

Status: Point in time view as at 06/04/2018.

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SCHEDULES

SCHEDULE 1

Section 23

FINANCIAL PENALTY FOR BREACH OF BANNING ORDER

Notice of intent

- 1 Before imposing a financial penalty on a person under section 23 a local housing authority must give the person notice of its proposal to do so (a “notice of intent”).

Commencement Information

I1 Sch. 1 para. 1 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 2 (1) The notice of intent must be given before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the conduct to which the financial penalty relates.
- (2) But if the person is continuing to engage in the conduct on that day, and the conduct continues beyond the end of that day, the notice of intent may be given—
- (a) at any time when the conduct is continuing, or
 - (b) within the period of 6 months beginning with the last day on which the conduct occurs.

Commencement Information

I2 Sch. 1 para. 2 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 3 The notice of intent must set out—
- (a) the amount of the proposed financial penalty,
 - (b) the reasons for proposing to impose the financial penalty, and
 - (c) information about the right to make representations under paragraph 4.

Commencement Information

I3 Sch. 1 para. 3 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

Right to make representations

- 4 (1) A person who is given a notice of intent may make written representations to the local housing authority about the proposal to impose a financial penalty.
- (2) Any representations must be made within the period of 28 days beginning with the day after that on which the notice was given (“the period for representations”).

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Commencement Information

I4 Sch. 1 para. 4 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

Final notice

- 5 After the end of the period for representations the local housing authority must—
- (a) decide whether to impose a financial penalty on the person, and
 - (b) if it decides to impose a financial penalty, decide the amount of the penalty.

Commencement Information

I5 Sch. 1 para. 5 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 6 If the authority decides to impose a financial penalty on the person, it must give the person a notice (a “final notice”) imposing that penalty.

Commencement Information

I6 Sch. 1 para. 6 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 7 The final notice must require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given.

Commencement Information

I7 Sch. 1 para. 7 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 8 The final notice must set out—
- (a) the amount of the financial penalty,
 - (b) the reasons for imposing the penalty,
 - (c) information about how to pay the penalty,
 - (d) the period for payment of the penalty,
 - (e) information about rights of appeal, and
 - (f) the consequences of failure to comply with the notice.

Commencement Information

I8 Sch. 1 para. 8 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

Withdrawal or amendment of notice

- 9 (1) A local housing authority may at any time—
- (a) withdraw a notice of intent or final notice, or
 - (b) reduce the amount specified in a notice of intent or final notice.
- (2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the person to whom the notice was given.

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Commencement Information

I9 Sch. 1 para. 9 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

Appeals

- 10 (1) A person to whom a final notice is given may appeal to the First-tier Tribunal against—
- (a) the decision to impose the penalty, or
 - (b) the amount of the penalty.
- (2) An appeal under this paragraph must be brought within the period of 28 days beginning with the day after that on which the final notice was sent.
- (3) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.
- (4) An appeal under this paragraph—
- (a) is to be a re-hearing of the local housing authority's decision, but
 - (b) may be determined having regard to matters of which the authority was unaware.
- (5) On an appeal under this paragraph the First-tier Tribunal may confirm, vary or cancel the final notice.
- (6) The final notice may not be varied under sub-paragraph (5) so as to make it impose a financial penalty of more than the local housing authority could have imposed.

Commencement Information

I10 Sch. 1 para. 10 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

Recovery of financial penalty

- 11 (1) This paragraph applies if a person fails to pay the whole or any part of a financial penalty which, in accordance with this Schedule, the person is liable to pay.
- (2) The local housing authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court.
- (3) In proceedings before the county court for the recovery of a financial penalty or part of a financial penalty, a certificate which is—
- (a) signed by the chief finance officer of the local housing authority which imposed the penalty, and
 - (b) states that the amount due has not been received by a date specified in the certificate,
- is conclusive evidence of that fact.
- (4) A certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

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(5) In this paragraph “chief finance officer” has the same meaning as in section 5 of the Local Government and Housing Act 1989.

Commencement Information

I11 Sch. 1 para. 11 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

SCHEDULE 2

Section 25

BANNED PERSON MAY NOT HOLD HMO LICENCE ETC

1 The Housing Act 2004 is amended as follows.

Commencement Information

I12 Sch. 2 para. 1 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

2 In section 64 (grant or refusal of HMO licence), in subsection (3), after paragraph (a) insert—

“(aa) that no banning order under section 16 of the Housing and Planning Act 2016 is in force against a person who—

(i) owns an estate or interest in the house or part of it, and

(ii) is a lessor or licensor of the house or part;”.

Commencement Information

I13 Sch. 2 para. 2 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

3 In section 66 (HMO licence: tests for fitness etc), after subsection (3) insert—

“(3C) A person is not a fit and proper person for the purposes of section 64(3)(b) or (d) if a banning order under section 16 of the Housing and Planning Act 2016 is in force against the person.”

Commencement Information

I14 Sch. 2 para. 3 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

4 In section 68 (licences: general requirements and duration), in subsection (3)(b), after “section 70” insert “ or 70A ”.

Commencement Information

I15 Sch. 2 para. 4 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

5 For the heading of section 70 substitute “ Power to revoke licences ”.

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Commencement Information

I16 Sch. 2 para. 5 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

6 After section 70 insert—

“70A Duty to revoke licence in banning order cases

- (1) The local housing authority must revoke a licence if a banning order is made against the licence holder.
- (2) The local housing authority must revoke a licence if a banning order is made against a person who—
 - (a) owns an estate or interest in the house or part of it, and
 - (b) is a lessor or licensor of the house or part.
- (3) The notice served by the local housing authority under paragraph 24 of Schedule 5 must specify when the revocation takes effect.
- (4) The revocation must not take effect earlier than the end of the period of 7 days beginning with the day on which the notice is served.
- (5) In this section “banning order” means a banning order under section 16 of the Housing and Planning Act 2016.”

Commencement Information

I17 Sch. 2 para. 6 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

7 In section 88 (grant or refusal of Part 3 licence), in subsection (3), after paragraph (a) insert—

- “(aa) that no banning order under section 16 of the Housing and Planning Act 2016 is in force against a person who—
- (i) owns an estate or interest in the house or part of it, and
 - (ii) is a lessor or licensor of the house or part;”.

Commencement Information

I18 Sch. 2 para. 7 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

8 In section 89 (Part 3 licences: tests for fitness etc), after subsection (3) insert—

- “(3C) A person is not a fit and proper person for the purposes of section 88(3)(a) or (c) if a banning order under section 16 of the Housing and Planning Act 2016 is in force against the person.”

Commencement Information

I19 Sch. 2 para. 8 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

9 In section 91 (licences: general requirements and duration), in subsection (3)(b), after “section 93” insert “ or 93A ”.

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Commencement Information

I20 Sch. 2 para. 9 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

10 For the heading of section 93 substitute “ Power to revoke licences ”.

Commencement Information

I21 Sch. 2 para. 10 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

11 After section 93 insert—

“93A Duty to revoke licence in banning order cases

- (1) The local housing authority must revoke a licence if a banning order is made against the licence holder.
- (2) The local housing authority must revoke a licence if a banning order is made against a person who—
 - (a) owns an estate or interest in the house or part of it, and
 - (b) is a lessor or licensor of the house or part.
- (3) The notice served by the local housing authority under paragraph 24 of Schedule 5 must specify when the revocation takes effect.
- (4) The revocation must not take effect earlier than the end of the period of 7 days beginning with the day on which the notice is served.
- (5) In this section “banning order” means a banning order under section 16 of the Housing and Planning Act 2016.”

