembly for Wales**

In Part 1 of Schedule 5 to the Government of Wales Act 2006 (Assembly Measures: matters) in Field 11 (housing) after Matter 11.8 insert – 5

“Matter 11.9

Accounts of local authorities in respect of land, housing and other buildings relating to their housing functions.

Matter 11.10 10

Borrowing by local authorities for the purposes of their housing functions.

Matter 11.11

Subsidies or payments replacing subsidies from the Welsh Ministers to local authorities, or from local authorities to the Welsh Ministers, in respect of local authorities’ housing functions.” 15

*Housing ombudsman***153 Housing complaints**

(1) In Schedule 2 to the Housing Act 1996 (social rented sector: housing complaints) after paragraph 7 insert – 20

“Complaints must be referred by designated person

7A (1) A complaint against a social landlord is not “duly made” to a housing ombudsman under an approved scheme unless it is made in writing to the ombudsman by a designated person by way of referral of a complaint made to the designated person. 25

(2) For the purposes of this paragraph “designated person” means –
(a) a member of the House of Commons,
(b) a member of the local housing authority for the district in which the property concerned is located, or
(c) a designated tenant panel (see paragraph 7B(1)) for the social landlord. 30

(3) Before making a referral under sub-paragraph (1), a designated person must obtain written consent from the complainant or the complainant’s representative.

(4) Sub-paragraphs (5) and (6) apply if under sub-paragraph (1) a designated person refers a complaint to a housing ombudsman. 35

- (5) If the ombudsman decides –
 - (a) not to investigate the complaint, or
 - (b) to discontinue investigation of the complaint,the ombudsman must prepare a statement of reasons for that decision and send a copy of the statement to the designated person. 5
- (6) If the ombudsman completes investigation of the complaint, the ombudsman must inform the designated person of –
 - (a) the results of the investigation, and
 - (b) any determination made.
- (7) In sub-paragraph (2)(b) “district” in relation to a local housing authority has the same meaning as in the Housing Act 1985. 10

Designated tenant panels

- 7B (1) In paragraph 7A(2)(c) “designated tenant panel” means a group of tenants which is recognised by a social landlord for the purpose of referring complaints against the social landlord. 15
- (2) There may be more than one designated tenant panel for a social landlord.
- (3) Where a social landlord becomes a member of an approved scheme, the social landlord must give to the person administering the scheme contact details for any designated tenant panel for the social landlord. 20
- (4) Where a group becomes a designated tenant panel for a social landlord, the social landlord must, as respects each approved scheme of which the social landlord is a member, give to the person administering the scheme contact details for the panel. 25
- (5) Where a group ceases to be a designated tenant panel for a social landlord, the social landlord must inform the person administering each approved scheme of which the social landlord is a member.
- (6) A complaint referred to a housing ombudsman under an approved scheme by a designated tenant panel for a social landlord is not affected by the group concerned ceasing to be a designated tenant panel for the social landlord. 30

Enforcement of a housing ombudsman’s determinations

- 7C (1) The Secretary of State may by order make provision for, or in connection with, authorising a housing ombudsman under an approved scheme to apply to a court or tribunal for an order that a determination made by the ombudsman may be enforced as if it were an order of a court. 35
- (2) Before the Secretary of State makes an order under sub-paragraph (1), the Secretary of State must consult – 40
 - (a) one or more bodies appearing to the Secretary of State to represent the interests of social landlords,
 - (b) one or more bodies appearing to the Secretary of State to represent the interests of other members of approved schemes, 45

-
- (c) one or more bodies appearing to the Secretary of State to represent the interests of tenants, and
 - (d) such other persons as the Secretary of State considers appropriate.
 - (3) The Secretary of State’s power to make an order under sub-paragraph (1) is exercisable by statutory instrument. 5
 - (4) A statutory instrument containing an order made by the Secretary of State under sub-paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.”
 - (2) Section 239(2) of the Housing and Regeneration Act 2008 (regulator may award compensation if compensation awarded by housing ombudsman has not been paid) is omitted. 10
 - (3) Subsection (1), so far as it inserts paragraph 7A of Schedule 2 to the Housing Act 1996, applies only in relation to complaints made to a housing ombudsman after the coming into force of that subsection so far as it makes that insertion. 15
 - (4) Subsection (1), so far as it inserts paragraph 7C of that Schedule, applies only in relation to determinations made after the coming into force of that subsection so far as it makes that insertion.
 - (5) Subsection (2) applies only in relation to determinations made after the coming into force of that subsection. 20
- 154 Transfer of functions to the Housing Ombudsman**
- (1) In Schedule 5 to the Local Government Act 1974 (matters not subject to investigation by a Local Commissioner) –
 - (a) after paragraph 5 insert –
 - “5A Action which – 25
 - (a) is taken by or on behalf of a local authority in its capacity as a registered provider of social housing, and
 - (b) is action in connection with its housing activities so far as they relate to the provision or management of social housing (and here “social housing” has the same meaning as in Part 2 of the Housing and Regeneration Act 2008). 30
 - 5B In the case of a local authority which is a registered provider of social housing, action taken by or on behalf of the authority in connection with the management of dwellings owned by the authority and let on a long lease (and here “long lease” has the meaning given by section 59(3) of the Landlord and Tenant Act 1987).”, and 35
 - (b) in paragraph 6 for the words from “not action” to the end substitute “– 40
 - (a) action in connection with functions in relation to social housing (and here “social housing” has the same meaning as in Part 2 of the Housing and Regeneration Act 2008), or
 - (b) action in connection with functions in relation to anything other than housing.” 45

- (2) The Housing Act 1996 is amended as follows.
- (3) In section 51(2) (investigation of complaints against social landlords) before paragraph (a) insert –
 “(za) a local authority in England which is a registered provider of social housing,” 5
- (4) In Schedule 2 (schemes for the investigation of housing complaints) –
- (a) in paragraph 1(1) after “social landlord” insert “, other than a local housing authority,”,
- (b) after paragraph 1(1) insert –
- “(1A) A social landlord which is a local housing authority must be a member of an approved scheme covering, or more than one scheme which together cover – 10
- (a) action which –
- (i) is taken by or on behalf of the authority in its capacity as a registered provider of social housing, and 15
- (ii) is action in connection with its housing activities so far as they relate to the provision or management of social housing (and here “social housing” has the same meaning as in Part 2 of the Housing and Regeneration Act 2008), and 20
- (b) action taken by or on behalf of the authority in connection with the management of dwellings owned by the authority and let on a long lease (and here “long lease” has the meaning given by section 59(3) of the Landlord and Tenant Act 1987).”, and 25
- (c) after paragraph 11(1) insert –
- “(1A) If a change in the method of calculation under sub-paragraph (1) would result in a member’s subscription being more than it would otherwise be, the change may be made only if the Secretary of State approves it. 30
- (1B) An approved scheme’s total defrayable expenses for a period may be more than the scheme’s total defrayable expenses for the immediately-preceding corresponding period only if the Secretary of State approves the increase. 35
- (1C) In sub-paragraph (1A) “defrayable expenses”, in relation to a scheme, means expenses of the scheme that are to be defrayed by subscriptions from members of the scheme.”
- (5) The Secretary of State may, in consequence of the amendments made by this section, make a scheme (“a transfer scheme”) transferring property, rights and liabilities of the Commission for Local Administration in England to a person administering a scheme approved under Schedule 2 to the Housing Act 1996. 40
- (6) The things that may be transferred under a transfer scheme include – 45
- (a) property, rights and liabilities that could not otherwise be transferred, and
- (b) property acquired, and rights and liabilities arising, after the making of the scheme.

-
- (7) A transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular –
- (a) create rights, or impose liabilities, in relation to property or rights transferred,
 - (b) make provision about the continuing effect of things done by or in relation to the transferor in respect of anything transferred, 5
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred,
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee, 10
 - (e) make provision for the shared ownership or use of property, and
 - (f) if the TUPE regulations do not apply in relation to the transfer, make provision which is the same or similar. 15
- (8) A transfer scheme may provide –
- (a) for modification by agreement, and
 - (b) for modifications to have effect from the date when the original scheme came into effect.
- (9) In this section – 20
- “TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246),
 - references to rights and liabilities include rights and liabilities relating to a contract of employment, and
 - references to the transfer of property include the grant of a lease. 25
- (10) Subsection (1) applies only in relation to complaints made to a Local Commissioner after the coming into force of that subsection.
- (11) Subsection (3) or (4) applies only in relation to complaints made to a housing ombudsman after the coming into force of that subsection.
- 155 Transfer of functions to the Housing Ombudsman: supplementary 30**
- (1) The Local Government Act 1974 is amended in accordance with subsections (2) to (7).
- (2) In section 33 (consultation between Local Commissioners and other Commissioners) –
- (a) in subsection (1) after paragraph (b) insert – 35
 - “(bza) by a housing ombudsman under the Housing Act 1996,”,
 - (b) in subsection (2) after “Parliamentary Commissioner,” insert “a housing ombudsman,”,
 - (c) after subsection (3) insert – 40
 - “(3A) If at any stage in the course of conducting an investigation under the Housing Act 1996, a housing ombudsman forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under this Part of the Act, the ombudsman must consult with the appropriate Local Commissioner about the complaint and, if the ombudsman 45

