



Infrastructure Act 2015

2015 CHAPTER 7

PART 1

STRATEGIC HIGHWAYS COMPANIES

Appointment as highway authorities

1 Appointment of strategic highways companies

- (1) The Secretary of State may by order in accordance with this Part appoint one or more companies as a highway authority.
- (2) A company may only be appointed under this section if it is—
 - (a) limited by shares, and
 - (b) wholly owned by the Secretary of State.
- (3) The appointment of a company terminates (in addition to termination by revocation of the order making the appointment) if the company ceases to be wholly owned by the Secretary of State.
- (4) A company appointed under this section is called a “strategic highways company”.
- (5) In this section, “company” means a company registered under the Companies Act 2006.
- (6) Schedule 1 (which contains consequential and supplemental amendments) has effect.

2 Areas and highways in an appointment

- (1) The appointment of a strategic highways company must specify—
 - (a) an area, consisting of the whole or any part of England, in respect of which the company is appointed, and
 - (b) highways in that area for which the company is to be the highway authority.
- (2) Highways may be specified under subsection (1)(b) by name or description.

Status: This is the original version (as it was originally enacted).

- (3) Highways specified under subsection (1)(b) must be highways for which the Secretary of State or another strategic highways company is the highway authority immediately before the appointment has effect.
- (4) In the case of a strategic highways company appointed for an area adjacent to Wales, the highways specified under subsection (1)(b) may (subject to subsection (3)) include highways in Wales.
- (5) Where—
 - (a) the appointment of a strategic highways company is varied, and
 - (b) by virtue of that variation the company ceases to be the highway authority for one or more highways,
 the Secretary of State becomes the highway authority for those highways (to the extent that he or she would not otherwise be so).
- (6) Where the appointment of a strategic highways company terminates, the Secretary of State becomes the highway authority for any highway for which the strategic highways company is highway authority (whether by virtue of the appointment or otherwise) immediately before the termination.
- (7) Subsections (5) and (6) are subject to the appointment of another strategic highways company.

Functions

3 Road Investment Strategy

- (1) The Secretary of State may at any time—
 - (a) set a Road Investment Strategy for a strategic highways company, or
 - (b) vary a Strategy which has already been set.
- (2) A Road Investment Strategy is to relate to such period as the Secretary of State considers appropriate.
- (3) A Road Investment Strategy must specify—
 - (a) the objectives to be achieved by the company during the period to which it relates, and
 - (b) the financial resources to be provided by the Secretary of State for the purpose of achieving those objectives.
- (4) The objectives to be achieved may include—
 - (a) activities to be performed;
 - (b) results to be achieved;
 - (c) standards to be met.
- (5) In setting or varying a Road Investment Strategy, the Secretary of State must have regard, in particular, to the effect of the Strategy on—
 - (a) the environment, and
 - (b) the safety of users of highways.
- (6) The Secretary of State and the company must comply with the Road Investment Strategy.

- (7) If a strategic highways company does not have a Road Investment Strategy currently in place, the Secretary of State must—
 - (a) lay before Parliament a report explaining why a Strategy has not been set, and
 - (b) set a Road Investment Strategy as soon as may be reasonably practicable.
- (8) Schedule 2 (which contains provision about the procedure for setting or varying a Road Investment Strategy) has effect.

4 Route strategies

- (1) The Secretary of State must from time to time direct a strategic highways company to prepare proposals for the management and development of particular highways in respect of which the company is appointed (“a route strategy”).
- (2) A route strategy must relate to such period as the Secretary of State may direct.
- (3) The strategic highways company must—
 - (a) comply with a direction given to it under subsection (1), and
 - (b) publish the route strategy in such manner as the company considers appropriate.
- (4) A direction under subsection (1) must be published by the Secretary of State in such manner as he or she considers appropriate.

Exercise of functions

5 General duties

- (1) A strategic highways company must, in exercising its functions, co-operate in so far as reasonably practicable with other persons exercising functions which relate to—
 - (a) highways, or
 - (b) planning.
- (2) A strategic highways company must also, in exercising its functions, have regard to the effect of the exercise of those functions on—
 - (a) the environment, and
 - (b) the safety of users of highways.

6 Directions and guidance

- (1) The Secretary of State may from time to time give a strategic highways company directions or guidance as to the manner in which it is to exercise its functions.
- (2) Directions under subsection (1) may provide, in particular, that a function is only to be exercised—
 - (a) after consultation with the Secretary of State, or
 - (b) with the consent of the Secretary of State.
- (3) In exercising its functions, a strategic highways company must—
 - (a) comply with a direction, and
 - (b) have regard to guidance,

given to it under subsection (1).

- (4) Directions and guidance under subsection (1) must be published by the Secretary of State in such manner as he or she considers appropriate.

7 Delegation of functions

- (1) A strategic highways company may authorise another person to exercise a function it has under any enactment, if the function is prescribed by regulations made by the Secretary of State.
- (2) An authorisation may authorise the exercise of a function—
- (a) wholly or to any other extent;
 - (b) generally or only in some cases or areas;
 - (c) unconditionally or subject to conditions.
- (3) An authorisation—
- (a) does not prevent the company or any other person from exercising the function to which the authorisation relates,
 - (b) may be for a period not exceeding ten years, and
 - (c) may be revoked at any time.
- (4) The strategic highways company may—
- (a) enter into a contract with an authorised person in connection with the exercise by that person of a function;
 - (b) make payments to an authorised person in that connection.
- (5) Where an authorisation is revoked at a time when a contract in connection with the exercise of a function is subsisting, the authorised person is entitled to treat the contract as repudiated by the company (and not as frustrated by reason of the revocation).
- (6) Regulations under this section may not prescribe a function if it is—
- (a) a power of entry, or
 - (b) a power or duty to make subordinate legislation.
- (7) Where a function of the Secretary of State is transferred to a strategic highways company under this Part and is, immediately before the transfer, authorised to be exercised by another person by an order under section 69 of the Deregulation and Contracting Out Act 1994—
- (a) the authorisation is to have effect as if it had been given by the transferee company under this section, and
 - (b) if the function is not prescribed under subsection (1), it is to be regarded as having been so prescribed.
- (8) Where a function of a strategic highways company is transferred to another such company under this Part and is, immediately before the transfer, authorised to be exercised by another person under this section, the authorisation is to have effect as if it had been given by the transferee company under this section.

8 Exercise of delegated functions

- (1) A function to which an authorisation under section 7 relates may be exercised by—
- (a) the authorised person, or

- (b) an employee of that person.
- (2) Anything done by, or in relation to, the authorised person or that person’s employee in connection with the exercise of a function is to be treated as done by, or in relation to, the company.
- (3) Subsection (2)—
 - (a) does not affect the rights and liabilities of the strategic highways company and the authorised person as between one another,
 - (b) does not make the strategic highways company liable under section 6 of the Human Rights Act 1998 in respect of any act (within the meaning of that section) of the authorised person or an employee of the authorised person if the act is of a private nature,
 - (c) does not prevent any civil proceedings which could otherwise be brought by or against the authorised person from being brought, and
 - (d) does not apply for the purposes of any criminal proceedings brought in respect of anything done by the authorised person or that person’s employee.
- (4) Schedule 15 to the Deregulation and Contracting Out Act 1994 (restrictions on disclosure of information) applies to an authorisation under section 7 as it applies to an authorisation of the Secretary of State under Part 2 of that Act (contracting out).
- (5) In this section—
 - (a) “employee”, in relation to a body corporate, includes a director or other officer of the body;
 - (b) references to anything done include anything omitted to be done;
 - (c) references to the exercise of a function include the purported exercise of a function.

Oversight

9 Watchdog

- (1) The Passengers’ Council must carry out activities to protect and promote the interests of users of highways for which a strategic highways company is the highway authority.
- (2) Those activities may include investigating, publishing reports or giving advice to the Secretary of State on—
 - (a) how a strategic highways company’s exercise of its functions or achievement of its objectives under a Road Investment Strategy affects users of highways for which it is the highway authority, and
 - (b) any other matters—
 - (i) relating to highways for which a strategic highways company is the highway authority, and
 - (ii) which the Council considers to be of interest to users of such highways.
- (3) The Secretary of State may by regulations provide that those activities may not relate to a matter—
 - (a) to the extent specified;
 - (b) subject to compliance with specified conditions.

Status: This is the original version (as it was originally enacted).

- (4) The Secretary of State must consult the Council before making regulations under subsection (3).
- (5) The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Council under this section.
- (6) The Council may by agreement with a local highway authority carry out activities to protect and promote the interests of users of highways for which the authority is the highway authority.
- (7) Those activities may include investigating, publishing reports or giving advice to the local highway authority on any matters—
 - (a) relating to highways for which the authority is the highway authority, and
 - (b) which the authority and the Council consider to be of interest to users of such highways.
- (8) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert—
 “The Passengers’ Council.”

10 Monitor

- (1) The Office of Rail Regulation must carry out activities to monitor how a strategic highways company exercises its functions.
- (2) Those activities may include investigating, publishing reports or giving advice to the Secretary of State on—
 - (a) whether, how and at what cost a strategic highways company has achieved its objectives under a Road Investment Strategy,
 - (b) objectives for a future Road Investment Strategy, and
 - (c) the effect of directions and guidance given by the Secretary of State to a strategic highways company under this Part.
- (3) The Office may direct a strategic highways company to provide such information as the Office considers necessary for the purpose of carrying out activities under subsection (1).
- (4) A direction under subsection (3) may specify the form and manner in which the information is to be provided.
- (5) A direction under subsection (3) may not require—
 - (a) production of a document which the strategic highways company could not be compelled to produce in civil proceedings, or
 - (b) provision of information which the company could not be compelled to give in evidence in such proceedings.
- (6) The strategic highways company must comply with a direction under subsection (3).
- (7) The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Office under this section.
- (8) The Secretary of State must lay a report published by the Office under this section before Parliament.

- (9) In Part 2 (Office of Rail Regulation) of the Railways and Transport Safety Act 2003, after section 15 insert—

“15A Change of name

- (1) The Secretary of State may by regulations make provision for the body established by section 15 to be known by a different name.
- (2) Regulations under this section may amend this Act or any other enactment, whenever passed or made.
- (3) Regulations under this section are to be made by statutory instrument.
- (4) A statutory instrument which contains regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

11 Monitor: compliance and fines

- (1) If the Office of Rail Regulation is satisfied that a strategic highways company has contravened or is contravening—
 - (a) section 3(6) (compliance with the Road Investment Strategy), or
 - (b) section 6(3) (compliance with directions and regard to guidance),the Office may take one or more of the steps mentioned in subsection (2).
- (2) The Office may—
 - (a) give notice to the company as to the contravention and the steps the company must take in order to remedy it;
 - (b) require the company to pay a fine to the Secretary of State.

12 Monitor: general duties

- (1) The Office of Rail Regulation must exercise its functions under sections 10 and 11 in the way that it considers most likely to promote—
 - (a) the performance, and
 - (b) the efficiency,of the strategic highways company.
- (2) The Office must also, in exercising those functions, have regard to—
 - (a) the interests of users of highways,
 - (b) the safety of users of highways,
 - (c) the economic impact of the way in which the strategic highways company achieves its objectives,
 - (d) the environmental impact of the way in which the strategic highways company achieves its objectives,
 - (e) the long-term maintenance and management of highways, and
 - (f) the principles in subsection (3).
- (3) The principles are that—
 - (a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and
 - (b) regulatory activities should be targeted only at cases in which action is needed.

13 Monitor: guidance

- (1) The Secretary of State may from time to time give the Office of Rail Regulation guidance as to the manner in which it is to carry out its activities under section 10.
- (2) The Secretary of State and the Treasury, acting jointly, must give the Office guidance as to the circumstances in which the payment of a fine under section 11 should be required.
- (3) The Office must have regard to guidance given to it under this section.
- (4) Guidance under this section must be published by the Secretary of State in such manner as he or she considers appropriate.

14 Periodic reports by the Secretary of State

- (1) The Secretary of State must from time to time prepare and publish reports on the manner in which a strategic highways company exercises its functions.
- (2) The Secretary of State must lay a report prepared under subsection (1) before Parliament.

Transfers of property etc

15 Transfer schemes

- (1) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities—
 - (a) from the Secretary of State to one or more of the following—
 - (i) a strategic highways company, or
 - (ii) a proposed strategic highways company;
 - (b) from a strategic highways company or a former strategic highways company to one or more of the following—
 - (i) the Secretary of State,
 - (ii) a strategic highways company, or
 - (iii) a proposed strategic highways company.
- (2) In making a transfer scheme the Secretary of State must have regard to—
 - (a) the functions, or the proposed functions, of the transferee under any enactment, and
 - (b) the terms of appointment, or proposed terms of appointment, of a strategic highways company, or a proposed strategic highways company, to which the scheme relates.
- (3) Schedule 3 (which contains more provision about transfer schemes) has effect.
- (4) In this section and Schedule 3—

“proposed strategic highways company” means a company which the Secretary of State proposes to appoint as a strategic highways company;

“former strategic highways company” means a company in respect of which such an appointment has terminated.

16 Tax consequences of transfers

- (1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to—
 - (a) any property, rights or liabilities which are transferred by virtue of a transfer to which this section applies, or
 - (b) anything done for the purposes of, or in relation to, or in consequence of, a transfer to which this section applies.
- (2) This section applies to—
 - (a) a transfer of property, rights and liabilities in accordance with a scheme under section 15, or
 - (b) a transfer occurring under section 263 of the Highways Act 1980 (vesting of highway in highways authority) by virtue of the appointment of a strategic highway company under section 1 or the variation or termination of such an appointment.
- (3) The provision that may be made under subsection (1)(a) includes, in particular, provision for—
 - (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
 - (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
 - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.
- (4) The provision that may be made under subsection (1)(b) includes, in particular, provision for—
 - (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;
 - (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or to be treated in a specified way;
 - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.
- (5) In this section—
 - (a) “relevant tax” means income tax, corporation tax, capital gains tax or stamp duty;
 - (b) “tax provision” means a provision of an enactment about a relevant tax.
- (6) References in this section to the transfer of property, rights or liabilities in accordance with a scheme under section 15 include references to—
 - (a) the creation of interests, rights or liabilities under the scheme, and
 - (b) the modification of interests, rights or liabilities under the scheme,

Status: This is the original version (as it was originally enacted).