Commencement Information

I22 Sch. 2 para. 11 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

12 (1) Schedule 5 (licences under Parts 2 and 3: procedure and appeals) is amended as follows.

(2) After paragraph 11 insert—

“11A The requirements of paragraph 5 do not apply where the refusal to grant the licence was because of section 66(3C) or 89(3C) (person with banning order not a fit and proper person).”

(3) After paragraph 25 insert—

“25A The requirements of paragraph 22 do not apply if the revocation is required by section 70A or 93A (duty to revoke licence in banning order cases).”

(4) After paragraph 32 insert—

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“No rights of appeal where banning order involved

- 32A(1) The right of appeal under paragraph 31(1)(a) does not apply where a licence is refused because of section 66(3A) or 89(3A) (person with banning order not a fit and proper person).
- (2) The right of appeal under paragraph 32(1)(a) does not apply in relation to the revocation of a licence required by section 70A or 93A (duty to revoke licence in banning order cases).”

Commencement Information

I23 Sch. 2 para. 12 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

SCHEDULE 3

Section 26

MANAGEMENT ORDERS FOLLOWING BANNING ORDER

- 1 The Housing Act 2004 is amended as follows.

Commencement Information

I24 Sch. 3 para. 1 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 2 (1) Section 101 (interim and final management orders) is amended as follows.
- (2) In subsection (1), at the end insert “ or property let in breach of a banning order under section 16 of the Housing and Planning Act 2016 ”.
- (3) In subsection (3)(b), omit “the grant of a licence under Part 2 or 3 in respect of the house or”.
- (4) In subsection (5), after “section 102(7)” insert “ or (7A) ”.
- (5) After subsection (6) insert—
- “(6A) In this Chapter any reference to “the house”, in relation to an interim or final management order that relates to property let in breach of a banning order under section 16 of the Housing and Planning Act 2016, means the property let in breach of that order.
- (6B) In this Chapter any reference to property that is let in breach of a banning order under section 16 of the Housing and Planning Act 2016 includes property in respect of which a breach is (or would be) caused by a licence to occupy.
- (6C) When determining for the purposes of this Chapter whether property is let in breach of a banning order disregard any exception included in the banning order in reliance on section 17 of the Housing and Planning Act 2016.”

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Commencement Information

I25 Sch. 3 para. 2 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 3 (1) Section 102 (making of interim management orders) is amended as follows.
- (2) In subsection (1)(b), for “or (7)” substitute “, (7) or (7A) ”.
- (3) After subsection (7) insert—
- “(7A) The authority may make an interim management order in respect of any property let in breach of a banning order under section 16 of the Housing and Planning Act 2016.”
- (4) In subsection (9), after “the making of an interim management order” insert “ under subsection (2), (3), (4) or (7) ”.

Commencement Information

I26 Sch. 3 para. 3 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 4 (1) Section 105 (operation of interim management orders) is amended as follows.
- (2) After subsection (7) insert—
- “(7A) An order under section 102(7A) ceases to have effect (if it has not already ceased to have effect) when the ban on letting housing in England ceases to have effect.
- (7B) In subsection (7A) “the ban on letting housing in England” means the ban on letting contained in the banning order mentioned in section 102(7A).”
- (3) In subsection (8), for “and” substitute “ to ”.
- (4) After subsection (9) insert—
- “(9A) If—
- (a) the IMO was made under section 102(7A), and
- (b) the date on which the FMO or another interim management order comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the IMO would cease to have effect apart from this subsection,
- the IMO continues in force until that later date.”

Commencement Information

I27 Sch. 3 para. 4 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 5 (1) Section 110 (financial arrangements while order is in force) is amended as follows.
- (2) In subsection (4), at the beginning insert “ If the interim management order is not made under section 102(7A), ”.
- (3) After subsection (5) insert—

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“(5A) The Secretary of State may by regulations make provision about how local authorities are to deal with any surplus in a case where the interim management order was made under section 102(7A).

(5B) In subsection (5A) “surplus” means any amount of rent or other payments collected or recovered as mentioned in subsection (3) that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in that subsection.”

Commencement Information

I28 Sch. 3 para. 5(1)(2) in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

I29 Sch. 3 para. 5(3) in force at 3.11.2017 by S.I. 2017/1052, reg. 2(d)

6 In section 112 (revocation of interim management orders), after subsection (2) insert—

“(2A) An interim management order may not be revoked under this section if—

- (a) the immediate landlord is subject to a banning order under section 16 of the Housing and Planning Act 2016,
- (b) there is in force an agreement which, under section 108, has effect as a lease or licence granted by the authority, and
- (c) revoking the interim management order would cause the immediate landlord to breach the banning order because of the effect of section 130(2)(b).”

Commencement Information

I30 Sch. 3 para. 6 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

7 (1) Section 113 (making of final management orders) is amended as follows.

(2) In subsection (1), for “section 102” substitute “ any provision of section 102 other than subsection (7A) of that section ”.

(3) After subsection (3) insert—

“(3A) A local housing authority who have made an interim management order under section 102(7A) may make a final management order so as to replace the interim management order as from its expiry date if the authority consider that making the final management order is necessary for the purpose of protecting, on a long-term basis, the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.”

(4) In subsection (4), after “under” insert “ subsection (2), (3), (5) or (6) of ”.

(5) After subsection (6) insert—

“(6A) A local housing authority who have made a final management order in respect of a house under subsection (3A) or this subsection (“the existing order”) may make a new final management order so as to replace the existing order as from its expiry date if the authority consider that making the new order is necessary for the purpose of protecting, on a long-term basis,

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the health, safety or welfare of persons occupying the house, or persons occupying or having an estate or interest in any premises in the vicinity.”

Commencement Information

I31 Sch. 3 para. 7 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 8 (1) Section 114 (operation of final management orders) is amended as follows.
- (2) After subsection (4) insert—
- “(4A) An order under section 113(3A) or (6A) ceases to have effect (if it has not already ceased to have effect) when the relevant ban on letting housing in England ceases to have effect.
- (4B) In subsection (4A) “the relevant ban on letting housing in England” means the ban on letting contained in the banning order mentioned in section 102(7A).”
- (3) In subsection (5), for “and” substitute “ to ”.
- (4) After subsection (6) insert—
- “(6A) If—
- (a) the existing order was made under section 113(3A) or (6A), and
- (b) the date on which the new order comes into force in relation to the house (or part of it) following the disposal of the appeal is later than the date on which the existing order would cease to have effect apart from this subsection,
- the existing order continues in force until that later date.”

Commencement Information

I32 Sch. 3 para. 8 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

- 9 In section 119 (management schemes and accounts), after subsection (4) insert—
- “(4A) Subsection (4)(f) and (g) does not apply in a case where the final management order was made under section 113(3A) or (6A).
- (4B) The Secretary of State may by regulations make provision about how local authorities are to deal with any surplus in a case where the final management order was made under section 113(3A) or (6A).
- (4C) In subsection (4B) “surplus” means any amount of rent or other payments that the authority have collected or recovered, by virtue of this Chapter, that remains after deductions to meet relevant expenditure and any amounts of compensation payable as mentioned in subsection (2)(d).”