- considers it necessary, inform the person initiating the complaint of the steps necessary to initiate a complaint under this Part of this Act.”,
- (d) in subsection (4) after “subsection (3)” insert “or (3A)”, and
 - (e) in that subsection after “1967” insert “or under the Housing Act 1996”. 5
- (3) Section 33ZA (collaborative working between Local Commissioners and other Commissioners) is amended as follows.
- (4) In subsection (1) (power to conduct joint investigations) –
- (a) in paragraph (c) for “both” substitute “a housing ombudsman”, and
 - (b) for the words from “jointly” to the end substitute “jointly with any also-involved ombudsman or jointly with any two or more also-involved ombudsmen.” 10
- (5) After subsection (1) insert –
- “(1A) In subsection (1) “also-involved ombudsman” means a person within subsection (1)(a), (b) or (c) who, in the opinion of the Local Commissioner concerned, has jurisdiction in relation to a matter that is included among the matters which are the subject of the Local Commissioner’s investigation.” 15
- (6) In subsection (3) (power to conduct joint investigations) –
- (a) in paragraph (c) for “both” substitute “a housing ombudsman”, and 20
 - (b) for the words “jointly” to the end substitute “jointly with a person within paragraph (a), (b) or (c) who is investigating the complaint or jointly with any two or more such persons.”
- (7) In section 34(1) (interpretation of Part 3) insert at the appropriate place –
- ““housing ombudsman” means a housing ombudsman under a scheme approved under Schedule 2 to the Housing Act 1996.”. 25
- (8) In Schedule 2 to the Housing Act 1996 (housing ombudsman schemes) after paragraph 10 insert –
- “Collaborative working with Local Commissioners*
- 10A (1) If at any stage in the course of conducting an investigation under this Act a housing ombudsman forms the opinion that the complaint relates partly to a matter within the jurisdiction of a Local Commissioner, the ombudsman may, subject to sub-paragraph (2), conduct an investigation under this Act jointly with that Commissioner. 30
- (2) A housing ombudsman must obtain the consent of the complainant or the complainant’s representative before agreeing to a joint investigation referred to in sub-paragraph (1). 35
- (3) If a housing ombudsman forms the opinion that a complaint which is being investigated by a Local Commissioner relates partly to a matter within the jurisdiction of the ombudsman, the ombudsman may conduct an investigation jointly with that Commissioner. 40
- (4) If a housing ombudsman conducts an investigation jointly with a Local Commissioner, the requirements of paragraph 7 may be satisfied by a report made jointly with that person. 45

- (5) A joint report made under this paragraph must distinguish determinations of a housing ombudsman from other findings or recommendations.”

Home information packs

156 Abolition of home information packs 5

- (1) Part 5 of the Housing Act 2004 (home information packs) is repealed.
(2) Schedule 18 (home information packs: consequential amendments) has effect.

PART 7

LONDON

CHAPTER 1 10

HOUSING AND REGENERATION FUNCTIONS

157 Removal of limitations on Greater London Authority’s general power

- (1) Section 31 of the Greater London Authority Act 1999 (limits of the Authority’s general power) is amended as follows.
(2) In subsection (3) (prohibition on the Authority incurring expenditure in providing housing or other services) omit paragraph (a) (provision of housing). 15
(3) Omit subsection (4) (interpretation of reference to provision of housing).
(4) Before subsection (5) insert –
“(4A) The reference in subsection (3) above to providing any education services does not include sponsoring Academies or facilitating their sponsorship.” 20

158 New housing and regeneration functions of the Authority

- (1) Part 7A of the Greater London Authority Act 1999 is amended as follows.
(2) In the heading to that Part, after “HOUSING” insert “AND REGENERATION”. 25
(3) Before section 333A insert –

“Functions in relation to land

333ZA Compulsory acquisition of land

- (1) The Authority may acquire land in Greater London compulsorily for the purposes of housing or regeneration. 30
(2) The Authority may exercise the power in subsection (1) only if the Secretary of State authorises it to do so.
(3) The power in subsection (1) includes power to acquire new rights over land.

- (4) Subsection (5) applies where –
- (a) land forming part of a common, open space or allotment is being acquired under subsection (1), or
 - (b) new rights are being acquired under subsection (1) over land forming part of a common, open space or allotment. 5
- (5) The power under subsection (1) includes power to acquire land compulsorily for giving in exchange for that land or those new rights.
- (6) Part 1 of Schedule 2 to the Housing and Regeneration Act 2008 (compulsory acquisition of land by the Homes and Communities Agency) applies in relation to the acquisition of land under subsection (1) as it applies in relation to the acquisition of land under section 9 of that Act. 10
- (7) In that Part of that Schedule as applied by subsection (6) –
- (a) references to section 9 of that Act are to be read as references to subsection (1), 15
 - (b) references to the Homes and Communities Agency are to be read as references to the Authority, and
 - (c) references to Part 1 of that Act are to be read as references to this Part.
- (8) The provisions of Part 1 of the Compulsory Purchase Act 1965 (other than section 31) apply, so far as applicable, to the acquisition by the Authority of land by agreement for the purposes of housing or regeneration. 20
- (9) In this section –
- “allotment” means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act; 25
 - “common” has the meaning given by section 19(4) of the Acquisition of Land Act 1981;
 - “open space” means any land which is –
- (a) laid out as a public garden, 30
 - (b) used for the purposes of public recreation, or
 - (c) a disused burial ground.

333ZB Powers in relation to land held for housing or regeneration purposes

- (1) Schedule 3 to the Housing and Regeneration Act 2008 (powers in relation to land of the Homes and Communities Agency) applies in relation to the Authority and land held by it for the purposes of housing or regeneration as it applies in relation to the Homes and Communities Agency and its land. 35
- (2) In that Schedule as applied by subsection (1) –
- (a) references to the Homes and Communities Agency are to be read as references to the Authority, and 40
 - (b) references to the Homes and Communities Agency’s land are to the Authority’s land held by it for the purposes of housing or regeneration.
- (3) Schedule 4 to that Act (powers in relation to, and for, statutory undertakers) applies in relation to the Authority and land held by it for 45

the purposes of housing or regeneration as it applies in relation to the Homes and Communities Agency and its land.

- (4) In that Schedule as applied by subsection (3) –
- (a) references to the Homes and Communities Agency are to be read as references to the Authority, 5
 - (b) references to the Homes and Communities Agency’s land are to the Authority’s land held by it for the purposes of housing or regeneration,
 - (c) references to Part 1 of that Act are to be read as references to this Part, and 10
 - (d) references to the functions of the HCA under Part 1 of that Act are to be read as references to the functions of the Authority relating to housing or regeneration.

333ZC Disposal etc of land held for housing and regeneration purposes

- (1) The Authority may not dispose of land held by it for the purposes of housing or regeneration for less than the best consideration which can reasonably be obtained unless the Secretary of State consents. 15
- (2) Consent under subsection (1) –
- (a) may be general or specific;
 - (b) may be given unconditionally or subject to conditions. 20
- (3) Subsection (1) does not apply to a disposal by way of a short tenancy if the disposal consists of –
- (a) the grant of a term of not more than 7 years, or
 - (b) the assignment of a term which, at the date of assignment, has not more than 7 years to run. 25
- (4) A disposal of land by the Authority is not invalid merely because any consent required by subsection (1) has not been given.
- (5) A person dealing with –
- (a) the Authority, or
 - (b) a person claiming under the Authority, 30
- in relation to any land need not be concerned as to whether any consent required by subsection (1) has been given.

333ZD Power to enter and survey land

- (1) Sections 17 and 18 of the Housing and Regeneration Act 2008 (power to enter and survey land) apply in relation to the Authority and land in Greater London as they apply in relation to the Homes and Communities Agency and land outside Greater London. 35
- (2) In those sections as applied by subsection (1) –
- (a) references to Homes and Communities Agency are to be read as references to the Authority, 40
 - (b) references to land are to land in Greater London, and
 - (c) the reference to a proposal for the Homes and Communities Agency to acquire land is a reference to a proposal for the Authority to acquire land for the purposes of housing or regeneration. 45

Social housing

333ZE Social housing

- (1) Subject to subsection (2), sections 31 to 36 of the Housing and Regeneration Act 2008 (social housing functions) apply in relation to the Authority as they apply in relation to the Homes and Communities Agency. 5
- (2) In those sections as applied by subsection (1) –
 - (a) references to the Homes and Communities Agency are to be read as references to the Authority,
 - (b) the definition of “social housing assistance” in section 32(13) is to be read as if the reference to financial assistance given under section 19 of that Act were to financial assistance given by the Authority, 10
 - (c) section 34 is to be read as if subsection (1) were omitted, and
 - (d) section 35(1) is to be read as if the reference to section 19 of the Housing and Regeneration Act 2008 were omitted and as if the reference in paragraph (b) to a dwelling in England outside Greater London were to a dwelling in Greater London. 15
- (3) Sums received by the Authority in respect of repayments of grants made by it for the purposes of social housing are to be used by it for those purposes. 20

333ZF Relationship with the Regulator of Social Housing: general

- (1) The Authority must, in the exercise of its housing and regeneration functions, co-operate with the Regulator of Social Housing (referred to in this Part as “the Regulator”). 25
- (2) In particular, the Authority must consult the Regulator on matters likely to interest the Regulator in the exercise of its social housing functions.
- (3) The Regulator must, in the exercise of its social housing functions, co-operate with the Authority. 30
- (4) In particular, the Regulator must consult the Authority on matters likely to interest the Authority in the exercise of its housing and regeneration functions.

333ZG Relationship with the Regulator of Social Housing: directions

- (1) The Regulator may direct the Authority not to give financial assistance in connection with social housing to a specified registered provider of social housing . 35
- (2) A direction may be given if –
 - (a) the Regulator has decided to hold an inquiry into affairs of the registered provider of social housing under section 206 of the Housing and Regeneration Act 2008 (and the inquiry is not concluded), 40
 - (b) the Regulator has received notice in respect of the registered provider of social housing under section 145 of that Act, or

- (c) the Regulator has appointed an officer of the registered provider of social housing under section 269 of that Act (and the person appointed has not vacated office).
- (3) A direction may prohibit the Authority from giving assistance of a specified kind (whether or not in pursuance of a decision already taken and communicated to the registered provider of social housing). 5
- (4) A direction may not prohibit grants to a registered provider of social housing in respect of discounts given by the provider on disposals of dwellings to tenants.
- (5) A direction has effect until withdrawn. 10
- (6) In this section the following terms have the same meaning as in Part 2 of the Housing and Regeneration Act 2008 –
 “disposal” (see section 273 of that Act);
 “dwelling” (see section 275 of that Act);
 “tenant” (see section 275 of that Act). 15