(and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).

Finance

17 Financial assistance

- (1) The Secretary of State may provide financial assistance—
 - (a) to a strategic highways company, for the purpose of any of its functions, or
 - (b) to any other person, for the promotion or improvement of transport services by land in England.
- (2) Financial assistance may be provided in such form and on such terms as the Secretary of State considers appropriate.
- (3) The form in which financial assistance may be provided includes in particular—
 - (a) grants,
 - (b) loans, or
 - (c) guarantees.
- (4) The terms on which financial assistance may be provided include in particular—
 - (a) in the case of a grant or a loan, terms as to repayment;
 - (b) in the case of a guarantee, terms as to reimbursement.
- (5) Subsection (1) does not affect any other power of the Secretary of State to provide financial assistance.
- (6) Subsection (1)(b) does not authorise the Secretary of State to provide financial assistance that he or she may provide under section 6 of the Railways Act 2005 (financial assistance relating to rail services).
- (7) In section 17(1)(e) of the Ministry of Transport Act 1919 (power to make advances for the promotion and improvement of transport services by land or water), after “by land” insert “in Wales”.

Supplemental and general

18 Transfer of additional functions

- (1) The Secretary of State may by regulations provide that a transferable function of the Secretary of State, other than an excluded function, is transferred to a strategic highways company.
- (2) A transferable function is a function under any enactment which relates to—
 - (a) highways, or
 - (b) planning.
- (3) An excluded function is a function which—
 - (a) is exercisable by statutory instrument;
 - (b) relates to giving consent (however expressed) to the proposed exercise of a function by any other—
 - (i) highway authority (within the meaning of the Highways Act 1980);

Status: This is the original version (as it was originally enacted).

- (ii) traffic authority (within the meaning of the Road Traffic Regulation Act 1984).
- (4) Regulations under this section may provide for the function to be exercisable—
 - (a) concurrently with the Secretary of State;
 - (b) only with the consent of the Secretary of State;
 - (c) subject to such other conditions as the Secretary of State considers appropriate.
- (5) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).

19 Consequential and transitional provision etc

- (1) The Secretary of State may by regulations make—
 - (a) consequential, supplementary or incidental provision, or
 - (b) transitional or transitory provision or savings,in connection with an order under section 1 or any other provision made by or under this Part.
- (2) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).

20 Interpretation of Part 1

In this Part—

- “enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978;
- “highway” has the same meaning as in the Highways Act 1980;
- “local highway authority” has the same meaning as in that Act;
- “users of highways” includes cyclists and pedestrians.

PART 2

CYCLING AND WALKING INVESTMENT STRATEGIES

21 Cycling and Walking Investment Strategies

- (1) The Secretary of State may at any time—
 - (a) set a Cycling and Walking Investment Strategy for England, or
 - (b) vary a Strategy which has already been set.
- (2) A Cycling and Walking Investment Strategy is to relate to such period as the Secretary of State considers appropriate; but a Strategy for a period of more than five years must be reviewed at least once every five years.
- (3) A Cycling and Walking Investment Strategy must specify—
 - (a) objectives to be achieved during the period to which it relates, and

Status: This is the original version (as it was originally enacted).

- (b) the financial resources to be made available by the Secretary of State for the purpose of achieving those objectives.
- (4) The objectives to be achieved may include—
 - (a) activities to be performed;
 - (b) results to be achieved;
 - (c) standards to be met.
- (5) Before setting or varying a Cycling and Walking Investment Strategy the Secretary of State must consult such persons as he or she considers appropriate.
- (6) In considering whether to vary a Cycling and Walking Investment Strategy the Secretary of State must have regard to the desirability of maintaining certainty and stability in respect of Cycling and Walking Investment Strategies.
- (7) A Cycling and Walking Investment Strategy must be published in such manner as the Secretary of State considers appropriate.
- (8) Where a Cycling and Walking Investment Strategy has been published the Secretary of State must from time to time lay before Parliament a report on progress towards meeting its objectives.
- (9) If a Cycling and Walking Investment Strategy is not currently in place, the Secretary of State must—
 - (a) lay before Parliament a report explaining why a Strategy has not been set, and
 - (b) set a Strategy as soon as may be reasonably practicable.

PART 3

POWERS OF BRITISH TRANSPORT POLICE FORCE

22 Powers of British Transport Police Force

- (1) In section 100 of the Anti-terrorism, Crime and Security Act 2001 (jurisdiction of transport police)—
 - (a) in subsection (2)(b), after “personal injury” insert “or damage to property”, and
 - (b) omit subsection (3)(a).
- (2) In section 172 of the Road Traffic Act 1988 (duty to give information as to identity of driver etc in certain circumstances), in subsection (2)(a), after “chief officer of police” insert “or the Chief Constable of the British Transport Police Force”.

PART 4

ENVIRONMENTAL CONTROL OF ANIMAL AND PLANT SPECIES

23 Environmental control of animal and plant species

- (1) The Wildlife and Countryside Act 1981 is amended as follows.
- (2) In section 14 (introduction of new species etc), after subsection (4) insert—

“(4A) Schedule 9A contains provision about species control agreements and orders and related matters.”

(3) After Schedule 9 insert—

“SCHEDULE 9A

Section 14(4A)

SPECIES CONTROL AGREEMENTS AND ORDERS (ENGLAND AND WALES)

PART 1

OVERVIEW AND INTERPRETATION

Overview

- 1 (1) This Schedule provides for—
 - (a) species control agreements between environmental authorities and owners of premises, and
 - (b) species control orders made by environmental authorities, and for related matters.
- (2) A species control agreement or species control order may relate to—
 - (a) an invasive non-native species of animal or plant, or
 - (b) a species of animal that is no longer normally present in Great Britain.

This is subject to the other provisions of this Schedule.

(3) The following definitions apply for the purposes of this Schedule.

Definitions relating to species

- 2 (1) “Species” means any kind of animal or plant.
- (2) A species is “invasive” if, uncontrolled, it would be likely to have a significant adverse impact on—
 - (a) biodiversity,
 - (b) other environmental interests, or
 - (c) social or economic interests.
- (3) A species is “non-native” if—
 - (a) it is listed in Part 1 or 2 of Schedule 9, or
 - (b) in the case of a species of animal, it is a species—
 - (i) whose natural range does not include any part of Great Britain, and
 - (ii) which has been introduced into Great Britain or is present in Great Britain because of other human activity.
- (4) References to a species being “present” on premises include its being present at any stage in its life-cycle (for example, as eggs or seeds).
- (5) A species of animal is “no longer normally present in Great Britain” if—

Status: This is the original version (as it was originally enacted).

- (a) it is a species listed in Part 1B of Schedule 9, or
- (b) it is a species—
 - (i) whose natural range includes all or any part of Great Britain, and
 - (ii) which has ceased to be ordinarily resident in, or a regular visitor to, Great Britain in a wild state.

Environmental authorities

- 3 (1) “Environmental authority”, in relation to premises in England, means—
 - (a) the Secretary of State,
 - (b) the Environment Agency,
 - (c) Natural England, and
 - (d) the Forestry Commissioners.
- (2) “Environmental authority”, in relation to premises in Wales, means—
 - (a) the Welsh Ministers, and
 - (b) the Natural Resources Body for Wales.

Owners and dwellings

- 4 (1) “Owner”, in relation to premises consisting of land, means—
 - (a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion,
 - (b) a person in possession under a lease, or
 - (c) a person who for the time being exercises powers of management or control over the land.
- (2) “Dwelling” means a building or structure, or part of a building or structure, occupied wholly or mainly as a dwelling.

Operations

- 5 (1) “Species control operations” are operations to do one or more of the following—
 - (a) eradicate a species from premises;
 - (b) control a species on premises;
 - (c) prevent a species from returning to premises.
- (2) References to “carrying out” operations include arranging for operations to be carried out.

PART 2

SPECIES CONTROL AGREEMENTS

Making of species control agreements

- 6 (1) An environmental authority may enter into a “species control agreement” with an owner of any premises where the authority considers that there is present on the premises—
- (a) an invasive non-native species, or
 - (b) a species of animal that is no longer normally present in Great Britain.
- (2) Under a species control agreement the parties agree to the carrying out of species control operations.
- (3) Before entering into a species control agreement with an owner, an environmental authority must be satisfied that—
- (a) the provisions of the agreement are proportionate to the objective to be achieved, and
 - (b) in a case where there is more than one owner, the owner with whom the agreement is entered into is the most appropriate one.
- (4) Before entering into a species control agreement relating to animals of a species that is no longer normally present in Great Britain, the environmental authority must also be satisfied that—
- (a) the animals are present on the premises otherwise than under and in accordance with the terms of a licence under section 16(4)(c),
 - (b) the animals on the premises are having a significant adverse impact on—
 - (i) biodiversity,
 - (ii) other environmental interests, or
 - (iii) social or economic interests, and
 - (c) there is no appropriate alternative way of obviating that impact.
- (5) A species control agreement may not be entered into in relation to premises consisting of a dwelling except where the environmental authority is the Secretary of State or the Welsh Ministers.

Content of species control agreements

- 7 (1) A species control agreement must provide for—
- (a) the species control operations to be carried out,
 - (b) the party who is to carry them out, and
 - (c) the time by which they are to be carried out.
- (2) A species control agreement may contain such supplementary provision as the parties consider appropriate.
- (3) That may include provision as to—

Status: This is the original version (as it was originally enacted).

- (a) how species control operations are to be carried out,
- (b) payment to be made by either party to the other, or to another person, in respect of the species control operations to be carried out, or
- (c) any species control operations that must not be carried out.

Notice of compliance

- 8 Where an environmental authority considers that an owner of premises has complied with all the requirements in a species control agreement to carry out species control operations, the authority must give the owner notice to that effect.

Liability

- 9 An environmental authority is not liable to a person with an interest in the premises, other than the owner with whom a species control agreement is entered into, for anything done by the authority pursuant to the agreement.

PART 3

SPECIES CONTROL ORDERS

When a species control order may be made

- 10 (1) An environmental authority may make a species control order in relation to premises if—
- (a) it considers that there is present on the premises—
 - (i) an invasive non-native species, or
 - (ii) a species of animal that is no longer normally present in Great Britain, and
 - (b) any of the following circumstances apply.
- (2) The circumstances are—
- (a) the environmental authority considers that an owner has failed to comply with a species control agreement entered into with the environmental authority and, having been given notice to that effect and a reasonable opportunity to rectify the failure, has not done so;
 - (b) the environmental authority has offered to enter into a species control agreement with an owner but—
 - (i) the owner has refused to enter into any kind of species control agreement, or
 - (ii) no species control agreement has been entered into in respect of the premises by the end of the period of 42 days beginning with the day after the offer was made and the authority considers it unlikely that the owner will enter any kind of such agreement;
 - (c) the environmental authority considers that the making of the order is urgently necessary;

Status: This is the original version (as it was originally enacted).

- (d) the environmental authority has been unable to identify an owner, having—
 - (i) placed on the premises a conspicuous notice of its desire to enter into a species control agreement, and
 - (ii) waited for 5 days after the day on which the notice was placed.
- (3) Before making a species control order, an environmental authority must be satisfied that the provisions of the order are proportionate to the objective to be achieved.
- (4) Before making a species control order relating to animals of a species that is no longer normally present in Great Britain, the environmental authority must also be satisfied that—
 - (a) the animals are present on the premises otherwise than under and in accordance with the terms of a licence under section 16(4)(c),
 - (b) the animals on the premises are having a significant adverse impact on—
 - (i) biodiversity,
 - (ii) other environmental interests, or
 - (iii) social or economic interests, and
 - (c) there is no appropriate alternative way of obviating that impact.
- (5) A species control order may not be made in relation to premises consisting of a dwelling except by the Secretary of State or the Welsh Ministers.

What an order must do

- 11 (1) A species control order under paragraph 10(2)(a) or (b) (failure to comply with or enter into agreement) must contain provision—
 - (a) requiring the owner specified in that paragraph to carry out species control operations, or
 - (b) stating that the environmental authority proposes to carry out species control operations,or both.
- (2) A species control order under paragraph 10(2)(c) (emergency) must contain provision—
 - (a) requiring any owner of the premises specified in the order to carry out species control operations, or
 - (b) stating that the environmental authority proposes to carry out species control operations,or both.
- (3) A species control order under paragraph 10(2)(d) (no identifiable owner) must contain provision stating that the environmental authority proposes to carry out species control operations.
- 12 (1) A species control order must—
 - (a) specify the species to which the order relates,
 - (b) specify the species control operations to be carried out,

Status: This is the original version (as it was originally enacted).

- (c) specify the time by which the species control operations must be carried out or (as the case may be) the time by which they are proposed to be carried out by the authority, and
 - (d) if appropriate, include a map of the premises to which the order relates.
- (2) Unless it is made under paragraph 10(2)(c) (emergency), a species control order—
- (a) may not require an owner of premises to carry out species control operations, or provide for an environmental authority to carry out species control operations, before the end of the period in which an appeal may be made (as to appeals, see paragraph 16), and
 - (b) must provide that if an appeal is made within that period, the owner need not carry out the operations, or the environmental authority shall not carry out the operations, before the appeal is withdrawn or finally determined.

What an order may do

- 13 (1) A species control order may contain provision supplementary to that specified in paragraphs 11 and 12.
- (2) That may include provision as to—
- (a) how species control operations are to be carried out;
 - (b) payment to be made by the environmental authority to—
 - (i) an owner, in respect of the reasonable costs of operations to be carried out by the owner, or
 - (ii) another person, in respect of the reasonable costs of operations to be carried out by an owner;
 - (c) payment that an owner must make in respect of the reasonable costs of species control operations to be carried out by the environmental authority;
 - (d) species control operations that an owner must not carry out;
 - (e) who will carry out species control operations for the environmental authority.

Notice

- 14 (1) After making a species control order, an environmental authority must forthwith give notice of it to—
- (a) all owners of the premises of whom the environmental authority is aware,
 - (b) the Secretary of State, if the environmental authority is the Environment Agency, Natural England or the Forestry Commissioners, and
 - (c) the Welsh Ministers, if the environmental authority is the Natural Resources Body for Wales.
- (2) In the case of an order under paragraph 10(2)(d) (no identifiable owner), the environmental authority must also give notice of the order by placing it on the premises conspicuously.