Commencement Information

I33 Sch. 3 para. 9 in force at 3.11.2017 by S.I. 2017/1052, reg. 2(e)

- 10 In section 122 (revocation of final management orders), after subsection (2) insert—

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“(2A) A final management order may not be revoked under this section at a time when—

- (a) the immediate landlord is subject to a banning order under section 16 of the Housing and Planning Act 2016,
- (b) there is in force an agreement which, under section 117, has effect as a lease or licence granted by the authority, and
- (c) revoking the final management order would cause the immediate landlord to breach the banning order because of the effect of section 130(2)(b).”

Commencement Information

I34 Sch. 3 para. 10 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

11 In section 129 (termination of management orders: financial arrangements), in subsection (2), after “order” insert “ that is not made under section 102(7A) ”.

Commencement Information

I35 Sch. 3 para. 11 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

12 (1) Schedule 6 (management orders: procedure and appeals) is amended as follows.

(2) In paragraph 7(4)(c), for “section 105(4) and (5) or 114(3) and (4)” substitute “ section 105(4), (5) or (7A) or 114(3), (4) or (4A) ”.

(3) In paragraph 26, after sub-paragraph (4) insert—

“(4A) An interim management order may not be revoked under this paragraph if—

- (a) the immediate landlord is subject to a banning order under section 16 of the Housing and Planning Act 2016,
- (b) there is in force an agreement which, under section 108, has effect as a lease or licence granted by the authority, and
- (c) revoking the interim management order specified in the order would cause the immediate landlord to breach the banning order because of the effect of section 130(2)(b).

(4B) In a case where sub-paragraph (4A) would otherwise prevent the tribunal from revoking the order with effect from a particular date, the tribunal may require the local housing authority to exercise any power it has to bring an agreement mentioned in that sub-paragraph to an end.”

(4) In paragraph 30, after sub-paragraph (4) insert—

“(5) In a case where subsection (2A) of section 112 or 122 would otherwise prevent the tribunal from revoking the order with effect from a particular date, the tribunal may require the local housing authority to exercise any power it has to bring an agreement mentioned in that subsection to an end.”

Commencement Information

I36 Sch. 3 para. 12 in force at 6.4.2018 by S.I. 2018/393, reg. 2(b)

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SCHEDULE 4

Section 92

REDUCING SOCIAL HOUSING REGULATION

PART 1

REMOVAL OF DISPOSAL CONSENT REQUIREMENTS

Housing Act 1985 (c. 68)

- 1 (1) Section 171D of the Housing Act 1985 (consent to certain disposals of housing obtained subject to the preserved right to buy) is amended as follows.
- (2) After subsection (2) insert—
- “(2ZA) Subsection (2) does not apply to a disposal of land by a private registered provider of social housing.”
- (3) In subsection (2A)—
- (a) omit paragraph (a);
 - (b) in paragraph (b), for “any other” substitute “ a ”.

Commencement Information

I37 [Sch. 4 para. 1](#) in force at 6.4.2017 by [S.I. 2017/75](#), [reg. 4](#)

Housing Act 1988 (c. 50)

- 2 The Housing Act 1988 is amended as follows.

Commencement Information

I38 [Sch. 4 para. 2](#) in force at 6.4.2017 by [S.I. 2017/75](#), [reg. 4](#)

- 3 (1) Section 81 (consent to certain disposals of housing obtained from housing action trusts) is amended as follows.
- (2) In subsection (1), for “section 79(2)(za) or (a)” substitute “ section 79(2)(a) ”.
- (3) In subsection (3A)—
- (a) omit paragraph (a);
 - (b) in paragraph (b), for “any other” substitute “ a ”.
- (4) In subsection (7), omit “section 148 or 172 of the Housing and Regeneration Act 2008,”.

Commencement Information

I39 [Sch. 4 para. 3](#) in force at 6.4.2017 by [S.I. 2017/75](#), [reg. 4](#)

- 4 (1) Section 133 (consent to certain disposals of housing obtained from local authorities) is amended as follows.

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- (2) In subsection (1ZA)—
- (a) omit paragraph (a);
 - (b) in paragraph (b), for “any other” substitute “ a ”.
- (3) For subsection (1B) substitute—
- “(1B) This section does not apply if the original disposal was made to a private registered provider of social housing.”
- (4) In subsection (7), omit “section 148 or 172 of the Housing and Regeneration Act 2008,”.

Commencement Information

I40 Sch. 4 para. 4 in force at 6.4.2017 by S.I. 2017/75, reg. 4

Local Government and Housing Act 1989 (c. 42)

- 5 (1) Section 173 of the Local Government and Housing Act 1989 (consent to certain disposals of housing obtained from new town corporations) is amended as follows.
- (2) After subsection (1) insert—
- “(1ZA) Subsection (1) does not apply to a disposal of land by a private registered provider of social housing.”
- (3) In subsection (1A)—
- (a) omit paragraph (a);
 - (b) in paragraph (b), for “any other” substitute “ a ”.
- (4) In subsection (7), omit “section 148 or 172 of the Housing and Regeneration Act 2008,”.

Commencement Information

I41 Sch. 4 para. 5 in force at 6.4.2017 by S.I. 2017/75, reg. 4

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

- 6 In Schedule 10 to the Leasehold Reform, Housing and Urban Development Act 1993 (acquisition of Interests from Local Authorities etc), in paragraph 1(2)(b), for “sections 148 and 172” substitute “ section 148 ”.

Commencement Information

I42 Sch. 4 para. 6 in force at 6.4.2017 by S.I. 2017/75, reg. 4

Housing and Regeneration Act 2008

- 7 The Housing and Regeneration Act 2008 is amended as follows.

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Commencement Information

I43 Sch. 4 para. 7 in force at 6.4.2017 by S.I. 2017/75, reg. 4

8 In section 60 (structural overview), in subsection (4), in the final column of the entry relating to Chapter 5 of Part 2 of the Act—

(a) for paragraph (b) (Regulator's consent) substitute—

“(b) Notification of regulator”;

(b) omit paragraphs (c), (d) and (g).

Commencement Information

I44 Sch. 4 para. 8 in force at 6.4.2017 by S.I. 2017/75, reg. 4

9 After section 74 insert—

“74A Leaving the social housing stock: transfer by private providers

(1) A dwelling ceases to be social housing if a private registered provider of social housing owns the freehold or a leasehold interest and transfers it to a person who is not a registered provider of social housing.

(2) Subsection (1) does not apply if and for so long as the private registered provider has a right to have the interest transferred back to it.

(3) Subsection (1) does not apply where low cost home ownership accommodation is transferred to—

(a) the “buyer” under equity percentage arrangements (see section 70(5)), or

(b) the trustees under a shared ownership trust (see section 70(6)).

(4) See section 73 for circumstances when low cost home ownership accommodation ceases to be social housing.”

Commencement Information

I45 Sch. 4 para. 9 in force at 6.4.2017 by S.I. 2017/75, reg. 4

10 (1) Section 75 (leaving the social housing stock) is amended as follows.

(2) Omit subsection (1).

(3) In subsections (2) and (3), for “Subsections 1 and (1A) do” substitute “ Subsection (1A) does ”.

(4) In the heading, after “stock:” insert “ local authority ”.

Commencement Information

I46 Sch. 4 para. 10 in force at 6.4.2017 by S.I. 2017/75, reg. 4

Status: Point in time view as at 06/04/2018.

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- 11 In section 119 (de-registration: voluntary), in subsection (5), omit paragraph (a) and the “and” at the end of that paragraph.