333ZH Relationship with the Regulator of Social Housing: further provisions

- (1) Subsection (2) applies if the Authority is proposing to give financial assistance on condition that the recipient provides low cost home ownership accommodation. 20
- (2) The Authority must consult the Regulator about the proposals.
- (3) The Authority must notify the Regulator at least 14 days before exercising, in relation to a registered provider of social housing, any of the powers conferred by section 32(2) to (4) of the Housing and Regeneration Act 2008 (recovery etc of social housing assistance). 25
- (4) The Authority must consult the Regulator before making a general determination under section 32 or 33 of the Housing and Regeneration Act 2008.
- (5) For the purposes of this section a person provides low cost home ownership accommodation if (and only if) the person acquires, constructs or converts any housing or other land for use as low cost home ownership accommodation or ensures such acquisition, construction or conversion by another. 30
- (6) In this section “low cost home ownership accommodation” has the meaning given by section 70 of the Housing and Regeneration Act 2008. 35

Exercise of functions in relation to certain property etc

333ZI Exercise of functions by the Authority in relation to certain property etc

- (1) The Authority may do in relation to any property, rights or liabilities, or any undertaking, to which this section applies anything that the Commission for the New Towns or (as the case may be) an urban development corporation could do in relation to the property, rights or liabilities or the undertaking. 40
- (2) This section applies to –

- (a) any property, rights or liabilities that –
 - (i) have been or are to be transferred to the Authority from the Homes and Communities Agency by virtue of section 161 of the Localism Act 2011, and
 - (ii) were transferred to the Homes and Communities Agency from the Commission for the New Towns by virtue of section 51 of and Schedule 6 to the Housing and Regeneration Act 2008, 5
- (b) an undertaking, or part of an undertaking, of an urban development corporation that has been or is to be transferred to the Authority by virtue of an agreement under section 165 of the Local Government, Planning and Land Act 1980, 10
- (c) any property, rights or liabilities of an urban development corporation that have been or are to be transferred to the Authority by virtue of an order under section 165B of the Local Government, Planning and Land Act 1980, and 15
- (d) any property, rights or liabilities that –
 - (i) have been or are to be transferred to the Authority from the Homes and Communities Agency by virtue of section 161 of the Localism Act 2011, and 20
 - (ii) were transferred to the Homes and Communities Agency from an urban development corporation by virtue of an order under section 165B of the Local Government, Planning and Land Act 1980.
- (3) In any enactment (whenever passed or made) references to the Authority’s new towns and urban development functions means its functions in relation to any property, rights or liabilities, or any undertaking, to which this section applies (whether exercisable by virtue of this section or otherwise). 25
- (4) In subsection (4) “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978). 30

Grants for housing and regeneration purposes

333ZJ Grants to the Authority for housing and regeneration purposes

- (1) *The Secretary of State may pay to the Authority grants of such amounts as the Secretary of State may, with the Treasury’s consent, determine in respect of the exercise of the Authority’s functions relating to housing and regeneration.* 35
- (2) *A grant under this section may be paid at such times, or in such instalments at such times, as the Secretary of State may, with the Treasury’s consent, determine.* 40
- (3) *A grant under this section may be made subject to such conditions as the Secretary of State may determine.*
- (4) *Conditions under subsection (3) may, in particular, include –*
 - (a) *provision as to the use of the grant;*
 - (b) *provision as to the use of any funds generated by activities funded by the grant;* 45

- (c) *provision as to the circumstances in which the whole or part of the grant must be repaid.*”

- (4) After section 333D insert –

“Interpretation

333E Interpretation of Part 7A

5

In this Part –

“building” means a building or other structure (including a house-boat or caravan);

“caravan” has the meaning given by section 29(1) of the Caravan Sites and Control of Development Act 1960;

10

“housing” means a building, or part of a building, occupied or intended to be occupied as a dwelling or as more than one dwelling; and includes a hostel which provides temporary residential accommodation;

“land” includes housing or other buildings (and see also the definition in Schedule 1 to the Interpretation Act 1978);

15

“the Regulator” has the meaning given by section 333ZF(1);

“social housing” (except as part of the expression “social housing functions”) has the same meaning as in Part 2 of the Housing and Regeneration Act 2008 (see section 68 of that Act).”

20

159 The London housing strategy

- (1) Before section 333A of the Greater London Authority Act 1999 (the London housing strategy) insert –

“The London housing strategy”.

- (2) That section is amended as follows.

25

- (3) In subsection (2)(d) for “recommendations” substitute “proposals”.

- (4) In subsection (3) –

(a) in the opening words for “recommendations” substitute “proposals”,

(b) in paragraph (a) for “Homes and Communities Agency” substitute “Authority”, and

30

(c) for paragraph (b) substitute –

“(b) proposals as to the exercise by the Authority of its functions of giving housing financial assistance (see subsection (4) below);”.

- (5) For subsection (4) substitute –

35

“(4) Proposals under subsection (3)(b) above may include –

(a) proposals as to the amount of housing financial assistance to be given for different activities or purposes;

(b) proposals as to the number, type and location of houses to be provided by means of housing financial assistance.”

40

- (6) In subsection (10) in the definition of “housing financial assistance” for the words from “under” to “2008” substitute “by the Authority”.

- (7) Section 333D (duties of Homes and Communities Agency) is amended as follows.
- (8) In the heading for “Homes and Communities Agency” substitute “the Authority”.
- (9) In subsection (1) for the words from “Greater London” to “Agency” substitute “housing or regeneration, the Authority”. 5

160 Modification to the Homes and Communities Agency’s functions

- (1) The Housing and Regeneration Act 2008 is amended as follows.
- (2) In section 2(2) (objects of the Homes and Communities Agency) before the definition of “good design” insert – 10
 ““England” does not include Greater London;”.
- (3) Section 13 (power of Secretary of State to make designation orders) is amended as follows.
- (4) In subsection (1) after “England” insert “outside Greater London”.
- (5) In subsection (6) – 15
 - (a) after “England” insert “or”, and
 - (b) omit the words from “, a London” to the end of the subsection.
- (6) In section 14(7) (content of designation orders) in paragraph (a) of the definition of “relevant functions” omit the words from “, a London” to “of London,”. 20
- (7) In section 26(2) (duty to act as agent in respect of regeneration and development) after “England” insert “outside Greater London”.
- (8) In section 35(1)(b) (duty to give financial assistance in respect of certain disposals) after “England” insert “outside Greater London”.

161 Transfer of property of Homes and Communities Agency etc 25

- (1) The Secretary of State may at any time make a scheme (a “transfer scheme”) transferring the property, rights and liabilities of the Homes and Communities Agency (“the HCA”) or the Secretary of State that are specified in the scheme to – 30
 - (a) the Greater London Authority,
 - (b) a functional body,
 - (c) the Secretary of State,
 - (d) a London borough council, or
 - (e) the Common Council of the City of London.
- (2) The Secretary of State may by order specify another person, or a description of other persons, to whom property, rights or liabilities of the HCA or the Secretary of State may be transferred by a transfer scheme. 35
- (3) In this section –
 - “functional body” has the meaning given by section 424(1) of the Greater London Authority Act 1999; 40
 - “rights” and “liabilities” include rights, or (as the case may be) liabilities, in relation to a contract of employment.

162 Abolition of London Development Agency and transfer of its property etc

- (1) The London Development Agency ceases to exist on the day on which this subsection comes into force.
- (2) The Secretary of State may at any time make a scheme (a “transfer scheme”) transferring the property, rights and liabilities of the London Development Agency that are specified in the scheme to – 5
- (a) the Greater London Authority,
 - (b) a functional body,
 - (c) the Secretary of State,
 - (d) a London borough council, or 10
 - (e) the Common Council of the City of London.
- (3) Before making a transfer scheme, the Secretary of State must consult the Mayor of London.
- (4) The Secretary of State may by order specify another person, or a description of other persons, to whom property, rights or liabilities of the London Development Agency may be transferred by a transfer scheme. 15
- (5) In this section –
- “functional body” has the meaning given by section 424(1) of the Greater London Authority Act 1999;
 - “rights” and “liabilities” include rights, or (as the case may be) liabilities, 20 in relation to a contract of employment.

163 Mayor’s economic development strategy for London

- (1) The Greater London Authority Act 1999 is amended as follows.
- (2) After section 333E (which is inserted by section 158) insert –

“PART 7B 25

ECONOMIC DEVELOPMENT

333F Economic development strategy for London

- (1) The Mayor shall prepare and publish a document to be known as the “Economic development strategy for London”.
- (2) The Economic development strategy for London is to contain – 30
- (a) the Mayor’s assessment of the economic conditions of Greater London, and
 - (b) the Mayor’s policies and proposals for the economic development and regeneration of Greater London, including the Mayor’s strategy for – 35
 - (i) promoting business efficiency, investment and competitiveness in Greater London,
 - (ii) promoting employment in Greater London, and
 - (iii) enhancing the development of skills relevant to employment in Greater London. 40

The references in this subsection to Greater London include its rural parts as well as its non-rural parts.

- (3) In preparing or revising the Economic development strategy for London the Mayor must consult –
 - (a) such persons as appear to the Mayor to represent employers in Greater London, and
 - (b) such persons as appear to the Mayor to represent employees in Greater London. 5
- (4) Each of the functional bodies must in the exercise of any function have regard to the Economic development strategy for London.
- (5) The Secretary of State may give guidance to the Mayor about the exercise of the Mayor’s functions in relation to the Economic development strategy for London with respect to –
 - (a) the matters to be covered by that strategy or that strategy as revised, and
 - (b) the issues to be taken into account in preparing or revising that strategy. 10
- (6) The issues mentioned in subsection (5)(b) above include issues relating to any one or more of the following –
 - (a) Greater London,
 - (b) any area of England outside Greater London, and
 - (c) any part of the United Kingdom outside England. 15
- (7) The Mayor is to have regard to any guidance given under subsection (5) above.
- (8) Where the Secretary of State considers –
 - (a) that the Economic development strategy for London (or any part of it) is inconsistent with national policies, or
 - (b) that the Economic development strategy for London or its implementation is having, or is likely to have, a detrimental effect on any area outside Greater London,the Secretary of State may direct the Mayor to make such revisions of the strategy as may be specified in the direction in order to remove the inconsistency or, as the case may be, the detrimental effect or likely detrimental effect. 20
- (9) Where the Secretary of State gives the Mayor a direction under subsection (8) above, the Mayor must revise the Economic development strategy for London in accordance with the direction. 25
- (10) Where the Mayor revises the Economic development strategy for London in accordance with subsection (9) above, subsection (3) above and section 42 above do not apply.
- (11) For the purposes of subsection (8) above “national policies” are any policies of Her Majesty’s government which are available in a written form and which –
 - (a) have been laid or announced before, or otherwise presented to, either House of Parliament, or
 - (b) have been published by a Minister of the Crown.” 30
- (3) In section 41(1) (strategies to which section applies) for paragraph (b) (the 35

London Development Agency strategy) substitute –

“(b) the Economic development strategy for London prepared and published under section 333F below,”.