- (3) Notice under this paragraph must include—
 - (a) reasons for making the species control order, and
 - (b) reasons for any requirement imposed by it on an owner.

Revocation

- 15 (1) An environmental authority may at any time revoke a species control order made by it.
- (2) Notice of revocation must be given as specified in paragraph 14 (but reasons need not be given).

Appeals

- 16 (1) An owner of premises in relation to which a species control order is made may appeal to the First-tier Tribunal against—
 - (a) the making of the order, or
 - (b) any provision of the order.
- (2) The First-tier Tribunal may—
 - (a) affirm the order,
 - (b) direct the environmental authority which made the order to revoke or amend it,
 - (c) in the case of an order under paragraph 10(2)(c) (emergency), suspend the order, or
 - (d) make such other order as the Tribunal thinks fit.

Notice of compliance

- 17 Where an environmental authority considers that an owner of premises has complied with all the requirements in a species control order to carry out species control operations, the authority must give the owner notice to that effect.

Enforcement

- 18 (1) This paragraph applies where an environmental authority considers that an owner of premises required by a species control order to carry out a species control operation has not done so by the date or in the way specified in the order.
- (2) The authority must give the owner notice to that effect.
- (3) Sub-paragraphs (4) to (6) apply if, after a week after giving notice under sub-paragraph (2), the authority considers that the owner has still not carried out the species control operation in the way specified in the order.
- (4) The authority may carry out the operation itself or carry out such further work as is necessary to ensure that the operation is carried out in the way specified in the order.
- (5) The authority may recover from the owner any expenses reasonably incurred by it in doing so (less any payment which the authority would

Status: This is the original version (as it was originally enacted).

apart from this paragraph have been required to make to the owner in respect of the carrying out of the operations by the owner).

- (6) The authority is not required to make any payment provided for under paragraph 13(2)(b) in relation to the operation (and may recover any payment made under that paragraph).

Offences

- 19 (1) A person who, without reasonable excuse, fails to comply with a requirement imposed on that person by a species control order commits an offence.
- (2) A person who intentionally obstructs a person from carrying out an operation required or proposed under a species control order commits an offence.
- (3) A person guilty of an offence under sub-paragraph (1) or (2) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or a fine, or both.
- (4) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (3) to 51 weeks is to be read as a reference to 6 months.
- (5) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in sub-paragraph (3) to a fine is to be read as a reference to a fine not exceeding £40,000.

Liability

- 20 (1) An owner of premises is not liable to any other person for doing anything required to be done by a species control order.
- (2) An environmental authority is not liable to a person with an interest in premises for anything done—
- (a) by an owner pursuant to a requirement included in a species control order, or
- (b) by the authority pursuant to—
- (i) provision included in a species control order under paragraph 11(1)(b), (2)(b) or (3), or
- (ii) paragraph 18(4).

PART 4

POWERS OF ENTRY

Powers of entry

- 21 (1) A person who is authorised to do so may enter any premises to—
- (a) assist an environmental authority to determine whether to offer to enter into a species agreement with a person,

Status: This is the original version (as it was originally enacted).

- (b) assist an environmental authority to determine whether to make or revoke a species control order,
- (c) investigate suspected non-compliance with a species control agreement or a species control order,
- (d) carry out species control operations for an environmental authority under a species control order,
- (e) place a notice as specified in paragraph 10(2)(d)(i) or 14(2) (no identifiable owner), or
- (f) carry out species control operations or work pursuant to paragraph 18(4).

This is subject to the other provisions of this Schedule.

- (2) A person may not enter premises under sub-paragraph (1)(a) or (b) with a view to establishing whether a species is present unless the environmental authority has reasonable grounds for suspecting that it is.

Authorisation by justice of the peace

- 22 (1) To enter premises under paragraph 21 a person must be authorised by a warrant issued by a justice of the peace where—
 - (a) the premises consist of a dwelling or a garden, yard, outbuildings or other land used or enjoyed wholly with a dwelling,
 - (b) admission to the premises has been refused by an owner or refusal is reasonably apprehended,
 - (c) the premises are unoccupied,
 - (d) the owner is temporarily absent,
 - (e) giving notice would defeat the purpose of entry,
 - (f) entry is to carry out species control operations for an environmental authority under an order under paragraph 10(2)(c) (emergency),
 - (g) entry is to carry out species control operations for an environmental authority under an order under paragraph 10(2)(d) (no identifiable owner),
 - (h) entry is to place a notice as specified in paragraph 10(2)(d)(i) or 14(2), or
 - (i) entry is to carry out operations or work pursuant to paragraph 18(4) which the environmental authority considers to be urgently necessary.
- (2) A justice of the peace may not grant a warrant—
 - (a) in the circumstances in sub-paragraph (1)(a) to (d) unless satisfied that reasonable notice of the proposed entry has been given to all owners of the premises of whom the environmental authority is aware, or
 - (b) in the circumstances in paragraph (1)(g) unless satisfied that the requirement in paragraph 14(2) (notice) has been met.
- (3) For the purposes of sub-paragraph (2)(a) less than 48 hours' notice is not reasonable.

Status: This is the original version (as it was originally enacted).

- (4) A warrant may authorise a person to use reasonable force if necessary, but a person so authorised—
- (a) must be accompanied by a constable when doing so, and
 - (b) may not use force against an individual.

Authorisation by environmental authority

- 23 (1) To enter premises under paragraph 21 in circumstances other than those specified in paragraph 22(1), a person must be authorised in writing by the environmental authority.
- (2) A person authorised by an environmental authority may not demand admission as of right to any premises unless reasonable notice has been given to all owners of the premises of whom the authority is aware.
- (3) For these purposes less than 48 hours' notice is not reasonable.

Exercise of right of entry

- 24 (1) A right of entry under paragraph 21 is exercisable at any reasonable time.
- (2) A person authorised under paragraph 22 or 23 to enter premises must, if so required before entering, produce evidence of his or her warrant or other authorisation and state the purpose of entry.
- (3) A person entering premises under paragraph 21 may—
- (a) take on to the premises such other persons as may be necessary;
 - (b) take any equipment, machinery or materials on to the premises;
 - (c) take samples of anything in or on the premises.
- (4) A person who enters premises under paragraph 21 which are unoccupied or from which the owner is temporarily absent must, on departure, leave them as effectively secured as they were on entry.

PART 5

SUPPLEMENTARY

Compensation

- 25 (1) The Secretary of State and the Welsh Ministers may (separately or jointly) make arrangements for the payment of compensation to an owner of premises in respect of financial loss resulting from—
- (a) a species control agreement or order, or
 - (b) the exercise of the powers of entry under this Schedule.
- (2) The arrangements may secure that compensation is payable only for financial loss above a specified amount.

Codes of practice

- 26 (1) The Secretary of State must issue a code of practice in relation to species control agreements and orders in England.
- (2) A code under this paragraph must in particular provide guidance to environmental authorities in England on—
- (a) when to offer to enter into a species control agreement;
 - (b) how to go about entering into a species control agreement;
 - (c) what a species control agreement should contain (and in particular what it should contain by way of provision about payment of costs);
 - (d) when to make a species control order;
 - (e) what a species control order should contain (and in particular what it should contain by way of provision about payment and recovery of costs);
 - (f) standards of animal welfare to be met in connection with species control agreements and orders.
- (3) A code under this paragraph may be revised or replaced.
- (4) Before issuing (or revising or replacing) a code under this paragraph the Secretary of State must carry out a public consultation.
- (5) The Secretary of State must—
- (a) ensure that a code under this paragraph is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it, and
 - (b) lay a copy of a code under this paragraph before Parliament.
- 27 (1) The Welsh Ministers must issue a code of practice in relation to species control agreements and orders in Wales.
- (2) A code under this paragraph must in particular provide guidance to environmental authorities in Wales on—
- (a) when to offer to enter into a species control agreement;
 - (b) how to go about entering into a species control agreement;
 - (c) what a species control agreement should contain (and in particular what it should contain by way of provision about payment of costs);
 - (d) when to make a species control order;
 - (e) what a species control order should contain (and in particular what it should contain by way of provision about payment and recovery of costs);
 - (f) standards of animal welfare to be met in connection with species control agreements and orders.
- (3) A code under this paragraph may be revised or replaced.
- (4) Before issuing (or revising or replacing) a code under this paragraph the Welsh Ministers must carry out a public consultation.
- (5) The Welsh Ministers must—

Status: This is the original version (as it was originally enacted).

- (a) ensure that a code under this paragraph is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it, and
 - (b) lay a copy of a code under this paragraph before the National Assembly for Wales.
- 28 (1) A person’s failure to comply with a provision of a code under paragraph 26 or 27 does not make the person liable to civil or criminal proceedings.
- (2) A code under paragraph 26 or 27—
- (a) is admissible in evidence in any civil proceedings, and
 - (b) must be taken into account by a court in any civil proceedings in which it appears to the court to be relevant.”
- (4) In section 19 (enforcement), at the end insert—
- “(9) This section does not apply in relation to offences under Schedule 9A.”
- (5) In section 25 (functions of local authorities), at the end insert—
- “(3) Nothing in this section applies in relation to Schedule 9A or orders or offences under it.”
- (6) In section 26 (regulations, orders, notices etc), at the end insert—
- “(7) In this section references to orders do not include species control orders under Schedule 9A.”

24 Native and non-native species etc

- (1) Schedule 9 to the Wildlife and Countryside Act 1981 (animals and plants to which section 14 of that Act applies) is amended as follows.
- (2) In the heading to Part I, at the beginning insert “NON-NATIVE”.
- (3) In Part I, omit the entries relating to the wild boar, capercaillie, chough, corncrake, common crane, white-tailed eagle, goshawk, red kite and barn owl.
- (4) After Part I insert—

“PART IA

NATIVE ANIMALS

| <i>Common name</i> | <i>Scientific name</i> |
|--------------------|-------------------------|
| Capercaillie | Tetrao urogallus |
| Chough | Pyrrhocorax pyrrhocorax |
| Corncrake | Crex crex |
| Crane, Common | Grus grus |

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

Status: This is the original version (as it was originally enacted).

| <i>Common name</i> | <i>Scientific name</i> |
|---------------------|-----------------------------|
| Eagle, White-tailed | <i>Haliaeetus albicilla</i> |
| Goshawk | <i>Accipiter gentilis</i> |
| Kite, Red | <i>Milvus milvus</i> |
| Owl, Barn | <i>Tyto alba.</i> ” |

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

(5) After Part IA (as inserted by subsection (4) above) insert—

“PART IB

ANIMALS NO LONGER NORMALLY PRESENT

| <i>Common name</i> | <i>Scientific name</i> |
|---|------------------------|
| Beaver, Eurasian (but not in relation to Wales) | <i>Castor fiber</i> |
| Boar, Wild | <i>Sus Scrofa.</i> ” |

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

25 Part 4: supplementary

- (1) The Wildlife and Countryside Act 1981 is amended as follows.
- (2) In section 14 (introduction of new species etc), in subsection (1)(b), after “Part I” insert “, IA or IB”.
- (3) In the heading to section 14ZA (sale etc of invasive non-native species), for “invasive non-native species” substitute “certain animals and plants included in Schedule 9”.
- (4) In the heading to section 14ZB (codes of practice in connection with invasive non-native species), for “invasive non-native species” substitute “species which are non-native or included in Schedule 9”.
- (5) In section 22 (power to vary Schedules), in subsection (5)(a), after “Part I” insert “, IA or IB”.

PART 5

PLANNING, LAND AND BUILDINGS

Nationally significant infrastructure projects

26 Timing of appointment of examining authority

In section 61 of the Planning Act 2008 (decision as to whether application for order granting development consent should be handled by Panel or single appointed person) for subsection (1) substitute—

“(1) Subsection (2) applies where the Secretary of State has accepted an application for an order granting development consent.”

27 Two-person Panels

(1) In section 65 of the Planning Act 2008 (appointment of Panel to examine application for order granting development consent) in subsection (1)(a) (Panel to consist of three, four or five persons) before “three” insert “two,”.

(2) In section 68(3) of that Act (duty of Secretary of State to appoint additional members if Panel comes to have two members or a single member)—

- (a) omit “two members or”, and
- (b) for “three” substitute “two”.

(3) In section 73(1)(b) of that Act (Panel’s continuing identity not affected by its coming to have two members or a single member) omit “two members or”.

(4) In section 75 of that Act (decision-making by Panel)—

- (a) before subsection (1) insert—

“(A1) If the members of a Panel with two members disagree as to a proposed decision by the Panel, the view of the lead member is to prevail.”, and

- (b) in subsection (1) (decision by Panel requires the agreement of a majority) for “the Panel” substitute “a Panel with three or more members”.

28 Changes to, and revocation of, development consent orders

(1) Schedule 6 to the Planning Act 2008 (changes to, and revocation of, orders granting development consent) is amended as follows.

(2) In paragraph 2 (non-material changes to orders)—

- (a) in sub-paragraph (8) (duty for Secretary of State to comply with prescribed consultation and publicity requirements) after “Secretary of State” insert “and the person who has made the application under sub-paragraph (4)”, and
- (b) after that sub-paragraph insert—

“(8A) The power to make regulations under sub-paragraph (8) includes power to allow the Secretary of State or the person who has made the application under sub-paragraph (4) to exercise a discretion.”

(3) In paragraph 3 (changes to, and revocation of, orders) after sub-paragraph (5) insert—

Status: This is the original version (as it was originally enacted).

“(5A) The Secretary of State may refuse to exercise the power on an application made under sub-paragraph (4) or (5) if, in particular, the Secretary of State considers that the development that would be authorised as a result of the change should properly be the subject of an application under section 37 for a development consent order.”

(4) In paragraph 4 (supplementary provisions about changes to, and revocation of, orders) after sub-paragraph (5) insert—

“(5A) The power to make regulations under sub-paragraph (4) includes power to allow a person to exercise a discretion.”