Commencement Information

I47 Sch. 4 para. 11 in force at 6.4.2017 by S.I. 2017/75, reg. 4

- 12 In section 149 (moratorium: exempted disposals)—
- (a) omit subsection (6);
 - (b) in subsection (7), for “6” substitute “ 5 ”;
 - (c) in subsection (8), for “7” substitute “ 6 ”.

Commencement Information

I48 Sch. 4 para. 12 in force at 6.4.2017 by S.I. 2017/75, reg. 4

- 13 In section 171 (power to dispose), in subsection (3), omit “(which include provisions requiring the regulator’s consent for certain disposals)”.

Commencement Information

I49 Sch. 4 para. 13 in force at 6.4.2017 by S.I. 2017/75, reg. 4

- 14 For the italic heading above section 172 substitute— “ Notification of regulator ”.

Commencement Information

I50 Sch. 4 para. 14 in force at 6.4.2017 by S.I. 2017/75, reg. 4

- 15 Omit sections 172 to 175 (disposal consents).

Commencement Information

I51 Sch. 4 para. 15 in force at 6.4.2017 by S.I. 2017/75, reg. 4 (with reg. 6)

- 16 For section 176 substitute—

“176 Notification of disposal

- (1) If a private registered provider disposes of a dwelling that is social housing it must notify the regulator.
- (2) If a non-profit registered provider disposes of land other than a dwelling it must notify the regulator.
- (3) Subsection (1) continues to apply to any land of a private registered provider even if it has ceased to be a dwelling.
- (4) The regulator may give directions about—
 - (a) the period within which notifications under subsection (1) or (2) must be given;

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- (b) the content of those notifications.
- (5) The regulator may give directions dispensing with the notification requirement in subsection (1) or (2).
- (6) A direction under this section may be—
 - (a) general, or
 - (b) specific (whether as to particular registered providers, as to particular property, as to particular forms of disposal or in any other way).
- (7) A direction dispensing with a notification requirement—
 - (a) may be expressed by reference to a policy for disposals submitted by a registered provider;
 - (b) may include conditions.
- (8) The regulator must make arrangements for bringing a direction under this section to the attention of every registered provider to which it applies.”

Commencement Information

I52 Sch. 4 para. 16 in force at 6.4.2017 by S.I. 2017/75, reg. 4

- 17 Omit section 179 and the italic heading before it (application of provisions of the Housing Act 1996 that have a connection with disposal consents.)

Commencement Information

I53 Sch. 4 para. 17 in force at 6.4.2017 by S.I. 2017/75, reg. 4

- 18 In section 186 (former registered providers), for “to 175” substitute “ and 176 (apart from section 176(2)) ”.

Commencement Information

I54 Sch. 4 para. 18 in force at 6.4.2017 by S.I. 2017/75, reg. 4

- 19 Omit section 187 (change of use, etc).

Commencement Information

I55 Sch. 4 para. 19 in force at 6.4.2017 by S.I. 2017/75, reg. 4

- 20 Omit section 190 (consent to disposals under other legislation).

Commencement Information

I56 Sch. 4 para. 20 in force at 6.4.2017 by S.I. 2017/75, reg. 4

- 21 In section 278A (power to nominate for consultation purposes), for paragraph (b) substitute—

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“(b) section 176;”.

Commencement Information

I57 Sch. 4 para. 21 in force at 6.4.2017 by S.I. 2017/75, reg. 4

PART 2

RESTRUCTURING AND DISSOLUTION: REMOVAL OF CONSENT REQUIREMENTS ETC

22 The Housing and Regeneration Act 2008 is amended as follows.

Commencement Information

I58 Sch. 4 para. 22 in force at 6.4.2017 by S.I. 2017/75, reg. 4

23 In section 115 (profit-making and non-profit organisations), in subsection (9), after “non-profit organisation” insert “ or vice versa ”.

Commencement Information

I59 Sch. 4 para. 23 in force at 6.4.2017 by S.I. 2017/75, reg. 4

24 For section 160 substitute—

“160 Company: arrangements and reconstructions

- (1) This section applies to a non-profit registered provider which is a registered company.
- (2) The registered provider must notify the regulator of any voluntary arrangement under Part 1 of the Insolvency Act 1986.
- (3) The registered provider must notify the regulator of any order under section 899 of the Companies Act 2006 (court sanction for compromise or arrangement).
- (4) An order under section 899 of Companies Act 2006 does not take effect until the registered provider has confirmed to the registrar of companies that the regulator has been notified.
- (5) The registered provider must notify the regulator of any order under section 900 of the Companies Act 2006 (powers of court to facilitate reconstruction or amalgamation).
- (6) The requirement in section 900(6) of the Companies Act 2006 (sending copy of order to registrar) is satisfied only if the copy is accompanied by confirmation that the regulator has been notified.”

Status: Point in time view as at 06/04/2018.

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Commencement Information

I60 Sch. 4 para. 24 in force at 6.4.2017 by S.I. 2017/75, reg. 4

25 For section 161 substitute—

“161 Company: conversion into registered society

- (1) This section applies to a non-profit registered provider which is a registered company.
- (2) The registered provider must notify the regulator of any resolution under section 115 of the Co-operative and Community Benefit Societies Act 2014 for converting the registered provider into a registered society.
- (3) The registrar of companies may register a resolution under that section only if the registered provider has confirmed to the registrar that the regulator has been notified.
- (4) The regulator must decide whether the new body is eligible for registration under section 112.
- (5) If the new body is eligible for registration, the regulator must register it and designate it as a non-profit organisation.
- (6) If the new body is not eligible for registration, the regulator must notify it of that fact.
- (7) Pending registration, or notification that it is not eligible for registration, the new body is to be treated as if it were registered and designated as a non-profit organisation.”

Commencement Information

I61 Sch. 4 para. 25 in force at 6.4.2017 by S.I. 2017/75, reg. 4

26 For section 163 substitute—

“163 Registered society: restructuring

- (1) This section applies to a non-profit registered provider which is a registered society.
- (2) The registered provider must notify the regulator of any resolution passed by the society for the purposes of the restructuring provisions listed in subsection (4).
- (3) The Financial Conduct Authority may register the resolution only if the registered provider has confirmed to the Financial Conduct Authority that the regulator has been notified.
- (4) The following provisions of the Co-operative and Community Benefit Societies Act 2014 are the restructuring provisions—
 - (a) section 109 (amalgamation of societies);

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- (b) section 110 (transfer of engagements between societies);
 - (c) section 112 (conversion of society into a company etc).
- (5) The regulator must decide whether the body created or to whom engagements are transferred (“the new body”) is eligible for registration under section 112.
- (6) If the new body is eligible for registration, the regulator must register it and designate it as a non-profit organisation.
- (7) If the new body is not eligible for registration, the regulator must notify it of that fact.
- (8) Pending registration, or notification that it is not eligible for registration, the new body is to be treated as if it were registered and designated as a non-profit organisation.”

Commencement Information

I62 Sch. 4 para. 26 in force at 6.4.2017 by S.I. 2017/75, reg. 4

27 In section 165 (registered society: dissolution), for subsection (2) substitute—

“(2) The registered provider must notify the regulator.

(3) The Financial Conduct Authority may register the instrument under section 121 of that Act, or cause notice of the dissolution to be advertised under section 122 of that Act, only if the registered provider has confirmed to the Financial Conduct Authority that the regulator has been notified.”