164 Transfer schemes: general provisions

- | | | |
|-----|--|----|
| (1) | In this section – | 5 |
| | “transfer scheme” means a scheme under section 161(1) or 162(2); | |
| | “transferee”, in relation to a transfer scheme, means the person to whom property, rights or liabilities are transferred by the scheme; | |
| | “transferor”, in relation to a transfer scheme, means the person from whom property, rights or liabilities are transferred by the scheme. | 10 |
| (2) | The things that may be transferred under a transfer scheme include – | |
| | (a) property, rights or liabilities that could not otherwise be transferred; | |
| | (b) property acquired, and rights and liabilities arising, after the making of the scheme. | |
| (3) | A transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular – | 15 |
| | (a) make provision for certificates issued by the Secretary of State to be conclusive evidence that property has been transferred; | |
| | (b) create rights, or impose liabilities, in relation to property or rights transferred; | 20 |
| | (c) make provision about the continuing effect of things done (or having effect as if done) by or in relation to the transferor in respect of anything transferred; | |
| | (d) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in relation to anything transferred; | 25 |
| | (e) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee; | |
| | (f) make provision for the shared ownership or use of property; | 30 |
| | (g) provide for section 36(3)(c) of the London Olympic Games and Paralympic Games Act 2006 to continue (until repealed) to apply to land transferred to which it applied immediately before the transfer. | |
| (4) | The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), as from time to time amended, apply to a transfer under a transfer scheme where the transfer relates to rights or liabilities under a contract of employment (whether or not it is a relevant transfer for the purposes of those regulations). | 35 |
| (5) | A transfer scheme may provide – | |
| | (a) for modifications by agreement; | 40 |
| | (b) for modifications to have effect from the date when the original scheme came into effect. | |
| (6) | In this section “rights” and “liabilities” include rights, or (as the case may be) liabilities, in relation to a contract of employment. | |

165 Power to make consequential etc provision

- (1) The Secretary of State may by order make such consequential provision or such transitory or transitional provision or savings as the Secretary of State considers appropriate for the purposes of or in consequence of this Chapter.
- (2) The provision that may be made under subsection (1) includes, in particular –
 - (a) provision for things done (or having effect as if done) by or in relation to a predecessor to have effect as if done by or relation to a successor; 5
 - (b) provision about the continuation by, on behalf of or in relation to a successor of things (including legal proceedings) in the process of being done by, on behalf of or in relation to a predecessor; 10
 - (c) provision for references to a predecessor in an instrument or other document to be treated as references to a successor.
- (3) In subsection (2) –
 - “predecessor” means a person from whom property, rights or liabilities may be transferred by a scheme under section 161(1) or 162(2); 15
 - “successor” means a person to whom property, rights or liabilities may be transferred by a scheme under section 161(1) or 162(2).

166 Consequential amendments

- (1) Schedule 19 (housing and regeneration: consequential amendments) has effect.
- (2) Schedule 20 (amendments in consequence of the abolition of the London Development Agency) has effect. 20

CHAPTER 2

MAYORAL DEVELOPMENT CORPORATIONS

Introductory

167 Interpretation of Chapter 25

In this Chapter –

“the Mayor” means the Mayor of London;

“MDC” means a Mayoral development corporation (see section 169).

Establishment and areas

168 Designation of Mayoral development areas 30

- (1) The Mayor may designate any area of land in Greater London as a Mayoral development area.
- (2) Separate parcels of land may be designated as one Mayoral development area.
- (3) The Mayor may designate a Mayoral development area only if –
 - (a) the Mayor considers that designation of the area is expedient for furthering any one or more of the Greater London Authority’s principal purposes, 35

-
- (b) the Mayor has (whether before or after the passing of this Act) consulted the persons specified by subsection (4),
 - (c) the Mayor has had regard to any comments made in response by the consultees, and
 - (d) in the event that those comments include comments made by the London Assembly that the Mayor does not accept, the Mayor has published a statement giving the reasons for the non-acceptance. 5
- (4) The persons who have to be consulted before an area may be designated are –
- (a) the London Assembly,
 - (b) each constituency member of the London Assembly whose Assembly constituency contains any part of the area, 10
 - (c) each Member of Parliament whose parliamentary constituency contains any part of the area,
 - (d) each London borough council whose borough contains any part of the area, 15
 - (e) the Common Council of the City of London if any part of the area is within the City,
 - (f) the sub-treasurer of the Inner Temple if any part of the area is within the Inner Temple,
 - (g) the under treasurer of the Middle Temple if any part of the area is within the Middle Temple, and 20
 - (h) any other person whom the Mayor considers it appropriate to consult.
- (5) If the Mayor designates a Mayoral development area, the Mayor must –
- (a) publicise the designation,
 - (b) notify the Secretary of State of the designation, and 25
 - (c) notify the Secretary of State of the name to be given to the Mayoral development corporation for the area.
- (6) Section 30(2) of the Greater London Authority Act 1999 (interpretation of references to the Authority’s principal purposes) applies for the purposes of subsection (3)(a). 30

169 Mayoral development corporations: establishment

- (1) Subsection (2) applies if the Secretary of State receives notification under section 168(5) of the designation of a Mayoral development area.
- (2) The Secretary of State must by order –
 - (a) establish a corporation for the area, 35
 - (b) give the corporation the name notified to the Secretary of State by the Mayor, and
 - (c) give effect to any decisions notified under section 173(8) (decisions about planning functions, but see also sections 170(4) and 185(6) as regards other decisions to which effect has to be given). 40
- (3) A corporation established under subsection (2) is a Mayoral development corporation.
- (4) A Mayoral development corporation is a body corporate having the name given to it by the order establishing it.

- (5) In exercising power under subsection (2) to make provision of the kind mentioned in section 201(2)(b), the Secretary of State is to have regard to any relevant representations received from the Mayor.
- (6) Schedule 21 (further provision about MDCs) has effect.

170 Exclusion of land from Mayoral development areas 5

- (1) The Mayor may alter the boundaries of a Mayoral development area so as to exclude any area of land.
- (2) Before making an alteration, the Mayor must consult –
 - (a) the London Assembly, and
 - (b) any other person whom the Mayor considers it appropriate to consult. 10
- (3) If the Mayor makes an alteration, the Mayor must –
 - (a) publicise the alteration,
 - (b) notify the Secretary of State of the alteration, and
 - (c) notify the MDC for the area (if an MDC has been established for that area). 15
- (4) If the Secretary of State receives notification under subsection (3) of an alteration, the Secretary of State must give effect to the alteration –
 - (a) when making the order under section 169(2) that establishes an MDC for the Mayoral development area concerned, or
 - (b) by exercising the power to amend that order (see section 14 of the Interpretation Act 1978). 20

171 Transfers of property etc to a Mayoral development corporation

- (1) The Secretary of State may at any time make a scheme transferring to an MDC property, rights and liabilities of a person within subsection (3).
- (2) Before making a scheme under subsection (1), the Secretary of State must consult –
 - (a) the person whose property, rights or liabilities would be transferred, and
 - (b) the Mayor. 25
- (3) A person is within this subsection if the person is –
 - (a) a London borough council,
 - (b) the Common Council of the City of London in its capacity as a local authority,
 - (c) the Homes and Communities Agency,
 - (d) a development corporation established under the New Towns Act 1981 for a new town all or part of whose area is in Greater London, 35
 - (e) an urban development corporation for an urban development area all or part of which is in Greater London,
 - (f) the Olympic Delivery Authority,
 - (g) any company, or other body corporate, which is a wholly-owned subsidiary of the Olympic Delivery Authority, 40
 - (h) any company, or other body corporate, which –
 - (i) is a subsidiary of the Olympic Delivery Authority, and
 - (ii) is a subsidiary of at least one other public authority, and

- (iii) is not a subsidiary of any person who is not a public authority,
- (i) a Minister of the Crown or a government department,
- (j) any company all the shares in which are held by a Minister of the Crown, or
- (k) any company whose members— 5
 - (i) include the Mayor and a Minister of the Crown, and
 - (ii) do not include anyone who is neither the Mayor nor a Minister of the Crown.
- (4) The Mayor may at any time make a scheme transferring to an MDC property, rights and liabilities of— 10
 - (a) the Greater London Authority, or
 - (b) a functional body other than that MDC.
- (5) The Mayor must publish a scheme under subsection (4) as soon after it is made as is reasonably practicable.
- (6) The Secretary of State may by order specify another person, or a description of other persons, from whom property, rights or liabilities may be transferred under subsection (1) or (4). 15
- (7) In subsection (2)(g) “wholly-owned subsidiary” has the meaning given by section 1159 of the Companies Act 2006.
- (8) For the purposes of subsection (2)(h) and paragraph (b) of this subsection, a body corporate (“C”) is a “subsidiary” of another person (“P”) if— 20
 - (a) P, or P’s nominee, is a member of C, or
 - (b) C is a subsidiary of a body corporate that is itself a subsidiary of P.
- (9) In this section— 25
 - “functional body” has the meaning given by section 424(1) of the Greater London Authority Act 1999;
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
 - “public authority” means a public body or a Minister of the Crown or other holder of a public office; 30
 - “urban development corporation” means a corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980.

Object and main power

- 172 Object and powers** 35
- (1) The object of a MDC is to secure the regeneration of its area.
 - (2) An MDC may do anything it considers appropriate for the purposes of its object or for purposes incidental to those purposes.
 - (3) In this section “specific power”, in relation to an MDC, means any of the MDC’s powers other than its powers under subsection (2). 40
 - (4) An MDC’s specific powers are to be exercised for the purposes of its object or for purposes incidental to those purposes.