Deemed discharge of planning conditions

29 Deemed discharge of planning conditions

After section 74 of the Town and Country Planning Act 1990 insert—

“74A Deemed discharge of planning conditions

- (1) The Secretary of State may by development order make provision for the deemed discharge of a condition to which this section applies.
- (2) This section applies to a condition which—
 - (a) has been imposed on the grant of planning permission for the development of land in England, and
 - (b) requires the consent, agreement or approval of a local planning authority to any matter.
- (3) Deemed discharge of a condition means that the local planning authority’s consent, agreement or approval to any matter as required by the condition is deemed to have been given.
- (4) A development order which makes provision for deemed discharge of a condition must provide that the condition is deemed to be discharged only if—
 - (a) a person (“the applicant”) has applied to the local planning authority for the consent, agreement or approval required by the condition,
 - (b) the period for the authority to give notice of their decision on the application has elapsed without that notice having been given, and
 - (c) the applicant has taken such further steps (if any) as are prescribed under subsection (5).
- (5) The Secretary of State may by development order make provision about the procedure for the deemed discharge of a planning condition and, in particular, provision—
 - (a) allowing or requiring steps to be taken by the applicant or the local planning authority;
 - (b) as to the time at which or period within which a step may or must be taken;
 - (c) as to the time at which the deemed discharge takes effect (including for this to be determined by the applicant, subject to such limitations as may be prescribed);

Status: This is the original version (as it was originally enacted).

- (d) for a time or period within paragraph (b) or (c) to be modified by agreement between the applicant and the local planning authority;
 - (e) as to the form or content of any notice which may or must be given as part of the procedure, and as to the means by which it may or must be given.
- (6) The Secretary of State may by development order provide that provision for deemed discharge of a condition does not apply—
- (a) in relation to a condition of a prescribed description;
 - (b) in relation to a condition imposed on the grant of planning permission of a prescribed description;
 - (c) in relation to a condition imposed on the grant of planning permission for development of a prescribed description;
 - (d) in other prescribed circumstances.
- (7) The power in subsection (6)(d) includes power to provide that provision for deemed discharge of a condition does not apply where an applicant for planning permission and the local planning authority to whom the application is made agree, before or after planning permission is granted, that it should not apply in relation to a condition imposed on the grant of permission.
- (8) The Secretary of State may by development order make provision for section 78(2) (appeals to the Secretary of State) not to apply, or to apply with modifications, where—
- (a) a person has applied for the consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission,
 - (b) the local planning authority have not given notice to that person of their decision on the application within the period mentioned in section 78(2), and
 - (c) the person has taken such further steps (if any) as are prescribed to bring about the deemed discharge of the planning condition.
- (9) A development order which makes provision for deemed discharge of a condition must limit the application of that provision to a condition imposed on the grant of planning permission following an application made after the development order comes into force.
- (10) In this section—
- “condition” includes a limitation;
 - “prescribed” means prescribed by development order made by the Secretary of State.”

Mayoral development orders

30 Mayoral development orders

- (1) Schedule 4 (Mayoral development orders) has effect.
- (2) The Secretary of State may by regulations make consequential provision in connection with any provision made by that Schedule.

- (3) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).
- (4) In this section “enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978.

The Homes and Communities Agency and other bodies

31 Property etc transfers to the HCA and the GLA

- (1) The Housing and Regeneration Act 2008 is amended in accordance with subsections (2) to (4).
- (2) After section 53 (and after the italic heading before section 54) insert—

“53A Other property etc transfers to the HCA

- (1) The Secretary of State may at any time make one or more schemes for the transfer to the HCA of designated property, rights or liabilities of a specified public body.
- (2) In subsection (1) “specified public body” means a public body which is for the time being specified, or of a description specified, by regulations made by the Secretary of State.
- (3) On the date specified by a scheme as the date on which the scheme is to have effect, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.
- (4) Schedule 6 applies to a scheme under this section.
- (5) The Secretary of State may not make a scheme under this section unless the specified public body to which the scheme relates has consented to its provisions.
- (6) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).
- (7) In this section—
 - “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
 - “public body” means a person or body with functions of a public nature.
- (8) This section and section 53B bind the Crown, but do not have effect in relation to property, rights or liabilities belonging to—
 - (a) Her Majesty in right of the Crown,
 - (b) Her Majesty in right of Her private estates,
 - (c) Her Majesty in right of the Duchy of Lancaster, or
 - (d) the Duchy of Cornwall.

Status: This is the original version (as it was originally enacted).

- (9) The reference in subsection (8) to Her Majesty’s private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862.

53B Tax consequences of transfers under section 53A

- (1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to—
- (a) any property, rights or liabilities transferred in accordance with a transfer scheme under section 53A, or
 - (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities in accordance with such a transfer scheme.
- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
 - (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
 - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.
- (3) The provision that may be made under subsection (1)(b) includes, in particular, provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;
 - (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or be treated in a specified way;
 - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.
- (4) In this section—
- “relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax or stamp duty reserve tax;
- “tax provision” means a provision of an enactment about a relevant tax.
- (5) References in this section to the transfer of property, rights or liabilities in accordance with a transfer scheme under section 53A include references to—
- (a) the creation of interests, rights or liabilities under the scheme, and
 - (b) the modification of interests, rights or liabilities under the scheme,
- (and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).”

- (3) In section 51 (property etc transfers) after subsection (3) insert—
- “(3A) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).”
- (4) In section 320 (orders and regulations)—
- (a) in subsection (7) (instruments subject to annulment in pursuance of a resolution of either House of Parliament) after paragraph (c) insert—
- “(ca) regulations under section 53A(2),” and
- (b) after that subsection insert—
- “(7A) An instrument containing regulations under section 53B is subject to annulment in pursuance of a resolution of the House of Commons.”
- (5) The Greater London Authority Act 1999 is amended in accordance with subsections (6) to (9).
- (6) After section 333D insert—

“333DA Transfer schemes

- (1) The Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of a specified public body to—
- (a) the Authority, or
- (b) a company or body through which the Authority exercises functions in relation to housing or regeneration.
- (2) In subsection (1) “specified public body” means a public body which is for the time being specified, or of a description specified, by regulations made by the Secretary of State.
- (3) On the date specified by a scheme as the date on which the scheme is to have effect, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.
- (4) The Secretary of State may not make a scheme under this section unless the specified public body to which the scheme relates has consented to its provisions.
- (5) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).
- (6) In this section—
- “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
- “public body” means a person or body with functions of a public nature.

Status: This is the original version (as it was originally enacted).

- (7) This section and sections 333DB and 333DC bind the Crown, but do not have effect in relation to property, rights or liabilities belonging to—
- (a) Her Majesty in right of the Crown,
 - (b) Her Majesty in right of Her private estates,
 - (c) Her Majesty in right of the Duchy of Lancaster, or
 - (d) the Duchy of Cornwall.
- (8) The reference in subsection (7) to Her Majesty’s private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862.

333DB Further provisions about transfer schemes

- (1) A transfer scheme may—
- (a) create for the transferor interests in, or rights over, property transferred by virtue of the scheme,
 - (b) create for a transferee interests in, or rights over, property retained by the transferor or transferred to another transferee,
 - (c) create rights or liabilities between the transferor and a transferee or between transferees.
- (2) A transfer scheme may provide for the transfer of property, rights or liabilities that would not otherwise be capable of being transferred or assigned.
- (3) In particular, a transfer scheme may provide for the transfer to take effect regardless of a contravention, liability or interference with an interest or right that would otherwise exist by reason of a provision having effect in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.
- (4) It does not matter whether the provision referred to in subsection (3) has effect under an enactment or an agreement or in any other way.
- (5) A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a transfer scheme is conclusive evidence for all purposes of that fact.
- (6) A transfer scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.
- (7) A transfer by virtue of a transfer scheme does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.
- (8) Anything which—
- (a) is done by the transferor for the purposes of, or otherwise in connection with, anything transferred by virtue of a transfer scheme, and
 - (b) is in effect immediately before the transfer date,
- is to be treated as done by the transferee.
- (9) There may be continued by or in relation to the transferee anything (including legal proceedings)—

Status: This is the original version (as it was originally enacted).

- (a) which relates to anything transferred by virtue of a transfer scheme, and
 - (b) which is in the process of being done by or in relation to the transferor immediately before the transfer date.
- (10) Subsection (11) applies to any document—
- (a) which relates to anything transferred by virtue of a transfer scheme, and
 - (b) which is in effect immediately before the transfer date.
- (11) Any references in the document to the transferor are to be read as references to the transferee.
- (12) A transfer scheme may include supplementary, incidental, transitional and consequential provision.
- (13) In this section—
- “enactment” includes subordinate legislation within the meaning of the Interpretation Act 1978;
 - “transfer scheme” means a transfer scheme under section 333DA;
 - “transfer date” means a date specified by a transfer scheme as the date on which the scheme is to have effect.

333DC Tax consequences of transfers under section 333DA

- (1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to—
- (a) any property, rights or liabilities transferred in accordance with a transfer scheme, or
 - (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities in accordance with such a transfer scheme.
- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
 - (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
 - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.
- (3) The provision that may be made under subsection (1)(b) includes, in particular, provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;

Status: This is the original version (as it was originally enacted).

- (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or be treated in a specified way;
 - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.
- (4) In this section—
- “enactment” includes subordinate legislation within the meaning of the Interpretation Act 1978;
 - “relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax or stamp duty reserve tax;
 - “tax provision” means a provision of an enactment about a relevant tax;
 - “transfer scheme” means a transfer scheme under section 333DA.
- (5) References in this section to the transfer of property, rights or liabilities in accordance with a transfer scheme include references to—
- (a) the creation of interests, rights or liabilities under the scheme, and
 - (b) the modification of interests, rights or liabilities under the scheme, (and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).”
- (7) In section 408 (transfers of property, rights or liabilities to the Greater London Authority etc) after subsection (8) insert—
- “(8A) An order under subsection (1) above may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).”
- (8) In section 409 (transfer schemes for transfers to the Greater London Authority etc) after subsection (8) insert—
- “(8A) A scheme under subsection (1) or (2) above may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).”
- (9) In section 420 (regulations and orders)—
- (a) in subsection (7) (instruments subject to annulment in pursuance of a resolution of either House of Parliament) after the entry for section 243(7) insert—
 - “section 333DA(2);”, and”, and
 - (b) after subsection (8) insert—
 - “(8A) A statutory instrument which contains regulations under section 333DC shall be subject to annulment in pursuance of a resolution of the House of Commons.”

32 Easements etc affecting land

- (1) The Housing and Regeneration Act 2008 is amended in accordance with subsections (2) to (4).
- (2) In section 11 (which introduces the provision made about land of the HCA in Schedule 3) for “land of the HCA” substitute “land acquired by the HCA”.
- (3) In the title to Schedule 3 (main powers in relation to land of the HCA) for “land of the HCA” substitute “land acquired by the HCA”.
- (4) In paragraph 1 of that Schedule (powers to override easements etc in undertaking works on, or using, land of the HCA) in each of sub-paragraphs (1) and (3) for “land of the HCA” substitute “land which has been vested in or acquired by the HCA”.
- (5) Section 333ZB of the Greater London Authority Act 1999 (powers in relation to land held for housing or regeneration purposes) is amended in accordance with subsections (6) to (9).
- (6) In the heading after “land” insert “acquired or”.
- (7) For subsection (1) (application of Schedule 3 to the Housing and Regeneration Act 2008 to land held by the GLA) substitute—
 - “(1) Schedule 3 to the Housing and Regeneration Act 2008 (powers in relation to land acquired by the Homes and Communities Agency) applies in relation to the Authority and land which has been vested in or acquired by the Authority for the purposes of housing or regeneration as it applies in relation to the Homes and Communities Agency and land which has been vested in or acquired by the Agency.”
- (8) In subsection (2) for the “and” at the end of paragraph (a) substitute—
 - “(aa) references to land which has been vested in or acquired by the Homes and Communities Agency are to be read as references to land which has been vested in or acquired by the Authority for the purposes of housing or regeneration, and”.
- (9) After subsection (4) insert—
 - “(5) In this section references to the Authority include a company or body through which the Authority exercises functions in relation to housing or regeneration.
 - (6) Subsection (5) does not affect the application of Parts 3 and 4 of Schedule 4 to the Housing and Regeneration Act 2008—
 - (a) in relation to the acquisition of land by the Authority under this Part, or
 - (b) in relation to land in respect of which functions of the Authority relating to housing or regeneration are being or have been exercised.”
- (10) In section 208 of the Localism Act 2011 (powers in relation to land acquired by a Mayoral development corporation) for subsection (1) substitute—
 - “(1) Schedule 3 to the Housing and Regeneration Act 2008 (powers, in relation to land acquired by 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 land which has been vested in or acquired by an MDC as it applies in relation to the Homes and

Status: This is the original version (as it was originally enacted).

Communities Agency and land which has been vested in or acquired by the Agency.”

- (11) The amendments made by this section do not apply in relation to land the freehold interest in which was disposed of by the Homes and Communities Agency, the Greater London Authority, a company or body through which the Authority exercises functions in relation to housing or regeneration or a Mayoral development corporation before the day on which this section comes into force.
- (12) The reference in subsection (11) to land disposed of by the Greater London Authority does not include land disposed of to a company or body through which the Authority exercises functions in relation to housing or regeneration.

33 Expenditure of Greater London Authority on housing or regeneration

- (1) In section 31 of the Greater London Authority Act 1999 (limits of the general power) after subsection (5A) insert—
 - “(5B) Nothing in subsection (1)(a) above shall be taken to prevent the Authority incurring expenditure in doing anything for the purposes of, or relating to, housing or regeneration.”
- (2) The amendment made by subsection (1) applies in relation to expenditure incurred before as well as after the coming into force of this section.

Her Majesty’s Land Registry

34 Transfer of responsibility for local land charges to Land Registry

- (1) Schedule 5 (transfer of responsibility for local land charges to Land Registry) has effect.
- (2) In that Schedule—
 - (a) Part 1 amends the Local Land Charges Act 1975,
 - (b) Part 2 amends the Land Registration Act 2002,
 - (c) Part 3 amends other Acts, and
 - (d) Part 4 contains transitional provision.