Commencement Information

I63 Sch. 4 para. 27 in force at 6.4.2017 by S.I. 2017/75, reg. 4

28 Omit section 166 (winding up petition by regulator).

Commencement Information

I64 Sch. 4 para. 28 in force at 6.4.2017 by S.I. 2017/75, reg. 4

29 After section 169 insert—

“Notification of constitutional changes

169A Registered societies: change of rules

A non-profit registered provider that is a registered society must notify the regulator of any change to the society's rules.

169B Charity: change of objects

The trustees of a registered charity that is a non-profit registered provider must notify the regulator of any amendment to the charity's objects.

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169C Companies: change of articles etc

A non-profit registered provider that is a registered company must notify the regulator of—

- (a) any amendment of the company's articles of association,
- (b) any change to its name or registered office.”

Directions about notifications

169D Directions about notifications

- (1) The regulator may give directions about—
 - (a) the period within which notifications under sections 160 to 165 or 169A to 169C must be given by private registered providers;
 - (b) the content of those notifications.
- (2) The regulator may give directions dispensing with notification requirements imposed by sections 160 to 165 or 169A to 169C.
- (3) A direction under this section may be—
 - (a) general, or
 - (b) specific (whether as to particular registered providers, particular kinds of notification requirement or in any other way).
- (4) A direction dispensing with a notification requirement may include conditions.
- (5) The regulator must make arrangements for bringing a direction under this section to the attention of every registered provider to which it applies.”

Commencement Information

I65 Sch. 4 para. 29 in force at 6.4.2017 by S.I. 2017/75, reg. 4

30 In section 192 (overview), omit paragraph (c).

Commencement Information

I66 Sch. 4 para. 30 in force at 6.4.2017 by S.I. 2017/75, reg. 4

31 Omit sections 211 to 214 and the italic heading before section 211 (constitutional changes to non-profit providers).

Commencement Information

I67 Sch. 4 para. 31 in force at 6.4.2017 by S.I. 2017/75, reg. 4

Status: Point in time view as at 06/04/2018.

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PART 3

ABOLITION OF DISPOSAL PROCEEDS FUND

32 The Housing and Regeneration Act 2008 is amended as follows.

Commencement Information

I68 Sch. 4 para. 32 in force at 6.4.2017 by S.I. 2017/75, reg. 4

33 Omit—
(a) sections 177 and 178;
(b) the italic heading before section 177.

Commencement Information

I69 Sch. 4 para. 33 in force at 6.4.2017 by S.I. 2017/75, reg. 4 (with reg. 7)

34 (1) Section 181 (meaning of “publicly funded” for purposes of provisions about right to acquire) is amended as follows.
(2) After subsection (2) insert—
 “(2A) Condition 2 is that—
 (a) the dwelling was provided wholly or partly by a person using an amount for purposes for which the amount was required to be used by an HCA direction under section 32(4), and
 (b) before giving the direction the HCA notified the person that any dwelling so provided would be regarded as publicly funded.”
(3) In subsection (3), for “2” substitute “ 3 ”.
(4) After subsection (3) insert—
 “(3A) In relation to a private registered provider, the reference in subsection (3) to its disposal proceeds fund is to its disposal proceeds fund before the abolition of that fund by Part 3 of Schedule 4 to the Housing and Planning Act 2016.”
(5) In subsections (4) and (5), for “3” substitute “ 4 ”.
(6) In subsection (6), for “4” substitute “ 5 ”.

Commencement Information

I70 Sch. 4 para. 34 in force at 6.4.2017 by S.I. 2017/75, reg. 4

35 Regulations under section 213 in connection with the coming into force of paragraph 33 may, in particular, include provision to preserve the effect of sections 177 and 178 of the Housing and Regeneration Act 2008 for a period in relation to sums in a private registered provider's disposal proceeds fund immediately before that paragraph comes into force (including later interest added under section 177(7) of that Act).

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Commencement Information

I71 Sch. 4 para. 35 in force at 6.4.2017 by S.I. 2017/75, reg. 4

PART 4

ENFORCEMENT POWERS

36 The Housing and Regeneration Act 2008 is amended as follows.

Commencement Information

I72 Sch. 4 para. 36 in force at 6.4.2017 by S.I. 2017/75, reg. 4

37 In section 269 (appointment of new officers of non-profit registered providers) in subsection (1)(c), for “proper management of the body's affairs” substitute “ to ensure that the registered provider's affairs are managed in accordance with legal requirements (imposed by or under an Act or otherwise) ”.

Commencement Information

I73 Sch. 4 para. 37 in force at 6.4.2017 by S.I. 2017/75, reg. 4

38 In section 275 (interpretation), for the definition of “mismanagement” substitute—
““mismanagement”, in relation to the affairs of a registered provider, means managed in breach of any legal requirements (imposed by or under an Act or otherwise);”.

Commencement Information

I74 Sch. 4 para. 38 in force at 6.4.2017 by S.I. 2017/75, reg. 4

SCHEDULE 5

Section 102

CONDUCT OF HOUSING ADMINISTRATION: COMPANIES

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VALID FROM 05/07/2018

SCHEDULE 6

Section 115

AMENDMENTS TO HOUSING MORATORIUM AND CONSEQUENTIAL AMENDMENTS

1 The Housing and Regeneration Act 2008 is amended as follows.

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- 2 Omit section 144 (insolvency: preparatory steps notice).
- 3 For section 145 substitute—
- “145 Moratorium**
- A moratorium on the disposal of land by a private registered provider begins if a notice is given to the regulator under any of the following provisions of the Housing and Planning Act 2016—
- (a) section 104(2)(a) (notice of winding up petition);
 - (b) section 105(4)(a) (notice of application for permission to pass a resolution for voluntary winding up);
 - (c) section 106(3)(a) (notice of ordinary administration application);
 - (d) section 107(4)(a) (notice of appointment of ordinary administrator);
 - (e) section 108(2)(a) (notice of intention to enforce security).”
- 4 (1) Section 146 (duration of moratorium) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) The moratorium begins when the notice mentioned in section 145 is given.
- (2) The moratorium ends when one of the following occurs—
- (a) the expiry of the relevant period,
 - (b) the making of a housing administration order under Chapter 5 of Part 4 of the Housing and Planning Act 2016 in relation to the registered provider, or
 - (c) the cancellation of the moratorium (see subsection (5)).
- (2A) The “relevant period” is—
- (a) the period of 28 days beginning with the day on which the notice mentioned in section 145 is given, plus
 - (b) any period by which that period is extended under subsection (3).”
- (3) Omit subsection (6).
- (4) For subsection (9) substitute—
- “(9) If a notice mentioned in section 145 is given during a moratorium, that does not—
- (a) start a new moratorium, or
 - (b) alter the existing moratorium's duration.”
- 5 (1) Section 147 (further moratorium) is amended as follows.
- (2) In subsection (1)(b), for “step specified in section 145 is taken” substitute “ notice mentioned in section 145 is given ”.
- (3) In subsection (2), for “step” substitute “ notice ”.
- 6 In section 154 (proposals: effect), in subsection (2), after paragraph (a) insert—
- “(aa) in the case of a charitable incorporated organisation, its charity trustees (as defined by section 177 of the Charities Act 2011),”.
- 7 Omit section 162 (consent to company winding up).

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8	Omit section 164 (consent to registered society winding up).
9	In section 275 (general interpretation), omit the definition of “working day”.
10	In section 276 (index of defined terms), omit the entry relating to “working day”.