- (5) Each of an MDC’s specific powers may be exercised separately or together with, or as part of, another of its specific powers.
- (6) None of an MDC’s specific powers limits the scope of its other specific powers.
- (7) None of an MDC’s specific powers limits the scope of its powers under subsection (2). 5
- (8) But –
 - (a) subsections (4) and (5) do not apply to an MDC in its capacity as a local planning authority as a result of decisions under section 173 or in its exercise of other functions as a result of decisions under that section, and 10
 - (b) the powers conferred by subsection (2) must not be used to override a restriction imposed on the exercise of a specific power.

Planning and infrastructure functions

173 Functions in relation to Town and Country Planning

- (1) Subsections (2) to (4) apply if the Mayor designates a Mayoral development area. 15
- (2) The Mayor may decide that the MDC for the area (“the MDC”) is to be the local planning authority, for the whole or any portion of the area, for the purposes of any one or more of the following –
 - (a) Part 3 of the Town and Country Planning Act 1990, 20
 - (b) Part 2 of the Planning and Compulsory Purchase Act 2004,
 - (c) Part 3 of that Act, and
- (3) The Mayor may decide that the MDC is to have, in the whole or any portion of the area, the functions conferred on the local planning authority by the provisions mentioned in Part 1 of Schedule 29 to the Local Government, Planning and Land Act 1980. 25
- (4) The Mayor may decide that the MDC is to have, in the whole or any portion of the area, the functions conferred on the relevant planning authority by Schedule 8 to the Electricity Act 1989 so far as applying to applications for consent under section 37 of that Act. 30
- (5) If the Mayor makes a decision under subsection (3), the Mayor may decide that the provisions specified in Part 2 of Schedule 29 to the Local Government, Planning and Land Act 1980 are to have effect, in relation to land in the whole or any portion of the area and to the MDC, subject to the modifications specified in that Part of that Schedule. 35
- (6) The Mayor may, at any time before the order establishing the MDC is made, decide that a decision under any of subsections (2) to (5) (whether as originally made or as varied under this subsection) should be subject to variations specified in the decision under this subsection.
- (7) The Mayor may make a decision under any of subsections (2) to (6) only if – 40
 - (a) the Mayor has consulted the persons specified by section 168(4) in relation to the area,
 - (b) the Mayor has had regard to any comments made in response by the consultees, and

- (c) in the event that those comments include comments made by the London Assembly that the Mayor does not accept, the Mayor has published a statement giving the reasons for the non-acceptance.
- (8) If the Mayor makes a decision under any of subsections (2) to (6), the Mayor must— 5
- (a) publicise the decision, and
- (b) notify the Secretary of State of the decision.
- (9) A decision under subsection (2), or a decision under subsection (5) varying a decision under subsection (2), may make different provision for different portions of the area. 10
- (10) For the purposes of subsection (6) “variation”, in relation to a decision, includes a variation that involves—
- (a) revocation of all or part of the decision, or
- (b) substitution of something new for all or part of the decision, including substitution of something wholly unlike what it replaces. 15
- 174 Arrangements for discharge of, or assistance with, planning functions**
- (1) Where an MDC, as a result of being the local planning authority for purposes of Part 3 of the Town and Country Planning Act 1990 in relation to any area, has functions in place of a London borough council or the Common Council of the City of London, the MDC may make arrangements for the discharge of any of those functions by that council. 20
- (2) Where arrangements are in force under subsection (1) for the discharge of any functions of an MDC by a council—
- (a) that council may arrange for the discharge of those functions by a committee, sub-committee or officer of the council, and 25
- (b) section 101(2) of the Local Government Act 1972 (delegation by committees and sub-committees) applies in relation to those functions as it applies in relation to the functions of that council.
- (3) Arrangements under subsection (1) for the discharge of any functions do not prevent the MDC from exercising those functions. 30
- (4) Subsection (5) applies where an MDC, as a result of being the local planning authority for purposes of Part 2 or 3 of the Planning and Compulsory Purchase Act 2004 in relation to any area, has functions in place of a London borough council or the Common Council of the City of London.
- (5) The MDC may seek from that council, and that council may give, assistance in connection with the MDC’s discharge of any of those functions. 35
- 175 Removal or restriction of planning functions**
- (1) This section applies if an order establishing an MDC (“the MDC”) has been made.
- (2) The Mayor may decide in relation to a function conferred on the MDC as a result of a decision under section 173(2) or (3)— 40
- (a) that the MDC is to cease to have the function, whether in all respects or in respects specified in the decision, or

- (b) that the exercise of the function by the MDC is to be subject to restrictions specified in the decision.
- (3) If the Mayor makes a decision under subsection (2) (“the new decision”), the Mayor may decide that any provision made under section 169(2) in consequence of a decision under section 173(4) should, in consequence of the new decision, be amended or revoked as specified in the decision under this subsection. 5
- (4) A reference in subsection (2) or (3) to a decision under a provision of section 173 is, where that decision has been varied (whether once or more than once) under section 173(5), a reference to that decision as varied. 10
- (5) If the Mayor makes a decision under subsection (2) or (3), the Mayor must –
 - (a) publicise the decision, and
 - (b) notify the Secretary of State of the decision.
- (6) The Secretary of State must give effect to a decision notified under subsection (5) by exercising the power to amend the order under 169(2) that establishes the MDC (see section 14 of the Interpretation Act 1978). 15

176 Powers in relation to infrastructure

- (1) An MDC may provide infrastructure.
- (2) An MDC may facilitate the provision of infrastructure.
- (3) In this section “provide” includes provide by way of acquisition, construction, conversion, improvement or repair (and “provision” is to be read in the same way). 20
- (4) In this section “infrastructure” means –
 - (a) water, electricity, gas, telecommunications, sewerage or other services,
 - (b) roads or other transport facilities, 25
 - (c) retail or other business facilities,
 - (d) health, educational, employment or training facilities,
 - (e) social, religious or recreational facilities,
 - (f) cremation or burial facilities, and
 - (g) community facilities not falling within paragraphs (a) to (f). 30

Land functions

177 Powers in relation to land

- (1) An MDC may regenerate or develop land.
- (2) An MDC may bring about the more effective use of land.
- (3) An MDC may provide buildings or other land. 35
- (4) An MDC may carry out any of the following activities in relation to land –
 - (a) acquiring, holding, improving, managing, reclaiming, repairing or disposing of buildings, other land, plant, machinery, equipment or other property,
 - (b) carrying out building and other operations (including converting or demolishing buildings), and 40

- (c) creating an attractive environment.
- (5) An MDC may facilitate—
 - (a) the regeneration or development of land,
 - (b) the more effective use of land,
 - (c) the provision of buildings or other land, or 5
 - (d) the carrying out of activities mentioned in subsection (4).
- (6) In this section—
 - (a) a reference to a “building” is a reference to—
 - (i) a building or other structure (including a house-boat or caravan), or 10
 - (ii) any part of something within sub-paragraph (i);
 - (b) “develop” includes redevelop (and “development” includes redevelopment);
 - (c) “improve”, in relation to buildings, includes refurbish, equip and fit out; 15
 - (d) “provide” includes provide by way of acquisition, construction, conversion, improvement or repair (and “provision” is to be read in the same way).

178 Acquisition of land

- (1) An MDC may by agreement acquire land in its area or elsewhere. 20
- (2) An MDC may acquire land in its area, or elsewhere in Greater London, compulsorily if the Secretary of State authorises it to do so.
- (3) An MDC must obtain the consent of the Mayor of London before submitting a compulsory purchase order authorising an acquisition under subsection (2) to the Secretary of State for confirmation. 25
- (4) The power under subsection (2) includes power to acquire new rights over land.
- (5) Subsection (6) applies where—
 - (a) land forming part of a common, open space or allotment is being acquired under subsection (2), or 30
 - (b) new rights are being acquired under subsection (2) over land forming part of a common, open space or allotment.
- (6) The power under subsection (2) includes power to acquire land compulsorily for giving in exchange for that land or those new rights.
- (7) Part 1 of Schedule 2 to the Housing and Regeneration Act 2008 (compulsory acquisition of land by the Homes and Communities Agency) applies in relation to the acquisition of land under subsection (2) as it applies in relation to the acquisition of land under section 9 of that Act. 35
- (8) In that Part of that Schedule as applied by subsection (7)—
 - (a) references to section 9 of that Act are to be read as references to subsection (2), 40
 - (b) references to the Homes and Communities Agency are to be read as references to the MDC concerned, and

- (c) references to Part 1 of that Act are to be read as references to this Chapter.
- (9) The provisions of Part 1 of the Compulsory Purchase Act 1965 (other than section 31) apply, so far as applicable, to the acquisition by an MDC of land by agreement. 5
- (10) In subsection (5) –
- “allotment” means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;
 - “common” has the meaning given by section 19(4) of the Acquisition of Land Act 1981; 10
 - “open space” means any land which is –
 - (a) laid out as a public garden,
 - (b) used for the purposes of public recreation, or
 - (c) a disused burial ground.
- 179 Powers in relation to acquired land** 15
- (1) Schedule 3 to the Housing and Regeneration Act 2008 (powers, in relation to land of the Homes and Communities Agency, to override easements etc, to extinguish public rights of way, and in relation to burial grounds and consecrated land) applies in relation to an MDC and its land as it applies in relation to the Homes and Communities Agency and its land. 20
- (2) In that Schedule as applied by subsection (1), references to the Homes and Communities Agency are to be read as references to the MDC concerned.
- (3) The power of the Secretary of State under Part 2 of that Schedule (extinguishment of public rights of way) as applied by subsection (1) is exercisable only with the consent of the Mayor. 25
- (4) Schedule 4 to that Act (powers in relation to, and for, statutory undertakers) applies in relation to an MDC and its land as it applies in relation to the Homes and Communities Agency and its land.
- (5) In that Schedule as applied by subsection (4) –
- (a) references to the Homes and Communities Agency are to be read as references to the MDC concerned, and 30
 - (b) references to Part 1 of that Act are to be read as references to this Chapter.
- 180 Restrictions on disposal of land**
- (1) An MDC may not dispose of land for less than the best consideration which can reasonably be obtained unless the Mayor consents. 35
- (2) Subsection (1) does not apply to a disposal by way of a short tenancy if the disposal consists of –
- (a) the grant of a term of not more than 7 years, or
 - (b) the assignment of a term which, at the date of assignment, has not more than 7 years to run. 40
- (3) An MDC may not dispose of land which has been compulsorily acquired by it under this Chapter unless the Mayor consents.