35 Conferral of additional powers on Land Registry

- (1) In section 105 of the Land Registration Act 2002 (power of registrar to provide or arrange for the provision of consultancy or advisory services about the registration of land in England and Wales or elsewhere) in subsection (1) for the words from “, consultancy or advisory services” to the end substitute “—
 - (a) consultancy or advisory services about land or other property in England and Wales or elsewhere,
 - (b) information services about land or other property in England and Wales, or
 - (c) services relating to documents or registers which relate to land or other property in England and Wales.”
- (2) For the title to that section substitute “Services relating to land or other property”.

36 Transfer of power to nominate member of Rule Committee

- (1) In section 127(2)(h) of the Land Registration Act 2002 (power of Lord Chancellor to nominate consumer affairs member of Rule Committee) for “Lord Chancellor” substitute “Secretary of State”.
- (2) This section applies in relation to the nomination of a member of the Rule Committee on or after the day on which this section comes into force.

Off-site carbon abatement measures

37 Provision in building regulations for off-site carbon abatement measures

- (1) The Building Act 1984 is amended as follows.
- (2) In section 1(1A) (matters that may be covered by building regulations) after paragraph (c) insert “;
 - (d) the action to be taken as a result of a building’s contribution to or effect on emissions of carbon dioxide (whether or not from the building itself).””
- (3) Schedule 1 (building regulations) is amended as follows.
- (4) After paragraph 7 insert—
 - “7A (1) This paragraph applies if building regulations impose a requirement in relation to a building as respects its contribution to or effect on emissions of carbon dioxide (whether or not the requirement relates to emissions from the building itself).
 - (2) Building regulations may make provision for a person to whom the requirement applies to meet it (in whole or in part) by taking action otherwise than in relation to the building.
 - (3) Such action may include—
 - (a) doing things which consist of, or cause or contribute, directly or indirectly to—
 - (i) reductions in emissions of carbon dioxide, or
 - (ii) the removal of carbon dioxide from the atmosphere;
 - (b) agreeing with another person that the person will do things within paragraph (a);
 - (c) making a payment or payments to a fund—
 - (i) which is administered by, or by a person acting on behalf of, the Secretary of State or the Welsh Ministers, and
 - (ii) the proceeds of which are used to pay (directly or indirectly) for activities within paragraph (a).
 - (4) Provision made under paragraph 4A for the use of certificates as evidence of compliance with building regulations by virtue of action within subparagraph (3) may include provision—
 - (a) for the creation and maintenance of a register for keeping track of the use of certificates for that purpose;
 - (b) about the administration of the register;

Status: This is the original version (as it was originally enacted).

- (c) for charges to be imposed in connection with the registration of any matter in the register or for the disclosure of information held in the register.
 - (5) If building regulations make provision for the creation and maintenance of a register, building regulations must make provision for the register to be administered by, or by a person acting on behalf of, the Secretary of State or the Welsh Ministers.
 - (6) Building regulations made by the Welsh Ministers may make provision for the use, in relation to action taken in respect of a building in Wales, of a register administered by, or by a person acting on behalf of, the Secretary of State.
 - (7) Building regulations made by the Secretary of State may make provision about the use of such a register for that purpose.
 - (8) Building regulations may make provision for the creation and maintenance of a fund of a kind referred to in sub-paragraph (3)(c), including provision about—
 - (a) the administration of such a fund;
 - (b) the purposes for which proceeds from such a fund may be used.
 - (9) Building regulations may make provision about—
 - (a) the calculation of payments to be made into a fund of a kind referred to in sub-paragraph (3)(c);
 - (b) the maximum payment which may be required to be made into such a fund in respect of a building.
 - (10) Building regulations made by the Welsh Ministers may make provision for a payment or payments in respect of a building in Wales to be made to a fund administered by, or by a person acting on behalf of, the Secretary of State.
 - (11) Building regulations made by the Secretary of State may make provision about the use of such a fund for that purpose.
 - (12) Paragraph 8(2) does not prevent building regulations from providing for action within sub-paragraph (3) to be taken in relation to a building erected before the date on which the regulations come into force.”
- (5) In paragraph 8(2) (requirement for building regulations not to apply to buildings erected before regulations come into force, subject to exceptions) after “Subject to sub-paragraphs (3) to (6) below and to” insert “paragraph 7A(12) above and”.
- (6) The reference to the Building Act 1984 in article 2(a) of the Welsh Ministers (Transfer of Functions) (No 2) Order 2009 (SI 2009/3019) is to be treated as referring to that Act as amended by this section.

PART 6

ENERGY

The community electricity right

38 The community electricity right

- (1) The Secretary of State may make regulations which give individuals resident in a community or groups connected with a community (or both) the right to buy a stake in a renewable electricity generation facility that is located—
 - (a) in the community (if it is a land-based facility), or
 - (b) adjacent to the community (if it is an offshore facility).
- (2) The Secretary of State may make regulations about—
 - (a) the kind, or kinds, of body which may be a facility operator,
 - (b) ownership of facility operators, and
 - (c) matters relating to the ownership of facility operators (including the rights, duties and powers arising from ownership),if the Secretary of State considers that the regulations are appropriate in connection with the right to buy.
- (3) The Secretary of State may make regulations about the supply of information in connection with the following—
 - (a) the right to buy;
 - (b) ownership of stakes in qualifying facilities (including the transfer of ownership);
 - (c) operation of qualifying facilities;
 - (d) ownership of facility operators (including matters relating to the ownership of facility operators);
 - (e) monitoring and assessing—
 - (i) the operation of the right to buy, and
 - (ii) the ownership of stakes in qualifying facilities.
- (4) The Secretary of State may make regulations about the enforcement of obligations imposed by regulations made under any of subsections (1) to (3); and the regulations about enforcement may include—
 - (a) provision for obligations to be enforceable as, or as if they were, generation licence conditions or relevant requirements;
 - (b) a power to impose financial penalties for breach of obligations.
- (5) The Secretary of State may by regulations modify—
 - (a) any generation licence condition, or
 - (b) any generation licence exemption,if the Secretary of State considers that the modification is appropriate in connection with regulations made under any of subsections (1) to (4) or this subsection.
- (6) Schedule 6 (which describes certain provision that community electricity right regulations can make, including provision about renewable electricity generation facilities, communities, and individuals and groups who may exercise the right to buy) has effect.

Status: This is the original version (as it was originally enacted).

(7) In this section, Schedule 6 and section 39—

“community electricity right regulations” means regulations under this section;

“electricity generation licence” means a licence granted under section 6(1) (a) of the Electricity Act 1989;

“facility operator” means a person who generates, or is expected to generate, electricity at a qualifying facility for the purpose of giving a supply to any premises or enabling a supply to be so given;

“generation licence condition” means—

- (a) the conditions of a particular electricity generation licence, or
- (b) the standard conditions so far as they are incorporated in electricity generation licences by virtue of section 8A of the Electricity Act 1989;

“generation licence exemption” means an exemption from section 4(1)(a) of the Electricity Act 1989 granted under section 5(1) of that Act;

“land-based facility” means a renewable electricity generation facility that is not an offshore facility;

“offshore facility” means a renewable electricity generation facility that is located in waters in or adjacent to Great Britain that are beyond the mean low water mark;

“qualifying facility” means a renewable electricity generation facility in relation to which the right to buy is to be, is, or has been, exercisable;

“relevant requirement” has the same meaning as in section 25 of the Electricity Act 1989;

“renewable electricity generation facility” means a facility using a renewable source of energy to generate electricity (and here “renewable source” has the same meaning as in sections 32 to 32LB of the Electricity Act 1989 — see section 32M of that Act) which is located in—

- (a) Great Britain,
- (b) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea adjacent to Great Britain, but do not form part of that territorial sea,
- (c) the territorial sea adjacent to Great Britain, or
- (d) the Renewable Energy Zone (within the meaning of Chapter 2 of Part 2 of the Energy Act 2004), except for any part of that Zone which forms part of the territorial sea adjacent to Northern Ireland;

“right to buy” means the right to buy a stake in a renewable electricity generation facility that is given by regulations under subsection (1).

39 Supplementary provision

(1) Community electricity right regulations may confer a function on—

- (a) the Secretary of State, or
- (b) any other person, apart from the Scottish Ministers or the Welsh Ministers.

(2) The functions that may be imposed include—

- (a) a duty (including a restriction or prohibition);
- (b) a function involving the exercise of a discretion;
- (c) a requirement to consult;

Status: This is the original version (as it was originally enacted).

- (d) a requirement to take account of guidance.
- (3) The provisions of section 38, Schedule 6 and this section which specify particular kinds of provision that may be made in community electricity right regulations do not limit the powers conferred by section 38 to make such regulations.
- (4) The duties under Schedule 6 to make particular provision in community electricity right regulations do not apply unless the Secretary of State decides to exercise the power conferred by section 38 to make such regulations.
- (5) Provision which commences community electricity right regulations may be framed so as to secure that the regulations do not apply to a renewable electricity generation facility if development of the facility has reached a stage of advancement specified in the commencement provision.
- (6) A reference in section 38 or Schedule 6 to buying a stake in a renewable electricity generation facility includes a reference to making a loan in relation to a renewable electricity generation facility.
- (7) The Secretary of State must carry out a review of section 38, Schedule 6 and the preceding provisions of this section as soon as reasonably practicable after the end of the period of 5 years beginning with the day on which they come into force.

The Extractive Industries Transparency Initiative

40 The Extractive Industries Transparency Initiative

After section 8 of the Commissioners for Revenue and Customs Act 2005 insert—

“8A The Extractive Industries Transparency Initiative

- (1) The Commissioners may do anything which they think necessary or expedient in connection with the Extractive Industries Transparency Initiative in so far as it relates to taxes the collection and management of which is the responsibility of the Commissioners.
- (2) In this section “the Extractive Industries Transparency Initiative” means the international initiative of that name which has the aim of promoting openness in the management of revenues from natural resources.”

Recovery of UK petroleum

41 Maximising economic recovery of UK petroleum

After section 9 of the Petroleum Act 1998 insert—

Status: This is the original version (as it was originally enacted).

“PART 1A

MAXIMISING ECONOMIC RECOVERY OF UK PETROLEUM

9A The principal objective and the strategy

- (1) In this Part the “principal objective” is the objective of maximising the economic recovery of UK petroleum, in particular through—
 - (a) development, construction, deployment and use of equipment used in the petroleum industry (including upstream petroleum infrastructure), and
 - (b) collaboration among the following persons—
 - (i) holders of petroleum licences;
 - (ii) operators under petroleum licences;
 - (iii) owners of upstream petroleum infrastructure;
 - (iv) persons planning and carrying out the commissioning of upstream petroleum infrastructure.
- (2) The Secretary of State must produce one or more strategies for enabling the principal objective to be met.
- (3) A strategy may relate to matters other than those mentioned in subsection (1) (a) and (b).
- (4) For provision about producing and revising a strategy, see sections 9F and 9G.

9B Exercise of certain functions of the Secretary of State

The Secretary of State must act in accordance with the current strategy or strategies when—

- (a) exercising functions under the other Parts of this Act (except Part 4),
- (b) exercising functions under Part 4 to the extent that they concern reduction of the costs of abandonment of offshore installations and submarine pipelines,
- (c) exercising functions under Chapter 3 of Part 2 of the Energy Act 2011 (upstream petroleum infrastructure),
- (d) exercising any function or using any power under a petroleum licence, and
- (e) exercising any other function or using any power—
 - (i) to provide advice or assistance to another person, or
 - (ii) to acquire, use or supply information,for the purpose of enabling the principal objective to be met.

9C Carrying out of certain petroleum industry activities

- (1) A person who is the holder of a petroleum licence must act in accordance with the current strategy or strategies when planning and carrying out activities as the licence holder.

Status: This is the original version (as it was originally enacted).

- (2) A person who is an operator under a petroleum licence must act in accordance with the current strategy or strategies when planning and carrying out activities as the operator under the licence.
- (3) A person who is the owner of upstream petroleum infrastructure must act in accordance with the current strategy or strategies when planning and carrying out the person's activities as the owner of upstream petroleum infrastructure (including the development, construction, deployment and use of the infrastructure).
- (4) A person must act in accordance with the current strategy or strategies when planning and carrying out the commissioning of upstream petroleum infrastructure.

9D Reports by the Secretary of State

- (1) As soon as practicable after the end of each reporting period, the Secretary of State must—
 - (a) consider the extent to which, during that period, these persons have followed section 9C by acting in accordance with the current strategy or strategies—
 - (i) licence holders,
 - (ii) operators under petroleum licences,
 - (iii) owners of upstream petroleum infrastructure, and
 - (iv) persons planning and carrying out the commissioning of upstream petroleum infrastructure; and
 - (b) produce a report on the results of the consideration of that question.
- (2) The report may contain other material, including a statement of action which the Secretary of State has taken, or is proposing to take, in response to any matter included in the report (including changes to a strategy).
- (3) The Secretary of State must publish, and lay before each House of Parliament, a copy of each report produced under this section.
- (4) In this section “reporting period” means—
 - (a) the period of two years beginning with the day when this section comes into force, and
 - (b) each subsequent period of one year beginning with the day after the end of a previous reporting period.

9E Secretary of State's security and resilience functions

- (1) This Part does not limit the exercise of the Secretary of State's security and resilience functions.
- (2) This Part is subject to the exercise of the security and resilience functions by the Secretary of State.
- (3) In this section “security and resilience function” means any function which relates to—
 - (a) the security of petroleum supplies, or

Status: This is the original version (as it was originally enacted).

- (b) the resilience of the petroleum industry.

9F Producing and revising a strategy

- (1) The Secretary of State must produce the first strategy before the end of the period of one year beginning with the day on which this section comes into force.
- (2) The Secretary of State may subsequently—
 - (a) produce a new strategy, or
 - (b) revise a current strategy,
 whenever the Secretary of State thinks appropriate.
- (3) The Secretary of State must review each current strategy before the end of each relevant four year period.
- (4) In reviewing a current strategy, the Secretary of State must (in particular) take account of the results of any consideration undertaken under section 9D in respect of reporting periods falling within the relevant four year period.
- (5) In this section “relevant four year period”, in relation to a current strategy, means a period of four years beginning with—
 - (a) the date on which the strategy was issued, or
 - (b) if later, the date on which the last review under subsection (3) was concluded.