PROSPECTIVE

SCHEDULE 7

Section 118

SECURE TENANCIES ETC: PHASING OUT OF TENANCIES FOR LIFE

Law of Property Act 1925 (c. 20)

- 1 (1) Section 52 of the Law of Property Act 1925 (conveyances to be by deed, unless excepted by subsection (2) of that section) is amended as follows.
- (2) In subsection (2), after paragraph (db) insert—
- “(dc) secure tenancies of dwellings in England granted on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force, other than old-style secure tenancies;”;
- “(dd) introductory tenancies of dwellings in England granted on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force;”.
- (3) In subsection (3)—
- (a) in the definition of “flexible tenancy”, for “107A” substitute “ 115B ”;
- (b) at the appropriate places insert—
- ““introductory tenancy” has the same meaning as in Chapter 1 of Part 5 of the Housing Act 1996;”;
- ““secure tenancy” has the meaning given by section 79 of the Housing Act 1985 and “old-style secure tenancy” has the meaning given by section 115C of that Act;”.

Housing Act 1985 (c. 68)

- 2 The Housing Act 1985 is amended as follows.
- 3 For the italic heading before section 79 substitute— “ Secure tenancies ”.
- 4 After section 81 insert—

“Grant of new secure tenancies in England

81A New English secure tenancies to be between 2 and 10 years in general

- (1) A person may grant a secure tenancy of a dwelling-house in England only if it is a tenancy for a fixed term that is—
- (a) at least 2 years, and

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- (b) no longer than the permitted maximum length.
- (2) The permitted maximum length is 10 years, unless subsection (3) applies.
- (3) If the person granting the tenancy has been notified in writing that a child aged under 9 will live in the dwelling-house, the permitted maximum length is the period—
 - (a) beginning with the day on which the tenancy is granted, and
 - (b) ending with the day on which the child will reach the age of 19.
- (4) If a person purports to grant a secure tenancy in breach of subsection (1), it takes effect as a tenancy for a fixed term of 5 years.
- (5) In deciding what length of tenancy to grant in a case to which this section applies a person must have regard to any guidance given by the Secretary of State.
- (6) This section does not apply to the grant of an old-style secure tenancy (as to which, see section 81B).

81B Cases where old-style English secure tenancies may be granted

- (1) A person may grant an old-style secure tenancy of a dwelling-house in England only—
 - (a) in circumstances specified in regulations made by the Secretary of State,
 - (b) in accordance with subsection (2), or
 - (c) if required to do so by section 158(9B) of the Localism Act 2011 (which relates to transfer requests made before section 121 of the Housing and Planning Act 2016 comes into force).
- (2) A local housing authority that grants a secure tenancy of a dwelling-house in England must grant an old-style secure tenancy if—
 - (a) the tenancy is offered as a replacement for an old-style secure tenancy of some other dwelling-house, and
 - (b) the tenant has not made an application to move.
- (3) Other provisions of this Part set out the consequences of a tenancy being an old-style secure tenancy.
- (4) Regulations under subsection (1) may include transitional or saving provision.
- (5) Regulations under subsection (1) are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

81C Duty to offer new secure tenancy in limited circumstances

- (1) This section applies where a change in circumstances means that a tenancy that is not a secure tenancy would become a secure tenancy but for the exception in paragraph 1ZA of Schedule 1.

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- (2) The landlord must, within the period of 28 days, make the tenant a written offer of a secure tenancy in return for the tenant surrendering the original tenancy.
- (3) If the tenant accepts in writing within the period of 28 days beginning with the day on which the tenant receives the offer, the landlord must grant the secure tenancy on the tenant surrendering the original tenancy.

81D Review of decisions about length of secure tenancies in England

- (1) A person who is offered a secure tenancy of a dwelling-house in England (under section 81C or otherwise) may request a review under this section, unless the tenancy on offer is an old-style secure tenancy.
- (2) The sole purpose of a review under this section is to consider whether the length of the tenancy is in accordance with any policy that the prospective landlord has about the length of secure tenancies it grants.
- (3) The request must be made before the end of—
 - (a) the period of 21 days beginning with the day on which the person making the request first receives the offer, or
 - (b) such longer period as the prospective landlord may allow in writing.
- (4) On receiving the request the prospective landlord must carry out the review.
- (5) On completing the review the prospective landlord must —
 - (a) notify the tenant in writing of the outcome,
 - (b) revise its offer or confirm its original decision about the length of the tenancy, and
 - (c) if it decides to confirm its original decision, give reasons.
- (6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section.
- (7) The regulations may, in particular—
 - (a) require the review to be carried out by a person of appropriate seniority who was not involved in the original decision;
 - (b) make provision as to the circumstances in which the person who requested the review is entitled to an oral hearing, and whether and by whom that person may be represented.
- (8) Regulations under this section may include transitional or saving provision.
- (9) Regulations under this section are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.”

5 In section 82 (security of tenure), in subsection (3), for the words from “section 86” to the end substitute “ section 86 or 86D shall apply ”.

6 After section 82 insert— “ Orders for possession and expiry of term etc ”.

7 (1) Section 82A (demoted tenancy) is amended as follows.

(2) After subsection (4) insert—

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- “(4A) The court may not make a demotion order in relation to a secure tenancy of a dwelling-house in England if—
- (a) the landlord is a local housing authority or housing action trust, and
 - (b) the term has less than 1 year and 9 months left to run
- (4B) But subsection (4A) does not apply to a tenancy to which an exception in section 86A(2) or (3) applies.”
- (3) In subsection (5), for paragraph (b) substitute—
- “(b) the period or term of the tenancy (but see subsection (6));”.
- (4) For subsection (6) substitute—
- “(6) Subsection (5)(b) does not apply if—
- (a) the secure tenancy was for a fixed term and was an old-style secure tenancy or a flexible tenancy, or
 - (b) the secure tenancy was for a fixed term and was a tenancy of a dwelling-house in Wales,
- and in such a case the demoted tenancy is a weekly periodic tenancy.”
- 8 In section 83 (proceedings for possession or termination: general notice requirements), in subsection (A1), for paragraph (b) substitute—
- “(b) proceedings for possession of a dwelling-house under section 86E (recovery of possession on expiry of certain English secure tenancies).”
- 9 In section 84 (grounds and orders for possession), in subsection (1), for “section 107D (recovery of possession on expiry of flexible tenancy)” substitute “section 86E (recovery of possession on expiry of certain English secure tenancies)”.
- 10 (1) Section 86 (periodic tenancy arising on termination of fixed term) is amended as follows.
- (2) In subsection (1), after “secure tenancy” insert “ to which this section applies ”.
- (3) After subsection (1) insert—
- “(1A) This section applies to a secure tenancy of a dwelling-house in Wales.
- (1B) This section also applies to a secure tenancy of a dwelling-house in England that is—
- (a) an old-style secure tenancy, or
 - (b) a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force,
- unless it is a tenancy excluded by subsection (1C).”
- (4) In subsection (2), for “this section” substitute “ subsection (1) ”.
- 11 After section 86 insert—

Status: Point in time view as at 06/04/2018.

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“English secure tenancies: review, renewal and possession

86A English tenancies: review to determine what to do at end of fixed term

- (1) The landlord under a fixed term secure tenancy of a dwelling-house in England must carry out a review to decide what to do at the end of the term, unless one of the following exceptions applies.
- (2) Exception 1 is where the tenancy is an old-style secure tenancy.
- (3) Exception 2 is where the tenancy is a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.
- (4) A review under this section must be carried out while the term has 6 to 9 months left to run.
- (5) On a review under this section the landlord must decide which of the following options to take.