- (4) Subject to subsections (1) to (3), an MDC may dispose of land held by it in any way it considers appropriate.

181 Power to enter and survey land

- (1) Sections 17 and 18 of the Housing and Regeneration Act 2008 (power to enter and survey land) apply in relation to an MDC as they apply in relation to the Homes and Communities Agency. 5
- (2) In those sections as applied by subsection (1), references to that Agency are to be read as references to the MDC concerned.

Other functions

182 Adoption of private streets 10

- (1) Where any street works have been executed on any land in a Mayoral development area which was then or has since become a private street (or part of a private street), the MDC for the area may serve a notice (an “adoption notice”) on the street works authority requiring the authority to declare the private street (or part) to be a highway which for the purposes of the Highways Act 1980 is a highway maintainable at the public expense. 15
- (2) Subsections (2) to (5) of section 157 of the Local Government, Planning and Land Act 1980 (appeal against corresponding notice served by an urban development corporation, and deemed adoption where no appeal or compliance) apply in relation to an adoption notice under subsection (1) of this section as they apply in relation to an adoption notice under subsection (1) of that section. 20
- (3) Section 157(6) of that Act (interpretation) applies for the purposes of this section.

183 Businesses, subsidiaries and other companies 25

- (1) An MDC may carry on any business.
- (2) An MDC may with the consent of the Mayor –
 (a) form, or
 (b) acquire interests in,
 bodies corporate. 30
- (3) An MDC must ensure that no subsidiary of the MDC engages in an activity which the MDC would not be required or permitted to carry on.
- (4) An MDC must ensure that no subsidiary of the MDC –
 (a) borrows from a person other than the MDC, or
 (b) raises money by the issue of shares or stock to a person other than the MDC,
 without the consent of the Mayor. 35
- (5) In subsection (1) “business” includes undertaking.
- (6) In this section “subsidiary” has the meaning given by section 1159 of the Companies Act 2006. 40

184 Financial assistance

- (1) An MDC may, with the consent of the Mayor, give financial assistance to any person.
- (2) Financial assistance under this section may be given in any form.
- (3) Financial assistance under this section may, in particular, be given by way of – 5
 - (a) grants,
 - (b) loans,
 - (c) guarantee or indemnity,
 - (d) investment, or
 - (e) incurring expenditure for the benefit of the person assisted. 10
- (4) Financial assistance under this section may be given on such terms and conditions as the MDC giving it considers appropriate (including provision for repayment, with or without interest).

185 Powers in relation to discretionary relief from non-domestic rates

- (1) Subsection (2) applies if the Mayor designates a Mayoral development area. 15
- (2) The Mayor may decide that the MDC for the area is to have –
 - (a) in relation to qualifying hereditaments in the area, the function of making decisions (under section 47(3) and (6) of the 1988 Act) to the effect that section 47 of the 1988 Act applies as regards a hereditament, and 20
 - (b) in relation to a hereditament as regards which that section applies as a result of a decision made by the MDC, the function of making the determinations mentioned in section 47(1)(a) of the Local Government Finance Act 1988 (determination of amount of discretionary relief).
- (3) The Mayor may at any time decide that a decision under subsection (2) should be revoked. 25
- (4) The Mayor may make a decision under subsection (2) or (3) only if –
 - (a) the Mayor has consulted the persons specified by section 168(4) in relation to the area,
 - (b) the Mayor has had regard to any comments made in response by the consultees, and 30
 - (c) in the event that those comments include comments made by the London Assembly that the Mayor does not accept, the Mayor has published a statement giving the reasons for the non-acceptance.
- (5) If the Mayor makes a decision under subsection (2) or (3), the Mayor must – 35
 - (a) publicise the decision, and
 - (b) notify the Secretary of State of the decision.
- (6) If the Secretary of State receives notification under subsection (5) of a decision, the Secretary of State must give effect to the decision –
 - (a) when making the order under section 169(2) that establishes an MDC for the area, or 40
 - (b) by exercising the power to amend that order (see section 14 of the Interpretation Act 1978).

- (7) Exercise by an MDC of functions mentioned in subsection (2) requires the Mayor’s consent.
- (8) If an MDC has the functions mentioned in subsection (2) it has them in place of the authority that would otherwise have them.
- (9) For the purposes of subsection (2), a hereditament is a “qualifying hereditament” on a day if neither – 5
- (a) section 43(6) of the 1988 Act (charities and community amateur sports clubs), nor
 - (b) section 47(5B) of the 1988 Act (certain organisations not established or conducted for profit), 10
- applies on that day.

Dissolution

186 Reviews

It is the duty of the Mayor to review, from time to time, the continuing in existence of any existing MDCs. 15

187 Transfers of property, rights and liabilities

- (1) The Mayor may at any time make a scheme (a “transfer scheme”) transferring to a permitted recipient, upon such terms as the Mayor considers appropriate, any property, rights or liabilities which are for the time being vested in an MDC. 20
- (2) A transfer scheme may provide for a transfer to a person within paragraph (c), (d) or (e) of the definition of “permitted recipient” in subsection (4) only if the person consents.
- (3) The Mayor must publish a transfer scheme as soon after it is made as is reasonably practicable. 25
- (4) In this section –
- “functional body” has the meaning given by section 424(1) of the Greater London Authority Act 1999;
 - “permitted recipient” means – 30
 - (a) the Greater London Authority,
 - (b) a functional body other than the MDC concerned,
 - (c) a London borough council,
 - (d) the Common Council of the City of London, or
 - (e) any other person.

188 Dissolution: final steps 35

- (1) Subsection (2) applies if no property, no rights and no liabilities are vested in an MDC (“the MDC”).
- (2) The Mayor may request the Secretary of State to revoke the order under section 169(2) which established the MDC.
- (3) If the Secretary of State receives a request under subsection (2), the Secretary of State must make an order giving effect to the request. 40

- (4) Where the Secretary of State makes an order under subsection (3) –
 - (a) the MDC is dissolved on the coming into force of the order, and
 - (b) the Mayor must revoke the designation of the Mayoral development area for which the MDC was established.
- (5) Where the Mayor makes a revocation under subsection (4)(b), the Mayor must –
 - (a) publicise the revocation, and
 - (b) notify the Secretary of State of the revocation.

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General

189 Transfer schemes: general provisions

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- (1) In this section –
 - “transfer scheme” means a scheme under section 171(1) or (4) or 187(1);
 - “transferee”, in relation to a transfer scheme, means the person to whom property, rights or liabilities are transferred by the scheme;
 - “transferor”, in relation to a transfer scheme, means the person from whom property, rights or liabilities are transferred by the scheme.
- (2) The things that may be transferred under a transfer scheme include –
 - (a) property, rights or liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.
- (3) A transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular –
 - (a) make provision for certificates issued by the Secretary of State to be conclusive evidence that property has been transferred;
 - (b) create rights, or impose liabilities, in relation to property or rights transferred;
 - (c) make provision about the continuing effect of things done (or having effect as if done) by or in relation to the transferor in respect of anything transferred;
 - (d) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (e) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (f) make provision for the shared ownership or use of property.
- (4) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), as from time to time amended, apply to a transfer under a transfer scheme where the transfer relates to rights or liabilities under a contract of employment (whether or not it is a relevant transfer for the purposes of those regulations).
- (5) A transfer scheme may provide –
 - (a) for modification by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.

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- (6) In this section “rights” and “liabilities” include rights, or (as the case may be) liabilities, in relation to a contract of employment.

190 Guidance by the Mayor

- (1) The Mayor may give guidance to an MDC as to the exercise of any of the MDC’s functions. 5
- (2) Before giving guidance under this section, the Mayor must consult such persons as the Mayor considers appropriate.
- (3) The Mayor must publish any guidance given under this section as soon as reasonably practicable after giving it.
- (4) The Mayor may revoke guidance given under this section. 10
- (5) The Mayor must—
- (a) consult, before revoking guidance given under this section, such persons as the Mayor considers appropriate, and
 - (b) publish the fact that guidance given under this section has been revoked as soon as reasonably practicable after the revocation of the guidance. 15
- (6) An MDC must, in exercising its functions, have regard to any guidance given to it under this section that is for the time being in force.
- (7) References in this section to giving guidance include references to giving guidance by varying existing guidance. 20

191 Directions by the Mayor

- (1) The Mayor may give an MDC general or specific directions as to the exercise of any of the MDC’s functions.
- (2) The Mayor must publish any directions given under this Chapter by the Mayor as soon as reasonably practicable after giving them. 25
- (3) The Mayor—
- (a) may revoke any directions given under this Chapter by the Mayor, and
 - (b) must publish the fact that directions given under this Chapter have been revoked as soon as reasonably practicable after the revocation.
- (4) An MDC must comply with any directions given by the Mayor under this Chapter that are in force in relation to the MDC. 30
- (5) Subsections (2) and (3)(b) do not apply to directions given under paragraph 8(1) of Schedule 21.
- (6) References in this Chapter to the Mayor giving directions include references to the Mayor giving directions by varying existing directions. 35

192 Consents

- (1) A relevant consent may be given—
- (a) unconditionally or subject to conditions, and
 - (b) generally or specifically.

- (2) The Mayor may vary or revoke a relevant consent except in the case of anything already done, or agreed to be done, on the authority of it.
- (3) A variation or revocation under subsection (2) does not have effect until the Mayor has served notice of it on the person to whom the relevant consent was given. 5
- (4) In this section “relevant consent” means a consent of the Mayor required under this Chapter.