9G Procedure for producing and revising a strategy

- (1) Before—
 - (a) producing the first strategy,
 - (b) producing a new strategy, or
 - (c) revising a current strategy,
 the Secretary of State must prepare a draft of the strategy or revised strategy.
- (2) The Secretary of State must—
 - (a) consult such persons as the Secretary of State thinks appropriate about the draft, and
 - (b) consider any representations made by them.
- (3) If, after complying with that duty, the Secretary of State decides to proceed with the draft (in its original form or with modifications), the Secretary of State must lay a copy of the draft before each House of Parliament.
- (4) The Secretary of State may not take any further steps in relation to the draft if, within the 40 day period, either House resolves not to approve the draft (a “negative resolution”).
- (5) If neither House passes a negative resolution, the Secretary of State may issue the strategy or revised strategy in the form laid before Parliament.
- (6) The strategy or revised strategy comes into force on the date specified by the Secretary of State (which must not be before the date when it is issued).

- (7) Subsection (4) does not prevent a new draft of a strategy or revised strategy from being laid before Parliament.
- (8) In this section “40 day period”, in relation to the draft of a strategy or revised strategy, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or if the draft is not laid before each House on the same day, the later of the 2 days on which it is laid).
- (9) For the purposes of calculating the 40 day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

9H “Upstream petroleum infrastructure” and its owners

- (1) In this Part “upstream petroleum infrastructure” means—
 - (a) a gas processing facility,
 - (b) an oil processing facility, or
 - (c) an upstream petroleum pipeline,if and in so far as it meets conditions A and B.
- (2) A facility or pipeline meets condition A if and in so far as it is situated in Great Britain or relevant UK waters.
- (3) A facility or pipeline meets condition B if and in so far as it is used in relation to UK petroleum (including such petroleum after it has been got).
- (4) But an upstream petroleum pipeline is not “upstream petroleum infrastructure” if it is a pipeline to which section 17GA applies (petroleum pipelines subject to Norwegian access system).
- (5) In this section, the following expressions have the same meanings as in Chapter 3 of Part 2 of the Energy Act 2011 (see section 90 of that Act)—
 - (a) “gas processing facility”;
 - (b) “oil processing facility”;
 - (c) “upstream petroleum pipeline”.
- (6) In this Part, “owner”, in relation to upstream petroleum infrastructure, means—
 - (a) a person in whom the pipeline or facility is vested;
 - (b) a lessee and any person occupying or controlling the pipeline or facility; and
 - (c) a person who has the right to have things conveyed by the pipeline or processed by the facility.

9I Other interpretation

In this Part—

“current strategy”, in relation to any particular time, means a strategy under section 9A(2) in force at that time;

“operator under a petroleum licence” means a person who is responsible for organising or supervising any of the operations of searching for, boring for, or getting UK petroleum in pursuance of the petroleum licence;

Status: This is the original version (as it was originally enacted).

“owner”, in relation to upstream petroleum infrastructure, has the meaning given in section 9H;

“petroleum” has meaning given in section 1;

“petroleum licence” means a licence granted under—

- (a) section 3 of this Act, or
- (b) section 2 of the Petroleum (Production) Act 1934;

“principal objective” has the meaning given in section 9A;

“relevant UK waters” means—

- (a) the territorial sea adjacent to the United Kingdom, and
- (b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964;

“UK petroleum” means petroleum which for the time being exists in its natural condition in strata beneath relevant UK waters;

“upstream petroleum infrastructure” has the meaning given in section 9H.”

42 Levy on holders of certain energy industry licences

- (1) The Secretary of State may, by regulations, provide for a levy to be imposed on, and be payable by, one or more of the following kinds of persons—
 - (a) persons who hold licences under section 2 of the Petroleum (Production) Act 1934 or licences under section 3 of the Petroleum Act 1998 (exploitation of petroleum);
 - (b) persons who hold licences under section 4 of the Energy Act 2008 (unloading and storing gas);
 - (c) persons who hold licences under section 18 of the Energy Act 2008 granted by the Secretary of State (storage of carbon dioxide).
- (2) No licensing levy is to be imposed in respect of a time which falls after the end of the period of 3 years beginning with the first day of the first charging period.
- (3) The Secretary of State must exercise the power conferred by subsection (1) so as to secure—
 - (a) that the total amount of licensing levy which is payable in respect of a charging period does not exceed the costs incurred by the Secretary of State in exercising the relevant functions in respect of that period; and
 - (b) that no levy is payable in respect of costs incurred in any exercise of relevant functions for which a charge is payable under the Gas and Petroleum (Consents) Charges Regulations 2013 (as those Regulations stand when this section comes into force).
- (4) In determining for the purposes of subsection (3)(a) the total amount of licensing levy payable in respect of a charging period, an amount of levy payable in respect of that period may be ignored if (during that period or subsequently)—
 - (a) having been paid, it is repaid or credit for it is given against other licensing levy that is payable; or
 - (b) having not been paid, the requirement to pay it is cancelled.
- (5) The “relevant functions” referred to in subsection (3) are—
 - (a) functions under the following enactments—
 - (i) the Pipe-lines Act 1962 (cross-country pipe-lines);

Status: This is the original version (as it was originally enacted).

- (ii) section 3 and the other provisions of Part 1 of the Petroleum Act 1998 (exploitation of petroleum);
 - (iii) Part 1A of the Petroleum Act 1998 (maximising economic recovery of UK petroleum);
 - (iv) Part 3 of the Petroleum Act 1998 (submarine pipelines);
 - (v) Part 4 of the Petroleum Act 1998, in so far as the functions concern reduction of the costs of abandonment of offshore installations and submarine pipelines;
 - (vi) section 4 and the other provisions of Chapter 2 of Part 1 of the Energy Act 2008 (importation and storage of combustible gas);
 - (vii) section 18 and the other provisions of Chapter 3 of Part 1 of the Energy Act 2008 (storage of carbon dioxide);
 - (viii) Chapter 3 of Part 2 of the Energy Act 2011 (upstream petroleum infrastructure);
- (b) carrying out policy work on matters relating to UK petroleum and its recovery;
 - (c) providing advice and assistance to the petroleum industry on matters relating to UK petroleum and its recovery;
 - (d) collaborating with the petroleum industry on matters relating to UK petroleum and its recovery;
 - (e) acquiring, using and supplying information on matters relating to UK petroleum and its recovery;
 - (f) encouraging development of the petroleum industry in relation to the recovery of UK petroleum;
 - (g) carrying out, or providing advice and assistance to those carrying out, research and development in relation to technology and products relevant to the recovery of UK petroleum;
 - (h) functions which relate to—
 - (i) the security of petroleum supplies, or
 - (ii) the resilience of the petroleum industry;
 - (i) international co-operation on matters relating to UK petroleum and its recovery, including—
 - (i) resolution of disputes relating to the entitlements of different countries in relation to petroleum fields, and
 - (ii) openness and accountability in the management of natural resources.
- (6) The matters relating to UK petroleum and its recovery which fall within paragraphs (b), (c), (d) and (e) of subsection (5) include—
- (a) maximising the economic recovery of UK petroleum, and
 - (b) improving the supply chain of UK petroleum.
- (7) The amount or amounts of licensing levy payable by licence holders must be—
- (a) set out in the regulations, or
 - (b) calculated in accordance with a method set out in the regulations.
- (8) The licensing levy is payable to the Secretary of State.
- (9) Schedule 7 (the licensing levy) has effect.
- (10) Schedule 7 does not limit the provision that may be made by regulations under this section.

Status: This is the original version (as it was originally enacted).

- (11) The Secretary of State may, by regulations, amend subsection (3)(b) by adding, removing or amending a reference to any regulations made under section 188 of the Energy Act 2004.
- (12) In this section and Schedule 7—
- “charging period” means a period in respect of which licensing levy is payable;
 - “licensing levy” means the levy provided for in regulations under this section;
 - “UK petroleum” means petroleum (within the meaning given in section 1 of the Petroleum Act 1998) which for the time being exists in its natural condition in strata beneath—
 - (a) the territorial sea adjacent to the United Kingdom, and
 - (b) the sea in any area designated under section 1(7) of the Continental Shelf Act 1964.

Petroleum and geothermal energy in deep-level land

43 Petroleum and geothermal energy: right to use deep-level land

- (1) A person has the right to use deep-level land in any way for the purposes of exploiting petroleum or deep geothermal energy.
- (2) Land is subject to the right of use (whether for the purposes of exploiting petroleum or deep geothermal energy) only if it is—
 - (a) deep-level land, and
 - (b) within a landward area.
- (3) But that does not prevent deep-level land that is within a landward area from being used for the purposes of exploiting petroleum or deep geothermal energy outside a landward area.
- (4) Deep-level land is any land at a depth of at least 300 metres below surface level.

44 Further provision about the right of use

- (1) The ways in which the right of use may be exercised include—
 - (a) drilling, boring, fracturing or otherwise altering deep-level land;
 - (b) installing infrastructure in deep-level land;
 - (c) keeping, using or removing any infrastructure installed in deep-level land;
 - (d) passing any substance through, or putting any substance into, deep-level land or infrastructure installed in deep-level land;
 - (e) keeping, using or removing any substance put into deep-level land or into infrastructure installed in deep-level land.
- (2) The purposes for which the right of use may be exercised include—
 - (a) searching for petroleum or deep geothermal energy;
 - (b) assessing the feasibility of exploiting petroleum or deep geothermal energy;
 - (c) preparing for exploiting petroleum or deep geothermal energy;

Status: This is the original version (as it was originally enacted).

- (d) decommissioning, and other activity which falls to be continued or undertaken, in consequence of activities undertaken for the purposes of exploiting petroleum or deep geothermal energy.
- (3) The right of use includes the right to leave deep-level land in a different condition from the condition it was in before an exercise of the right of use (including by leaving any infrastructure or substance in the land).
- (4) The right of use—
 - (a) does not give a person (“R”) any power which is greater than, or different from, the power which R would have had if the right had been granted by a person legally entitled to grant it; and
 - (b) does not relieve a person (“R”) from any obligation or liability to which R would have been subject if the right had been granted by a person legally entitled to grant it.
- (5) A person (“L”) who owns land (the “relevant land”) is not liable, as the owner of that land, in tort for any loss or damage which is attributable to the exercise, or proposed exercise, of the right of use by another person (whether in relation to the relevant land or any other land).
- (6) For that purpose, loss or damage is not attributable to the exercise, or proposed exercise, of the right of use (in particular) if, or to the extent that, the loss or damage is attributable to a deliberate omission by L.
- (7) There is a “deliberate omission by L” if L, as owner of the relevant land, decides—
 - (a) not to do an act, or
 - (b) not to allow another person to do an act,and the circumstances at the time of that decision were such that L would not have had to bear any of the costs incurred (whether by L or any other person) in doing or allowing the act.
- (8) Section 43 and this section bind the Crown.

45 Payment scheme

- (1) The Secretary of State may, by regulations, require relevant energy undertakings to make payments in respect of the proposed exercise, or exercise, of the right of use.
- (2) The regulations may require payments to be made—
 - (a) to owners of relevant land or interests in relevant land;
 - (b) to other persons for the benefit of areas in which relevant land is situated.
- (3) The regulations may—
 - (a) specify the amount or amounts of payments;
 - (b) make provision for determining the amount or amounts of payments.
- (4) The regulations may require relevant energy undertakings to provide the Secretary of State, or any other specified person, with specified information about—
 - (a) the proposed exercise, or exercise, of the right of use;
 - (b) the making of payments in accordance with regulations under this section.
- (5) Before making any regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

Status: This is the original version (as it was originally enacted).

46 Notice scheme

- (1) The Secretary of State may, by regulations, require relevant energy undertakings to give notice of the proposed exercise, or exercise, of the right of use.
- (2) The regulations may require relevant energy undertakings—
 - (a) to give notice—
 - (i) to owners of relevant land or interests in relevant land;
 - (ii) to persons of other specified descriptions;
 - (b) to display notice within the area in which relevant land is situated or elsewhere;
 - (c) to publish notice (otherwise than by displaying the notice).
- (3) The regulations may make provision about the information which the notice is to contain, including provision about information relating to—
 - (a) any payment scheme regulations which are in force;
 - (b) the application of any payment scheme regulations to the proposed exercise, or exercise, of the right of use;
 - (c) the method for obtaining a payment under any payment scheme regulations.
- (4) The regulations may make provision about the manner in which notice is to be given, displayed or published, including provision requiring notice to be—
 - (a) displayed at specified places or places of specified descriptions;
 - (b) published in specified publications or publications of specified descriptions.
- (5) The regulations may require relevant energy undertakings to provide the Secretary of State, or any other specified person, with specified information about—
 - (a) the proposed exercise, or exercise, of the right of use;
 - (b) the giving of notice in accordance with regulations under this section.
- (6) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (7) In this section “payment scheme regulations” means regulations under section 45.

47 Payment and notice schemes: supplementary provision

- (1) Regulations under section 45 or 46 may make provision about the enforcement of relevant requirements, including provision for the imposition of financial penalties in respect of breach of relevant requirements.
- (2) Regulations under section 45 or 46 may confer a function on—
 - (a) the Secretary of State, or
 - (b) any other person, apart from the Welsh Ministers.
- (3) The functions that may be imposed include—
 - (a) a duty (including a restriction or prohibition);
 - (b) a function involving the exercise of a discretion;
 - (c) a requirement to consult.
- (4) The provisions of sections 45 and 46 and this section which specify particular kinds of provision that may be made in regulations under section 45 or 46 do not limit the powers conferred by that section to make such regulations.

- (5) The Secretary of State must carry out a review of sections 45 and 46 and the preceding provisions of this section as soon as reasonably practicable after the end of the period of 5 years beginning with the day on which they come into force.
- (6) The Secretary of State must by regulations—
- (a) repeal section 45, and make any consequential amendments (including repeals) of the other provisions of this Act that the Secretary of State considers appropriate, if the relevant conditions are met in relation to the power under section 45;
 - (b) repeal section 46, and make any consequential amendments (including repeals) of the other provisions of this Act that the Secretary of State considers appropriate, if the relevant conditions are met in relation to the power under section 46.
- (7) The relevant conditions are met in relation to the power under section 45 or the power under section 46 if—
- (a) that power is not exercised within the period of 7 years beginning with the day on which that section comes into force, and
 - (b) the Secretary of State is satisfied that there is no convincing case for retaining that power.