Option 1:	offer to grant a new secure tenancy of the dwelling-house at the end of the current tenancy.
Option 2:	seek possession of the dwelling house at the end of the current tenancy but offer to grant a secure tenancy of another dwelling-house instead.
Option 3:	seek possession of the dwelling-house at the end of the current tenancy without offering to grant a secure tenancy of another dwelling-house.

- (6) The landlord must also—
 - (a) offer the tenant advice on buying a home if the landlord considers that to be a realistic option for the tenant, and
 - (b) in appropriate cases, offer the tenant advice on other housing options.

86B Notification of outcome of review under section 86A

- (1) On completing a review under section 86A the landlord must notify the tenant in writing of the outcome of the review.
- (2) The notice must be given by no later than 6 months before the end of the term of the current tenancy.
- (3) The notice must state which of the options mentioned in section 86A the landlord has decided to take.
- (4) If the landlord has decided to seek possession of the dwelling-house at the end of the secure tenancy the notice must also—
 - (a) inform the tenant of the right under section 86C to request the landlord to reconsider, and
 - (b) specify the time limit for making a request under that section.

Status: Point in time view as at 06/04/2018.

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- (5) If the notice states that the landlord has decided to offer a new tenancy and the tenant accepts in writing before the end of the current tenancy, the landlord must grant the new tenancy in accordance with the offer.

86C Reconsideration of decision not to grant a tenancy

- (1) Where a tenant is notified that the outcome of a review under section 86A is that the landlord has decided to seek possession of the dwelling-house at the end of the current tenancy, the tenant may request the landlord to reconsider its decision.
- (2) The request must be made before the end of the period of 21 days beginning with the day on which tenant was notified of the decision.
- (3) On receiving the request, the landlord must reconsider its decision.
- (4) The landlord must, in particular, consider whether the original decision is in accordance with any policy that the landlord has about the circumstances in which it will grant a further tenancy on the coming to an end of an existing fixed term tenancy.
- (5) Once the landlord has reconsidered the decision the landlord must—
 - (a) notify the tenant in writing of the outcome,
 - (b) revise or confirm its original decision, and
 - (c) if it decides to confirm its original decision, give reasons.
- (6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with reconsidering a decision for the purposes of this section.
- (7) The regulations may, in particular—
 - (a) require the original decision to be reconsidered by a person of appropriate seniority who was not involved in the original decision, and
 - (b) make provision as to the circumstances in which the person who requested the landlord to reconsider the original decision is entitled to an oral hearing, and whether and by whom that person may be represented.
- (8) Regulations under this section may include transitional or saving provision.
- (9) Regulations under this section are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

86D Fixed term tenancy arising on termination of previous fixed term

- (1) This section applies to a secure tenancy of a dwelling-house in England other than—
 - (a) an old-style secure tenancy, or
 - (b) a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.

Status: Point in time view as at 06/04/2018.

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- (2) If the tenancy comes to an end by virtue of the term expiring, or by virtue of an order under section 82(3), a new tenancy of the same dwelling-house arises by virtue of this subsection.
- (3) Where the landlord has offered the tenant a new tenancy of the same dwelling-house following a review under section 86A but the tenant has failed to accept, the new tenancy that arises by virtue of subsection (2) is a fixed term tenancy of whatever length the landlord offered.
- (4) In any other case, the new tenancy that arises by virtue of subsection (2) is a 5 year fixed term tenancy.
- (5) The parties and other terms of a new tenancy that arises by virtue of subsection (2) are the same as those of the tenancy that it replaces, except that the terms are confined to those which are compatible with a tenancy of the length determined in accordance with subsection (3) or (4).
- (6) A new tenancy does not arise by virtue of subsection (2) if the tenant has been granted another secure tenancy of the same dwelling-house to begin at the same time as the earlier tenancy ends.

86E Recovery of possession of secure tenancies in England

- (1) The landlord under a secure tenancy of a dwelling-house in England may bring proceedings for possession under this section if—
 - (a) the landlord has decided on a review under section 86A to seek possession at the end of the tenancy, and
 - (b) the landlord has not subsequently revised the decision under section 86C.
- (2) If the landlord brings proceedings under this section the court must make an order for possession if satisfied that—
 - (a) the landlord has complied with all of the requirements of sections 86A to 86C,
 - (b) the tenancy that was the subject of the review section 86A has ended,
 - (c) the proceedings were commenced before the end of the period of 3 months beginning with the day on which the tenancy ended, and
 - (d) the only fixed term tenancy still in existence is a new secure tenancy arising by virtue of section 86D.
- (3) But the court may refuse to grant an order for possession under this section if the court considers that a decision of the landlord under section 86A or 86C was wrong in law.
- (4) Where a court makes an order for possession of a dwelling-house under this section, any fixed term tenancy arising by virtue of section 86D on the coming to an end of the tenancy that was the subject of the review under section 86A comes to an end (without further notice) in accordance with section 82(2).
- (5) This section does not limit any right of the landlord under a secure tenancy to recover possession of the dwelling-house let on the tenancy in accordance with other provisions of this Part.

Status: Point in time view as at 06/04/2018.

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Termination of English secure tenancies by tenant

86F Termination of English secure tenancies by tenant

- (1) It is a term of every secure tenancy of a dwelling-house in England, other than an old-style secure tenancy, that the tenant may terminate the tenancy in accordance with the following provisions of this section.
 - (2) The tenant must serve a notice in writing on the landlord stating that the tenancy will be terminated on the date specified in the notice.
 - (3) That date must be after the end of the period of four weeks beginning with the date on which the notice is served.
 - (4) The landlord may agree with the tenant to dispense with the requirement in subsection (2) or (3).
 - (5) The tenancy is terminated on the date specified in the notice or (as the case may be) determined in accordance with arrangements made under subsection (4) only if on that date—
 - (a) no arrears of rent are payable under the tenancy, and
 - (b) the tenant is not otherwise materially in breach of a term of the tenancy.”
- 12 (1) Section 97 (tenant's improvements require consent) is amended as follows.
- (2) In subsection (1), after “secure tenancy” insert “ to which this section applies ”.
 - (3) After subsection (1) insert—

“(1A) This section applies to—

 - (a) a secure tenancy of a dwelling-house in Wales, or
 - (b) an old-style secure tenancy of a dwelling-house in England.”
 - (4) Omit subsection (5).
- 13 (1) Section 99A (right to compensation for improvements) is amended as follows.
- (2) In subsection (1)(c), after “secure tenancy” insert “ to which this section applies ”.
 - (3) After subsection (1) insert—

“(1A) This section applies to—

 - (a) a secure tenancy of a dwelling-house in Wales, or
 - (b) an old-style secure tenancy of a dwelling-house in England.”
 - (4) Omit subsection (9).
- 14 Omit sections 107A to 107E (flexible tenancies).
- 15 After section 115A insert—
- “115B Meaning of “flexible tenancy”**
- (1) For the purposes of this Act, a flexible tenancy is a secure tenancy to which any of the following subsections applies.