193 Consequential and other amendments

Schedule 22 (Mayoral development corporations: consequential and other amendments) has effect. 10

CHAPTER 3

GREATER LONDON AUTHORITY GOVERNANCE

194 Delegation of functions by Ministers to the Mayor

- (1) The Greater London Authority Act 1999 is amended as follows.
- (2) After section 39 insert – 15

“Delegation to Mayor of Ministers’ functions

39A Delegation by Ministers

- (1) A Minister of the Crown may, to such extent and subject to such conditions as that Minister thinks fit, delegate to the Mayor any of that Minister’s eligible functions. 20
- (2) A function is eligible for the purposes of subsection (1) above if –
 - (a) it does not consist of a power to make regulations or other instruments of a legislative character or a power to fix fees or charges, and
 - (b) the Secretary of State considers that it can appropriately be exercised by the Mayor. 25
- (3) No delegation under subsection (1) above, and no variation of a delegation under subsection (1) above, may be made without the agreement of the Mayor.
- (4) A delegation under subsection (1) above may be revoked at any time by any Minister of the Crown. 30
- (5) Section 38 above does not apply in relation to functions delegated under subsection (1) above.”
- (3) In section 409 (schemes for the transfer of property, rights and liabilities) –
 - (a) after subsection (1) (Ministers may make schemes transferring property etc of the Crown) insert – 35
 - “(1A) A Minister of the Crown may make a scheme for the transfer from the Authority to the Crown of such property, rights or liabilities as the Minister of the Crown may consider

appropriate in consequence of the revocation of a delegation under section 39A(1) above of a function of any Minister of the Crown.”, and

- (b) in subsections (6) and (7) (provision that may be included in scheme under subsection (1) or (2)) after “subsection (1)” insert “, (1A)”. 5

195 The London Environment Strategy

- (1) Before section 352 of the Greater London Authority Act 1999 insert –

“The Mayor’s Environment Strategy for London

351A The London Environment Strategy

- (1) The Mayor shall prepare and publish a document to be known as the “London Environment Strategy” (“the Strategy”). 10
- (2) The Strategy must contain a general assessment by the Mayor of the environment in Greater London, so far as relevant to the functions of the Authority or of the Mayor.
- (3) The Strategy must contain provisions dealing with the Mayor’s policies and proposals in relation to each of the following matters in relation to Greater London – 15
- (a) biodiversity;
 - (b) municipal waste management;
 - (c) climate change mitigation and energy; 20
 - (d) adaptation to climate change;
 - (e) air quality; and
 - (f) ambient noise.
- (4) The provisions of the Strategy dealing with a matter specified in a paragraph of subsection (2) must also contain anything required to be included in them by any other provision of this Act. 25
- (5) The Strategy may also include provisions dealing with the Mayor’s policies and proposals in relation to any other matter relating to the environment in Greater London.
- (6) In preparing or revising the provisions of the Strategy dealing with a matter mentioned in subsection (3), the Mayor’s duty under section 42(1)(e) applies as if it were a duty to consult any person or body whom the Mayor considers it appropriate to consult in relation to those provisions (and section 42(2) applies accordingly). 30
- (7) Where the Strategy is revised, the Mayor must publish it as revised. 35
- (8) In this Act references to the London Environment Strategy include, unless the context otherwise requires, a reference to the Strategy as revised.

351B Guidance

- (1) The Secretary of State may give to the Mayor guidance – 40
- (a) about the content of the London Environment Strategy;
 - (b) in relation to the preparation or revision of that Strategy.

- (2) The guidance that may be given under subsection (1)(a) includes guidance as to matters which the Secretary of State considers the Mayor should, or should not, consider dealing with by formulating policies and proposals under section 351A(5).
- (3) The guidance that may be given under subsection (1)(b) includes—
- (a) guidance specifying or describing the bodies or persons whom the Secretary of State considers the Mayor should consult in preparing or revising the London Environment Strategy or, as the case may be, the provisions dealing with a matter specified in the guidance; 5
 - (b) guidance as to the evidence of environmental change or its consequences, or the predictions of environmental change or its consequences, to which the Secretary of State considers the Mayor should have regard in preparing or revising that Strategy or, as the case may be, the provisions dealing with a matter specified in the guidance. 10
- (4) In preparing or revising the London Environment Strategy the Mayor must have regard to any relevant guidance given under this section. 15

351C Directions as to the content of the London Environment Strategy

- (1) Where the Secretary of State considers that any of the conditions specified in subsection (2) is satisfied in relation to any provisions of the London Environment Strategy, the Secretary of State may give the Mayor a direction as to the content of those provisions. 20
- (2) The conditions are—
- (a) that the provisions are inconsistent with any policies announced by Her Majesty’s government with respect to the matters to which they relate and the inconsistency would have a detrimental effect on achieving any of the objectives of those policies; 25
 - (b) that the provisions or their implementation are likely to be detrimental to any area outside Greater London; 30
 - (c) that the provisions are inconsistent with any EU obligation of the United Kingdom.
- (3) A direction under this section may require the Mayor to make specified revisions of the London Environmental Strategy. 35
- (4) The power of the Secretary of State to give a direction under this section may only be exercised after consultation with the Mayor.
- (5) Where the Secretary of State gives a direction under this section, the Mayor must comply with the direction.”
- (2) Schedule 23 (which contains minor and consequential amendments to the Greater London Authority Act 1999 relating to the London Environment Strategy) has effect. 40

196 Abolition of Mayor’s duty to prepare state of the environment reports

Section 351 of the Greater London Authority Act 1999 (which provides for four-yearly reports by the Mayor on the environment in Greater London) ceases to have effect. 45

197 Mayoral strategies: general duties

- (1) Section 41 of the Greater London Authority Act 1999 (general duties of the Mayor in relation to his strategies) is amended as follows.
- (2) In subsection (5)(a), for “and with such international obligations” substitute “, with the EU obligations of the United Kingdom and with such other international obligations of the United Kingdom”. 5
- (3) After subsection (9) insert –
 - “(9A) In exercising any function the Mayor must have regard to any strategy mentioned in subsection (1) which is relevant to the exercise of that function.” 10
- (4) Subsection (10) ceases to have effect.

198 Simplification of the consultation process for the Mayor’s strategies

- (1) Section 42A of the Greater London Authority Act 1999 (which requires the Mayor to follow a two stage process in preparing or revising a strategy to which section 42 applies) ceases to have effect. 15
- (2) In section 335 of that Act (public participation in preparation of the spatial development strategy) –
 - (a) subsections (1) to (1B) cease to have effect,
 - (b) in subsection (2), for the words from the beginning to “finally” substitute “Before”, and 20
 - (c) in subsection (3), after paragraph (a) insert –
 - “(aa) the Assembly and the functional bodies;”.

199 London Assembly’s power to reject draft strategies

Before section 43 of the Greater London Authority Act 1999 (publicity and availability of strategies) insert – 25

“42B Assembly’s power to reject draft strategies

- (1) This section applies where the Mayor has prepared, and is ready to publish, a draft of any of the strategies to which section 41 applies (including a revised version of the strategy).
- (2) But this section does not apply to a revised version of a strategy containing only revisions which –
 - (a) are specified in a direction as to the contents of the strategy which is given to the Mayor under this Act (or which the Mayor considers are necessary in consequence of any revisions so specified); or 30
 - (b) are not so specified but the Mayor considers to be necessary to comply with such a direction. 35
- (3) Before publishing the strategy (or, in the case of the housing strategy, before submitting the draft to the Secretary of State) the Mayor must lay a copy of the draft before the Assembly in accordance with the standing orders of the Authority. 40

- (4) The Mayor must not publish the strategy (or, in the case of the housing strategy, submit the draft to the Secretary of State) if, within the period of 21 days beginning with the day on which the copy is laid before the Assembly, the Assembly resolves to reject the draft.
- (5) A motion for the Assembly to reject a draft strategy – 5
- (a) must be considered at a meeting of the Assembly throughout which members of the public are entitled to be present; and
 - (b) is not carried unless it is agreed to by at least two thirds of the Assembly members voting.”
- 200 Transport for London: access to meetings and documents etc 10**
- (1) Part 5A of the Local Government Act 1972 (access to meetings and documents) is amended as follows.
- (2) Amend section 100J (application of Part 5A to bodies other than principal councils) in accordance with subsections (3) to (6).
- (3) In subsection (1) (list of authorities treated as principal councils for the purposes of the Part) after paragraph (bd) insert – 15
- “(be) Transport for London;”,
- (4) In subsection (3) (reference in section 100A(6)(a) to council’s offices includes other premises at which meeting to be held) after “(bd),” insert “(be),”
- (5) After subsection (3) insert – 20
- “(3YA) In its application by virtue of subsection (1)(be) above in relation to Transport for London, section 100E(3) has effect as if for paragraph (bb) there were substituted –
 - “(bb) a committee of Transport for London (with “committee”, in relation to Transport for London, here having the same meaning as in Schedule 10 to the Greater London Authority Act 1999); or”.
- (6) After subsection (4A) insert – 25
- “(4AA) In its application by virtue of subsection (1)(be) above in relation to Transport for London, section 100G shall have effect – 30
 - (a) with the substitution for subsection (1)(a) and (b) of –
 - “(a) the name of every member of the council for the time being; and
 - (b) the name of every member of each committee or sub-committee of the council for the time being.”, and 35 - (b) with the insertion in subsection (2)(b) after “exercisable” of “, but not an officer by whom such a power is exercisable at least partly as a result of sub-delegation by any officer”.”
- (7) In section 100K(1) (interpretation of Part 5A) in the definition of “committee or sub-committee of a principal council” for “section 100J(3ZA)(b)” substitute “section 100J(3YA), (3ZA)(b)”. 40