48 Interpretation

- (1) For the purposes of deciding whether land is deep-level land—
- (a) the depth of a point in land below surface level is the distance between that point and the surface of the land vertically above that point; and
 - (b) in determining what is the surface of the land, any building or other structure on the land, and any water covering the land, must be ignored.
- (2) In sections 43 to 47 and this section—
- “deep geothermal energy” means geothermal energy in deep-level land (including in water or any other fluid in deep-level land);
 - “deep-level land” has the meaning given in section 43(4);
 - “landward area” means those parts of the landward area (within the meaning of the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014) that are in England and Wales or are beneath waters (other than waters adjacent to Scotland);
 - “petroleum” has the same meaning as in Part 1 of the Petroleum Act 1998 (see section 1 of that Act);
 - “relevant energy undertaking” means a person who proposes to exercise, or exercises, the right of use;
 - “relevant land” means land in respect of which the right of use is proposed to be, or is, exercised;
 - “relevant requirement” means a requirement imposed by regulations under section 45 or 46;
 - “right of use” means the right conferred by section 43;
 - “specified” means specified in regulations under section 45 or 46;
 - “substance” includes electricity and any other intangible thing.
- (3) The power of the Secretary of State to make regulations under section 4 of the Petroleum Act 1998 includes power to make such amendments of the definition of

Status: This is the original version (as it was originally enacted).

“landward area” in subsection (2) above as the Secretary of State considers appropriate in consequence of any other exercise of the power under section 4 of the 1998 Act.

Other provision about onshore petroleum

49 Advice on likely impact of onshore petroleum on the carbon budget

- (1) The Secretary of State must from time to time request the Committee on Climate Change to provide advice (in accordance with section 38 of the CCA 2008) on the impact which combustion of, and fugitive emissions from, petroleum got through onshore activity is likely to have on the Secretary of State’s ability to meet the duties imposed by—
 - (a) section 1 of the CCA 2008 (net UK carbon account target for 2050), and
 - (b) section 4(1)(b) of the CCA 2008 (UK carbon account not to exceed carbon budget).
- (2) As soon as practicable after each reporting period, the Secretary of State must—
 - (a) lay before Parliament a copy of advice received under subsection (1) during the reporting period, and
 - (b) lay before Parliament a draft of regulations under subsection (3) or a report under subsection (5).
- (3) Regulations under this subsection are regulations providing for section 43 to cease to have effect to such extent as may be specified in the regulations.
- (4) No provision made in regulations under subsection (3) has effect in relation to anything done in exercise of the right of use conferred by section 43 before the date on which the regulations come into force.
- (5) A report under this subsection is a report explaining why a draft of regulations under subsection (3) has not been laid.
- (6) Regulations under this section may make such consequential amendments or repeals of sections 43 to 48 and this section as the Secretary of State considers appropriate.
- (7) In this section—
 - “CCA 2008” means the Climate Change Act 2008;
 - “petroleum got through onshore activity” means petroleum got from the strata in which it exists in its natural condition by activity carried out on land in England and Wales (excluding land covered by the sea or any tidal waters);
 - “petroleum” has the same meaning as in Part 1 of the Petroleum Act 1998 (see section 1 of that Act);
 - “reporting period” means—
 - (a) the period ending with 1 April 2016, and
 - (b) each subsequent period of 5 years.

50 Onshore hydraulic fracturing: safeguards

After section 4 of the Petroleum Act 1998 insert—

“4A Onshore hydraulic fracturing: safeguards

- (1) The Secretary of State must not issue a well consent that is required by an onshore licence for England or Wales unless the well consent imposes—
 - (a) a condition which prohibits associated hydraulic fracturing from taking place in land at a depth of less than 1000 metres; and
 - (b) a condition which prohibits associated hydraulic fracturing from taking place in land at a depth of 1000 metres or more unless the licensee has the Secretary of State’s consent for it to take place (a “hydraulic fracturing consent”).
- (2) A hydraulic fracturing consent is not to be issued unless an application for its issue is made by, or on behalf of, the licensee.
- (3) Where an application is made, the Secretary of State may not issue a hydraulic fracturing consent unless the Secretary of State—
 - (a) is satisfied that—
 - (i) the conditions in column 1 of the following table are met, and
 - (ii) the conditions in subsection (6) are met, and
 - (b) is otherwise satisfied that it is appropriate to issue the consent.
- (4) The existence of a document of the kind mentioned in column 2 of the table in this section is sufficient for the Secretary of State to be satisfied that the condition to which that document relates is met.
- (5) But the absence of such a document does not prevent the Secretary of State from being satisfied that that condition is met.

| | <i>Column 1: conditions</i> | <i>Column 2: documents</i> |
|---|--|--|
| 1 | The environmental impact of the development which includes the relevant well has been taken into account by the local planning authority | A notice given by the local planning authority that the environmental information was taken into account in deciding to grant the relevant planning permission |
| 2 | Appropriate arrangements have been made for the independent inspection of the integrity of the relevant well | A certificate given by the Health and Safety Executive that it <ol style="list-style-type: none"> (a) has received a well notification under regulation 6 of the Borehole Sites and Operations Regulations 1995, (b) has received the information required by regulation 19 of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996, and (c) has visited the site of the relevant well |
| 3 | The level of methane in groundwater has, or will have, been monitored in | An environmental permit has been given by the relevant environmental regulator which contains a condition that requires |

Status: This is the original version (as it was originally enacted).

| <i>Column 1: conditions</i> | <i>Column 2: documents</i> |
|---|---|
| the period of 12 months before the associated hydraulic fracturing begins | compliance with a waste management plan which provides for monitoring of the level of methane in groundwater in the period of 12 months before the associated hydraulic fracturing begins |
| 4 Appropriate arrangements have been made for the monitoring of emissions of methane into the air | An environmental permit which contains a condition requiring compliance with a waste management plan which provides for the monitoring of emissions of methane into the air for the period of the permit |
| 5 The associated hydraulic fracturing will not take place within protected groundwater source areas | A decision document given by the relevant environmental regulator (in connection with an environmental permit) which indicates that the associated hydraulic fracturing will not take place within protected groundwater source areas |
| 6 The associated hydraulic fracturing will not take place within other protected areas | A notice given by the local planning authority that the area in respect of which the relevant planning permission has been granted does not include any land which is within any other protected areas |
| 7 In considering an application for the relevant planning permission, the local planning authority has (where material) taken into account the cumulative effects of— (a) that application, and (b) other applications relating to exploitation of onshore petroleum obtainable by hydraulic fracturing | A notice given by the local planning authority that it has taken into account those cumulative effects |
| 8 The substances used, or expected to be used, in associated hydraulic fracturing— (a) are approved, or (b) are subject to approval, by the relevant environmental regulator | An environmental permit has been given by the relevant environmental regulator which contains a condition that requires substances used in associated hydraulic fracturing to be approved by that regulator |
| 9 In considering an application for the relevant planning permission, the local planning authority has considered whether to impose a restoration condition in relation to that development | A notice given by the local planning authority that it has considered whether to impose such a condition |
| 10 The relevant undertaker has been consulted before grant of the relevant planning permission | A notice given by the local planning authority that the relevant undertaker has been consulted |

Status: This is the original version (as it was originally enacted).

| <i>Column 1: conditions</i> | <i>Column 2: documents</i> |
|--|---|
| 11 The public was given notice of the application for the relevant planning permission | A notice given by the local planning authority which confirms that the applicant for the relevant planning permission has certified that public notification requirements, as set out in a development order, have been met |

- (6) The conditions mentioned in subsection (3)(a)(ii) are—
- (a) that appropriate arrangements have been made for the publication of the results of the monitoring referred to in condition 4 in the table;
 - (b) that a scheme is in place to provide financial or other benefit for the local area.
- (7) A hydraulic fracturing consent may be issued subject to any conditions which the Secretary of State thinks appropriate.
- (8) A breach of such a condition is to be treated as if it were a breach of a condition of a well consent.

4B Section 4A: supplementary provision

- (1) “Associated hydraulic fracturing” means hydraulic fracturing of shale or strata encased in shale which—
- (a) is carried out in connection with the use of the relevant well to search or bore for or get petroleum, and
 - (b) involves, or is expected to involve, the injection of—
 - (i) more than 1,000 cubic metres of fluid at each stage, or expected stage, of the hydraulic fracturing, or
 - (ii) more than 10,000 cubic metres of fluid in total.
- (2) For the purposes of deciding the depth at which associated hydraulic fracturing is taking place in land—
- (a) the depth of a point in land below surface level is the distance between that point and the surface of the land vertically above that point; and
 - (b) in determining what is the surface of the land, any building or other structure on the land, and any water covering the land, must be ignored.
- (3) Subsections (1) and (2) apply for the purposes of section 4A and this section.
- (4) The Secretary of State must, by regulations made by statutory instrument, specify—
- (a) the descriptions of areas which are “protected groundwater source areas”, and
 - (b) the descriptions of areas which are “other protected areas”,
- for the purposes of section 4A.
- (5) A statutory instrument which contains regulations under subsection (4) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

Status: This is the original version (as it was originally enacted).

- (6) The Secretary of State must lay a draft of the first such regulations before each House of Parliament on or before 31 July 2015.
- (7) The Secretary of State must consult—
- (a) the Environment Agency before making any regulations under subsection (4)(a) in relation to England;
 - (b) the Natural Resources Body for Wales before making any regulations under subsection (4)(a) in relation to Wales.
- (8) These expressions have the meanings given—
- “development order” has the meaning given in section 59 of the Town and Country Planning Act 1990;
- “environmental permit” means a permit granted under regulation 13 of the Environmental Permitting (England and Wales) Regulations 2010;
- “hydraulic fracturing consent” has the meaning given in subsection (1)(b);
- “licensee” means the holder of the onshore licence for England or Wales;
- “local planning authority” means—
- (a) the planning authority to which the application for the relevant planning permission was made (unless the Secretary of State or Welsh Ministers are responsible for determining the application), or
 - (b) the Secretary of State or Welsh Ministers (if responsible for determining the application);
- “onshore licence for England or Wales” means a licence granted under section 3 which authorises a person to search or bore for or get petroleum in those parts of the landward area (within the meaning of the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014) that are in England or Wales or are beneath waters (other than waters adjacent to Scotland);
- “relevant environmental regulator” means—
- (a) the Environment Agency, if the relevant well is situated in England, or
 - (b) the Natural Resources Body for Wales, if the relevant well is situated in Wales;
- “relevant planning permission” means planning permission to be granted, or granted, in respect of development which includes the relevant well;
- “relevant undertaker” means the water undertaker or sewerage undertaker in whose area of appointment the relevant well is located;
- “relevant well” means the well to which a well consent relates;
- “well consent” means a consent in writing of the Secretary of State to the commencement of drilling of a well.
- (9) The power of the Secretary of State to make regulations under section 4 includes power to make such amendments of the definition of “onshore licence for England or Wales” in this section as the Secretary of State considers appropriate in consequence of any other exercise of the power under section 4.

- (10) The Secretary of State may, by regulations made by statutory instrument—
- (a) make such amendments of column 2 of the table in section 4A as the Secretary of State considers appropriate, and
 - (b) make such other amendments of section 4A or this section as the Secretary of State considers appropriate in consequence of provision made under paragraph (a).
- (11) A statutory instrument which contains regulations under subsection (10) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Renewable heat incentives

51 Renewable heat incentives

- (1) Section 100 of the Energy Act 2008 (renewable heat incentives) is amended in accordance with subsections (2) to (4).
- (2) After subsection (1) insert—
- “(1A) Regulations under this section may confer any function on any person.
- (1B) Regulations under this section may provide for a function conferred on a person to be exercisable on behalf of another person.”
- (3) In subsection (2)—
- (a) in paragraph (a), for the words before sub-paragraph (i) substitute—

“(a) make provision giving any of the following persons entitlements to payments (“RHI payments”) in specified circumstances—”;
 - (b) in paragraph (b), for “such payments” substitute “RHI payments”;
 - (c) after paragraph (b) insert—
 - “(ba) make provision about the circumstances in which, and descriptions of persons to whom, the whole or a part of an entitlement to an RHI payment may be assigned (whether the person has the entitlement by virtue of regulations under paragraph (a) or regulations under this paragraph);
 - (bb) authorise or require the Secretary of State, the Authority, designated fossil fuel suppliers, or any person with any other administration function, to make an RHI payment—
 - (i) to the person who is entitled to the payment by virtue of regulations under paragraph (a), or
 - (ii) where that entitlement has been wholly or partly assigned in accordance with regulations under this section, to the person or persons for the time being enjoying the entitlement or any part of it;”;
 - (d) in paragraph (c), for “such payments” substitute “RHI payments”;
 - (e) for paragraph (d) substitute—

“(d) authorise or require a person to provide specified information;”;
 - (f) in paragraph (e), omit “to the Secretary of State or the Authority”;

Status: This is the original version (as it was originally enacted).

- (g) in paragraph (h), omit “for the Secretary of State or the Authority”;
 - (h) omit paragraph (i);
 - (i) at the end insert—
 - “(j) authorise the Secretary of State to make payments to a person in respect of the exercise by the person of functions under regulations under this section;
 - (k) make provision about the resolution of disputes relating to the exercise of functions under regulations under this section, including provision about arbitration or appeals (which may, in particular, provide for the person conducting an arbitration or determining an appeal to order the payment of costs or compensation).”
- (4) In subsection (3), after the definition of “fossil fuel supplier” insert—
 ““other administration function” means a function relating to the administration of a scheme established under this section, other than a function conferred by regulations under subsection (2)(bb);”.
- (5) Section 105 of the Energy Act 2008 (Parliamentary control of subordinate legislation) is amended in accordance with subsections (6) to (8).
- (6) In subsection (2)—
- (a) in paragraph (a), omit sub-paragraph (vi);
 - (b) after paragraph (aa) insert—
 - “(ab) regulations which contain (whether alone or together with other provision) affirmative resolution provision made under section 100 (renewable heat incentives);”.
- (7) In subsection (3), after “(2)(a)” insert “, (ab)”
- (8) After subsection (3) insert—
- “(3A) Provision made under section 100 is affirmative resolution provision if—
 - (a) the provision is made under any of the powers which always attract the affirmative resolution procedure, or
 - (b) the provision—
 - (i) is not made under any of those powers, and
 - (ii) meets condition A, B, C or D.
 - (3B) The powers which always attract the affirmative resolution procedure are the powers conferred by—
 - (a) section 100(2)(c), (e), (f), (g), (h) and (k),
 - (b) section 100(5), and
 - (c) section 100(6).
 - (3C) Provision meets condition A if—
 - (a) it is made under the power conferred by section 100(2)(bb), and
 - (b) it requires a designated fossil fuel supplier to make a payment under an RHI scheme.
 - (3D) Provision meets condition B if—
 - (a) it confers an administration function on a person who is not the Secretary of State or the Authority, and

Status: This is the original version (as it was originally enacted).