PART 8

GENERAL

201 Orders and regulations

- | | | |
|-----|--|----|
| (1) | Any power of the Secretary of State or Welsh Ministers to make an order or regulations under this Act is exercisable by statutory instrument. | 5 |
| (2) | Any power of the Secretary of State or Welsh Ministers to make an order or regulations under this Act includes – | |
| | (a) power to make different provision for different cases, circumstances or areas, and | |
| | (b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings. | 10 |
| (3) | The power under subsection (2)(a) includes, in particular, power to make different provision for different authorities or descriptions of authority (including descriptions framed by reference to authorities in particular areas). | |
| (4) | Provision or savings made under subsection (2)(b) may take the form of amendments, or revocations, of provisions of an instrument made under primary legislation. | 15 |
| (5) | The generality of the power under subsection (2)(a) is not to be taken to be prejudiced by any specific provision of this Act authorising differential provision. | 20 |
| (6) | The Secretary of State may not make an order or regulations to which subsection (7) applies unless a draft of the statutory instrument containing the order or regulations (whether alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament. | |
| (7) | This subsection applies to – | 25 |
| | (a) an order under section 5(3), other than one that is made only for the purpose mentioned in section 6(5); | |
| | (b) an order under section 5(4), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose; | 30 |
| | (c) regulations under section 53 or 66(9); | |
| | (d) an order under section 71(4) or 80(7); | |
| | (e) regulations under section 84; | |
| | (f) an order under section 86(2) or 87(6); | |
| | (g) an order or regulations under section 202 which amend or repeal a provision of an Act otherwise than in consequence of provision made by or under section 97. | 35 |
| (8) | The Secretary of State may not make – | |
| | (a) regulations under section 97, or | |
| | (b) an order or regulations under section 202 which amend or repeal a provision of an Act in consequence of provision made by or under section 97, | 40 |
| | unless a draft of the statutory instrument containing the regulations or order has been laid before, and approved by a resolution of, the House of Commons. | |
| (9) | A statutory instrument that – | 45 |

- (a) contains an order or regulations made by the Secretary of State under this Act,
 - (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament, and
 - (c) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, the House of Commons,5
is subject to annulment in pursuance of a resolution of either House of Parliament.
 - (10) Subsection (9) does not apply to –
 - (a) an order under section 5(1) (but see section 6),
 - (b) an order under section 5(2) which (in reliance on section 6(4)) is made in accordance with sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 as applied by section 6(3), or
 - (c) an order under section 206.10
 - (11) The Welsh Ministers may not make –
 - (a) an order or regulations under section 202 which amend or repeal a provision of legislation,
 - (b) an order under section 71(4) or 80(7),
 - (c) regulations under section 84, or
 - (d) an order under section 86(4) or 87(6),15
unless a draft of the statutory instrument containing the order or regulations (whether alone or with other provisions) has been laid before, and approved by a resolution of, the National Assembly for Wales. 20
 - (12) A statutory instrument that –
 - (a) contains an order or regulations made by the Welsh Ministers under this Act, and
 - (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, the National Assembly for Wales,25
is subject to annulment in pursuance of a resolution of the National Assembly for Wales. 30
 - (13) In this section “legislation” means –
 - (a) an Act, or
 - (b) a Measure or Act of the National Assembly for Wales.
- 202 Power to make further consequential amendments** 35
- (1) The appropriate authority may by order or regulations make such provision amending, repealing or revoking legislation as the appropriate authority considers appropriate in consequence of any provision made by or under this Act.
 - (2) In subsection (1) “appropriate authority” –
 - (a) in relation to sections 13, 27, 28, 35, 36, 71 to 88, 124 and 125, and Parts 4, 5, 7, 8 and 20 of Schedule 24 and section 203 so far as relating to those Parts, means –
 - (i) the Secretary of State in relation to England, and
 - (ii) the Welsh Ministers in relation to Wales,45
 - (b) in relation to section 65 means the Welsh Ministers, and

- (c) in relation to any other provision made by or under this Act means the Secretary of State.
- (3) In subsection (1) “legislation”, in relation to any provision made by or under this Act, means –
- (a) this Act or any Act passed before, or in the same Session as, this Act, or 5
 - (b) any instrument made under this or any other Act before the coming into force of the provision.
- (4) In subsection (3) “Act” (except in the phrase “this Act”) includes an Act or Measure of the National Assembly for Wales.
- 203 Repeals and revocations** 10
- Schedule 24 (repeals and revocations) has effect.
- 204 Financial provisions**
- There is to be paid out of money provided by Parliament –*
- (a) any expenditure incurred by the Secretary of State under this Act, and
 - (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided. 15
- 205 Extent**
- (1) This Act extends to England and Wales only, subject as follows.
 - (2) The following provisions extend also to Scotland –
 - (a) section 107(1) and (3) to (6), 20
 - (b) section 202(1) so far as relating to provision made by or under the provisions mentioned in paragraph (a), and
 - (c) sections 201, 202(2) to (4) and 204, this section and sections 206 and 207.
 - (3) The following provisions extend also to Scotland, but only so far as required for the purpose mentioned in section 240(4) of the Planning Act 2008 (construction of certain cross-border pipelines) –
 - (a) section 108, and
 - (b) section 202(1) so far as relating to provision made by or under section 108. 25
 - (4) Any amendment, repeal or revocation made by this Act has the same extent as the provision to which it relates. 30
- 206 Commencement**
- (1) The following provisions come into force at the end of 2 months beginning with the day on which this Act is passed –
 - (a) section 13, 35
 - (b) Chapter 6 of Part 1 so far as relating to England,
 - (c) section 27,
 - (d) section 29,
 - (e) section 38,
 - (f) section 57, 40

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- (g) section 65,
(h) sections 91 to 93,
(i) section 95,
(j) section 119,
(k) section 149, 5
(l) section 152,
(m) section 156 and Schedule 18,
(n) Chapter 2 of Part 7, and
(o) Parts 4, 6, 12, 15, 27 and 30 of Schedule 24, and section 203 so far as relating to those Parts. 10
- (2) The following provisions come into force on such day as the Secretary of State may by order appoint—
- (a) Chapters 1 and 2 of Part 1,
(b) section 10 and Schedule 2,
(c) section 11 and Schedule 3, 15
(d) section 14 and Schedule 4, except paragraphs 56 and 57 of that Schedule and section 14 so far as relating to those paragraphs,
(e) section 15,
(f) section 16,
(g) section 19, 20
(h) Part 2,
(i) section 37,
(j) Chapter 1 of Part 4,
(k) section 56 and Schedules 5 and 6,
(l) sections 58 to 64 and Schedule 7, 25
(m) Chapter 3 of Part 4,
(n) section 89(1)(a) and (3) to (5) and Schedule 8,
(o) sections 96 and 101 and Schedules 9 to 12, except so far as those sections or Schedules confer power on the Secretary of State to make regulations or publish documents setting standards, 30
(p) section 102 except so far as it makes amendments which require or authorise the making of provision in a development order,
(q) Chapters 5 and 6 of Part 5,
(r) sections 121 to 123,
(s) Chapter 2 of Part 6, 35
(t) section 140 and Schedule 15,
(u) section 148,
(v) section 150 and Schedule 16,
(w) section 151 and Schedule 17,
(x) sections 153, 154 and 155, 40
(y) Chapters 1 and 3 of Part 7, and
(z) Parts 1, 2, 3, 9, 10, 11, 14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 28, 29 and 31 of Schedule 24, and section 203 so far as relating to those Parts.
- (3) The following provisions come into force in relation to England on such day as the Secretary of State may by order appoint and in relation to Wales on such day as the Welsh Ministers may by order appoint— 45
- (a) section 28,
(b) section 35,

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- (c) section 36,
 - (d) Chapter 4 of Part 4 except so far as it confers power on the Secretary of State, or the Welsh Ministers, to make regulations or orders,
 - (e) sections 124 and 125, and
 - (f) Parts 5, 7, 8 and 20 of Schedule 24, and section 203 so far as relating to those Parts. 5
- (4) Chapter 6 of Part 1 so far as relating to Wales comes into force on such day as the Welsh Ministers may by order appoint.
- (5) The following provisions come into force on the day on which this Act is passed – 10
- (a) section 12,
 - (b) paragraphs 56 and 57 of Schedule 4, and section 14 so far as relating to those paragraphs,
 - (c) section 17,
 - (d) section 20, 15
 - (e) Chapter 3 of Part 4 so far as it confers power on the Secretary of State to make regulations,
 - (f) Chapter 4 of Part 4 so far as it confers power on the Secretary of State, or the Welsh Ministers, to make regulations or orders,
 - (g) section 89(1)(b) and (2), 20
 - (h) section 90,
 - (i) sections 96 and 101 and Schedules 9 to 12 so far as those sections or Schedules confer power on the Secretary of State to make regulations or publish documents setting standards,
 - (j) sections 97 to 100, 25
 - (k) the provisions inserted by section 102 so far as they require or authorise the making of provision in a development order,
 - (l) sections 141 to 147,
 - (m) sections 201, 202, 205, this section and section 207, and
 - (n) Part 13 of Schedule 24, and section 203 so far as relating to that Part. 30
- (6) Section 94 comes into force on the day after the day on which this Act is passed.
- (7) An order under subsection (2), (3) or (4) may –
- (a) appoint different days for different purposes;
 - (b) make such transitory or transitional provision, or savings, as the person making the order considers appropriate. 35
- (8) The appropriate authority may by order make such transitory or transitional provision, or savings, as the appropriate authority considers appropriate in connection with the coming into force of any provision of this Act mentioned in subsection (1), (5) or (6).
- (9) In subsection (8) “appropriate authority” – 40
- (a) in relation to sections 13 and 27, and Part 4 of Schedule 24 and section 203 so far as relating to that Part, means –
 - (i) the Secretary of State in relation to England, and
 - (ii) the Welsh Ministers in relation to Wales,
 - (b) in relation to section 65 means the Welsh Ministers, and 45
 - (c) in relation to any other provision mentioned in subsection (1), (5) or (6) means the Secretary of State.

207 Short title

This Act may be cited as the Localism Act 2011.

Localism Bill

A

B I L L

To make provision about the functions and procedures of local and certain other authorities; to make provision about the functions of the Local Commission for Administration in England; to enable the recovery of financial sanctions imposed by the Court of Justice of the European Union on the United Kingdom from local and public authorities; to make provision about local government finance; to make provision about town and country planning, the Community Infrastructure Levy and the authorisation of nationally significant infrastructure projects; to make provision about social and other housing; to make provision about regeneration in London; and for connected purposes.

Secretary Eric Pickles

supported by

*The Prime Minister, The Deputy Prime Minister,
Secretary Caroline Spelman, Secretary Jeremy Hunt,
Francis Maude, Mr Oliver Letwin, Mr Nick Hurd, Greg Clark,
Andrew Stunell and Robert Neill.*

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