- (b) the time when the provision comes into force will be the first time that an administration function under the RHI scheme concerned is exercisable by a person who is not the Secretary of State or the Authority.
- (3E) Provision meets condition C if—
 - (a) it is made under a power conferred by paragraph (ba) or (bb)(ii) of section 100(2),
 - (b) it is made in relation to an RHI scheme that was in existence immediately before the coming into force of this subsection, and
 - (c) it is the first provision to be made under that power in relation to that RHI scheme.
- (3F) Provision meets condition D if—
 - (a) it is made under a power conferred by paragraph (a), (b), (ba), (bb), (d) or (j) of section 100(2),
 - (b) it is made in relation to an RHI scheme that was not in existence immediately before the coming into force of this subsection, and
 - (c) it is the first provision to be made under that power in relation to that RHI scheme.
- (3G) In deciding whether provision meets condition B, the following matters must be ignored—
 - (a) for the purposes of subsection (3D)(a): any provision which confers a payment function on designated fossil fuel suppliers;
 - (b) for the purposes of subsection (3D)(b): any payment function under the RHI scheme concerned which (before the time when the provision comes into force) is, or has been, exercisable by designated fossil fuel suppliers.
- (3H) The fact that provision is to some extent made under a power conferred by section 100(1), (1A) or (1B) does not prevent that provision from being taken (for the purposes of subsections (3A) to (3F)) as being made under any other power conferred by section 100.
- (3I) In subsections (3B) to (3H) and this subsection—
 - “administration function” means a function relating to the administration of an RHI scheme;
 - “designated fossil fuel suppliers” has the same meaning as in section 100;
 - “payment function” means a function of making a payment under an RHI scheme (whether the function authorises or requires the making of the payment);
 - “RHI scheme” means a scheme under section 100 to facilitate and encourage renewable generation of heat.”
- (9) In section 105 of the Utilities Act 2000 (general restrictions on disclosure of information), in subsection (3)—
 - (a) in paragraph (a), omit “or section 100”;
 - (b) after paragraph (a) insert—
 - “(aa) it is made for the purpose of facilitating any functions of any person under section 100 of the Energy Act 2008;”.

*Reimbursement of persons who have met expenses***52 Reimbursement of persons who have met expenses of making electrical connections**

- (1) The Electricity Act 1989 is amended in accordance with this section.
- (2) In section 19 (power to recover expenditure)—
 - (a) omit subsections (2) and (3);
 - (b) after subsection (3) insert—
 - “(3A) Schedule 5B (reimbursement of persons who have met expenses) has effect.”;
 - (c) in subsection (4), after “this section” insert “and Schedule 5B”.
- (3) After Schedule 5A insert—

“SCHEDULE 5B

REIMBURSEMENT OF PERSONS WHO HAVE MET EXPENSES

Power to make regulations

- 1 (1) The Secretary of State may, by regulations, make provision entitling the relevant electricity distributor to exercise the reimbursement powers in cases where conditions A, B, C and D are met.
- (2) Condition A is met if any electric line or electrical plant is provided for the purpose of making a connection (the “first connection”)—
 - (a) between premises and a distribution system, or
 - (b) between two distribution systems.
- (3) Condition B is met if a payment in respect of first connection expenses is made by one or more of the following persons—
 - (a) a person requiring the first connection in pursuance of section 16(1);
 - (b) a person who otherwise causes the first connection to be made (including by means of contractual arrangements).
- (4) Condition C is met if any electric line or electric plant provided for the purpose of making the first connection is used for the purpose of making another connection (the “second connection”)—
 - (a) between premises and a distribution system, or
 - (b) between two distribution systems.
- (5) Condition D is met if the second connection is made within the prescribed period after the first connection was made.
- (6) “First connection expenses” are any expenses reasonably incurred by a person in providing any electric line or electric plant for the purpose of making the first connection.
- (7) It does not matter whether the first connection, or the second connection, is made by an electricity distributor or a person of another description.

The reimbursement powers

- 2 (1) The “reimbursement powers” are—
 - (a) the power to demand a reimbursement payment from—
 - (i) a person requiring the second connection in pursuance of section 16(1), or
 - (ii) a person who otherwise causes the second connection to be made (including by means of contractual arrangements); and
 - (b) the power to apply the reimbursement payment in making such payments as may be appropriate towards reimbursing any persons for any payments they were previously required to make in respect of first connection expenses (whether that requirement arose by virtue of paragraph (a) or otherwise).
- (2) A “reimbursement payment” is a payment, of such amount as may be reasonable in all the circumstances, in respect of first connection expenses.

Other provision about regulations under this Schedule

- 3 (1) The Secretary of State must consult the Authority before making regulations under this Schedule.
- (2) Regulations under this Schedule may make provision requiring relevant electricity distributors to exercise a reimbursement power (whether in all cases or in cases provided for in the regulations).
- (3) Regulations under this Schedule may make provision for the relevant electricity distributor to establish or estimate the amount of first connection expenses — or an amount of any aspect of those expenses — in cases where that distributor is not the person who made the first connection.
- (4) Regulations under sub-paragraph (3) may not require any person to supply the relevant electricity distributor with information about any expenses incurred.
- (5) Regulations under sub-paragraph (3) may provide for an estimate of an amount of first connection expenses to be calculated by a relevant electricity distributor by reference only to a combination of—
 - (a) expenses which that distributor would incur if that distributor were making the connection at the time of the estimate, and
 - (b) changes in prices since the time when the connection was actually made.

Interpretation

- 4 (1) In this Schedule—
 - “first connection” has the meaning given in paragraph 1;
 - “first connection expenses” has the meaning given in paragraph 1;

Status: This is the original version (as it was originally enacted).

“reimbursement payment” has the meaning given in paragraph 2;

“reimbursement powers” has the meaning given in paragraph 2;

“relevant electricity distributor”, in relation to the exercise of a reimbursement power, means—

- (a) in a case where the first connection was made between premises and a distribution system, the electricity distributor that (at the time of the exercise of the power) operates that distribution system;
- (b) in a case where the first connection was made between two distribution systems, the electricity distributor that (at the time of the exercise of the power) operates the distribution system into which the first connection has been, or is expected to be, incorporated.

(2) A reference in this Schedule to a payment in respect of first connection expenses includes a reference to such a payment made in pursuance of section 19(1).”

(4) In section 16 (duty to connect on request), in subsection (4), after “23” insert “and Schedule 5B”.

(5) In section 16A (procedure for requiring a connection), in subsection (5)(b)—

- (a) omit “or regulations under section 19(2)”;
- (b) after “19(2)” insert “or regulations under Schedule 5B”.

(6) In section 23 (determination of disputes)—

(a) after subsection (1) insert—

“(1ZA) This section also applies to any dispute arising under regulations under Schedule 5B between—

- (a) an electricity distributor, and
- (b) a person in respect of whom the electricity distributor exercises the reimbursement powers conferred by the regulations.”;

(b) after subsection (1C) insert—

“(1D) No dispute arising under regulations under Schedule 5B may be referred to the Authority after the end of the period of 12 months beginning with the time when the second connection (within the meaning of Schedule 5B) is made.”;

(c) after subsection (2) insert—

“(2A) Where a dispute arising under regulations under Schedule 5B falls to be determined under this section, the Authority may give directions as to the circumstances in which, and the terms on which, an electricity distributor is to make or (as the case may be) to maintain the second connection (within the meaning of Schedule 5B) pending the determination of the dispute.”;

(d) in subsection (4), after “(2)” insert “, (2A)”.

Consequential provision

53 Consequential provision

- (1) The Secretary of State may by regulations make consequential provision in connection with any provision made by or under this Part (other than section 40).
- (2) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).
- (3) In this section “enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978.

PART 7

PUBLIC WORKS LOAN COMMISSIONERS

54 Power to abolish Public Works Loan Commissioners

In the Public Bodies Act 2011, in Schedule 1 (power to abolish: bodies and offices), after “Plant Varieties and Seeds Tribunal.” insert—
“Public Works Loan Commissioners.”

PART 8

GENERAL PROVISIONS

55 Regulations and orders

- (1) Regulations and orders made by the Secretary of State, the Treasury or the Welsh Ministers under this Act are to be made by statutory instrument.
- (2) A statutory instrument which contains an order under section 1—
 - (a) appointing a strategic highways company for an area other than the whole of England, and
 - (b) which is the first exercise of the power in respect of such an area,may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3) A statutory instrument which contains an order under section 1—
 - (a) appointing a strategic highways company for an area other than the whole of England, and
 - (b) which is a subsequent exercise of the power in respect of such an area,is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing (whether alone or with other provisions)—
 - (a) regulations under section 18,
 - (b) regulations under section 38 or 42(11),
 - (c) regulations under section 45, 46, 47 or 49, or

Status: This is the original version (as it was originally enacted).

- (d) regulations under section 19(1)(a), 30 or 53 which amend, repeal or modify the application of an Act,
 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) Subsection (4) does not apply to a statutory instrument containing only regulations under section 38(5)(b).
- (6) A statutory instrument—
- (a) which contains regulations under this Act other than under section 16 or 57, and
 - (b) to which subsection (4) does not apply,
- is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A statutory instrument which contains regulations under section 16 is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) A power to make regulations under this Act may be used—
- (a) to make different provision for different purposes;
 - (b) in relation to all or only some of the purposes for which it may be used.
- (9) Regulations under this Act may include incidental, supplementary, consequential, transitional, transitory or saving provision.
- (10) Subsections (8) and (9) do not apply to regulations under section 57.

56 Extent

- (1) Part 1 (strategic highways companies) extends to England and Wales only, save that—
- (a) sections 16 and 18 to 20 extend to England and Wales, Scotland and Northern Ireland, and
 - (b) an amendment or repeal made by that Part, other than the amendment made by section 17(7), has the same extent as the provision to which it relates.
- (2) Part 2 (Cycling and Walking Investment Strategies) extends to England and Wales only.
- (3) In Part 3 (powers of British Transport Police Force)—
- (a) section 22(1) extends to England and Wales only, and
 - (b) section 22(2) extends to England and Wales and Scotland.
- (4) Part 4 (environmental control of animal and plant species) extends to England and Wales only.
- (5) In Part 5 (planning, land and buildings)—
- (a) an amendment or repeal has the same extent as the provision to which it relates, and
 - (b) sections 30(2) to (4), 32(11) and (12) and 33(2), Part 4 of Schedule 5 and section 34 so far as applying to that Part and section 37(6) extend to England and Wales only.
- (6) In Part 6 (energy)—
- (a) sections 38 and 39, sections 41 and 42, sections 51 to 53 and Schedules 6 and 7 extend to England and Wales and Scotland,

- (b) section 40 and section 49 extend to England and Wales, Scotland and Northern Ireland, and
 - (c) sections 43 to 48 and section 50 extend to England and Wales only.
- (7) Part 7 (Public Works Loan Commissioners) extends to England and Wales, Scotland and Northern Ireland.
- (8) This Part extends to England and Wales, Scotland and Northern Ireland.

57 Commencement

- (1) Part 1 (strategic highways companies) comes into force—
- (a) in so far as it confers power to make regulations, on the day on which this Act is passed, and
 - (b) for all other purposes, on such day as the Secretary of State appoints by regulations.
- (2) Part 2 (Cycling and Walking Investment Strategies) comes into force on such day as the Secretary of State appoints by regulations.
- (3) Part 3 (powers of British Transport Police Force) comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (4) Part 4 (environmental control of animal and plant species)—
- (a) so far as it relates to England, comes into force on such day as the Secretary of State appoints by regulations, and
 - (b) so far as it relates to Wales, comes into force on such day as the Welsh Ministers appoint by regulations.
- (5) In Part 5 (planning, land and buildings)—
- (a) sections 26, 27 and 37 come into force on such day as the Secretary of State appoints by regulations,
 - (b) section 28 comes into force—
 - (i) in so far as it confers power to make regulations, on the day on which this Act is passed, and
 - (ii) for all other purposes, on such day as the Secretary of State appoints by regulations,
 - (c) sections 29 and 33 come into force on the day on which this Act is passed,
 - (d) section 30 and Schedule 4 come into force—
 - (i) in so far as they confer power to make provision by regulations or by development order within the meaning of the Town and Country Planning Act 1990, on the day on which this Act is passed, and
 - (ii) for all other purposes, on such day as the Secretary of State appoints by regulations, and
 - (e) sections 31, 32, 34, 35 and 36 and Schedule 5 come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (6) In the case of section 34 and Schedule 5, subsection (5) has effect subject to Part 4 of that Schedule.
- (7) In Part 6 (energy)—
- (a) sections 38 and 39 and Schedule 6 come into force on 1 June 2016,

Status: This is the original version (as it was originally enacted).

- (b) section 40 and sections 43 to 49 come into force at the end of the period of two months beginning with the day on which this Act is passed,
 - (c) sections 41 and 42, section 50, section 52 and Schedule 7 come into force on such day as the Secretary of State appoints by regulations, and
 - (d) section 51 and section 53 come into force on the day on which this Act is passed.
- (8) Part 7 (Public Works Loan Commissioners) comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (9) This Part comes into force on the day on which this Act is passed.
- (10) Regulations under subsection (1)(b), (4), (5)(a), (b)(ii) or (d)(ii) or (7)(c) may appoint different days for different purposes or areas.
- (11) The Secretary of State may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act, other than Part 4 so far as it relates to Wales.
- (12) The Welsh Ministers may by regulations make transitional, transitory or saving provision in connection with the coming into force of Part 4 so far as it relates to Wales.

58 Short title

This Act may be cited as the Infrastructure Act 2015.