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- (2) This subsection applies to a secure tenancy if—
- (a) it was granted by a landlord in England for a fixed term of not less than two years,
 - (b) it was granted before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force, and
 - (c) before it was granted the person who became the landlord under the tenancy served a written notice on the person who became the tenant under the tenancy stating that the tenancy would be a flexible tenancy.
- (3) This subsection applies to a secure tenancy if—
- (a) it became a secure tenancy by virtue of a notice under paragraph 4ZA(2) of Schedule 1 (family intervention tenancies becoming secure tenancies),
 - (b) the notice was given before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force,
 - (c) the landlord under the family intervention tenancy in question was a local housing authority in England,
 - (d) the family intervention tenancy was granted to a person on the coming to an end of a flexible tenancy under which the person was a tenant,
 - (e) the notice states that the tenancy is to become a secure tenancy that is a flexible tenancy for a fixed term of the length specified in the notice, and sets out the other express terms of the tenancy, and
 - (f) the length of the term specified in the notice is at least two years.
- (4) The length of the term of a flexible tenancy that becomes such a tenancy by virtue of subsection (3) is that specified in the notice under paragraph 4ZA(2) of Schedule 1.
- (5) The other express terms of the flexible tenancy are those set out in the notice, so far as those terms are compatible with the statutory provisions relating to flexible tenancies; and in this subsection “statutory provision” means any provision made by or under an Act.
- (6) This subsection applies to a secure tenancy if—
- (a) it is created by virtue of section 137A of the Housing Act 1996 (introductory tenancies becoming flexible tenancies), or
 - (b) it arises by virtue of section 143MA or 143MB of that Act (demoted tenancies becoming flexible tenancies).”

115C Meaning of “old-style secure tenancy” in England

In this Part “old-style secure tenancy” means a secure tenancy of a dwelling-house in England that—

- (a) is a secure tenancy, other than a flexible tenancy, granted before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force,
- (b) is a secure tenancy granted on or after that date that contains an express term stating that it is an old-style secure tenancy, or

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- (c) is a tenancy that arose by virtue of section 86 on the coming to an end of a secure tenancy within paragraph (a) or (b).”
- 16 (1) Section 117 (index of defined expressions) is amended as follows.
- (2) In the entry relating to flexible tenancies, for “section 107A” substitute “section 115B”.
- (3) At the appropriate place insert—
-
- “old-style secure tenancy section 115C”
- 17 (1) Schedule 1 (tenancies which are not secure tenancies) is amended as follows.
- (2) After paragraph 1 insert—
- “Certain English tenancies that were not secure tenancies when originally granted*
- 1ZA A tenancy of a dwelling-house in England cannot become a secure tenancy if—
- (a) it was granted on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force,
- (b) it was not a secure tenancy or an introductory tenancy at the time it was granted, and
- (c) it is a periodic tenancy or a tenancy for a fixed term of less than 2 years or more than 5 years.”
- (3) In paragraph 4ZA, after sub-paragraph (2) insert—
- “(2A) A notice under sub-paragraph (2) that relates to a tenancy of a dwelling-house in England must—
- (a) state that the tenancy is to become a secure tenancy for a fixed term of a length specified in the notice, and
- (b) set out the other express terms of the tenancy.
- (2B) The length of the term specified in a notice in accordance with sub-paragraph (2A) must not be—
- (a) less than 2 years, or
- (b) more than the permitted maximum length.
- (2C) The permitted maximum length is 10 years, unless sub-paragraph (2D) applies.
- (2D) If the landlord has been notified in writing that a child aged under 9 will live in the dwelling-house, the permitted maximum length is the period—
- (a) beginning with the day on which the tenancy becomes a secure tenancy, and
- (b) ending with the day on which the child will reach the age of 19.
- (2E) In deciding what length to specify in a notice under sub-paragraph (2A)(a) the landlord must have regard to any guidance given by the Secretary of State.
- (2F) Where a notice is given in accordance with sub-paragraph (2A) the length of the secure tenancy, and the other terms, are those set out in the notice.

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(2G) Sub-paragraphs (2A) to (2F) do not apply to notices given before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.”

Landlord and Tenant Act 1985 (c. 70)

18 (1) Section 13 of the Landlord and Tenant Act 1985 is amended as follows.

(2) After subsection (1A) insert—

“(1AB) Section 11 also applies to a lease of a dwelling-house in England which is an introductory tenancy for a fixed term of seven years or more granted on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.”

(3) In subsection (1B)—

- (a) for “In subsection (1A)” substitute “ In this section ”, and
- (b) after the definition of “assured tenancy” insert—

““introductory tenancy” has the same meaning as in Chapter 1 of Part 5 of the Housing Act 1996;”.

Housing Act 1996 (c. 52)

19 The Housing Act 1996 is amended as follows.

20 (1) Section 124 (introductory tenancies) is amended as follows.

(2) After subsection (1) insert—

“(1A) When such an election is in force, every fixed term tenancy of a dwelling-house in England entered into or adopted by the authority or trust shall, if it would otherwise be a secure tenancy, be an introductory tenancy, unless section 124A(7) applies or immediately before the tenancy was entered into or adopted the tenant or, in the case of joint tenants, one or more of them was—

- (a) a secure tenant of the same or another dwelling-house, or
- (b) a tenant under a relevant assured tenancy, other than an assured shorthold tenancy, of the same or another dwelling-house.”

(3) In subsection (2), in the words before paragraph (a), after “dwelling-house” insert “ in Wales ”.

(4) In subsection (2A), for “subsection (2)(b)” substitute “ subsections (1A)(b) and (2)(b) ”.

(5) In subsection (3), for “subsection (2)” substitute “ subsections (1A) and (2) ”.

(6) After subsection (5) insert—

“(6) In relation to a tenancy entered into or adopted by a local housing authority or a housing action trust before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force, this section has effect—

- (a) as if subsection (1A) were omitted, and

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(b) as if, in subsection (2), the words “in Wales” were omitted.”

21 After section 124 insert—

“124A New introductory tenancies in England: overall length

- (1) A local housing authority or a housing action trust may enter into an introductory tenancy of a dwelling-house in England only if it is a tenancy for a fixed term that is—
 - (a) at least 2 years, and
 - (b) no longer than the permitted maximum length.
- (2) The permitted maximum length is 10 years, unless subsection (3) applies.
- (3) If the person entering into the tenancy has been notified in writing that a child aged under 9 will live in the dwelling-house, the permitted maximum length is the period—
 - (a) beginning with the day on which the tenancy is entered into, and
 - (b) ending with the day on which the child will reach the age of 19.
- (4) If a local housing authority or a housing action trust purports to enter into an introductory tenancy in breach of subsection (1), it takes effect as a tenancy for a fixed term of 5 years.
- (5) In deciding what length of tenancy to enter into in a case to which subsection (1) applies, the local housing authority or housing action trust must have regard to any guidance given by the Secretary of State.
- (6) Subsections (1) and (4) apply only to tenancies entered into on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.
- (7) A tenancy of a dwelling-house in England that is adopted by a local housing authority or a housing action trust does not become an introductory tenancy if—
 - (a) it is adopted on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force, and
 - (b) the tenancy is a periodic tenancy or it is a tenancy for a fixed term of less than 2 years or more than 5 years.
- (8) Subsections (9) and (10) apply where a tenancy that has been adopted by a local housing authority or a housing action trust is not an introductory tenancy but would (on adoption or at any later time) become a secure tenancy but for subsection (7).
- (9) The local housing authority or housing action trust must, within the period of 28 days, make the tenant a written offer of an introductory tenancy in return for the tenant surrendering the original tenancy.
- (10) If the tenant accepts in writing within the period of 28 days beginning with the day on which the tenant receives the offer, the local housing authority or housing action trust must grant an introductory tenancy on the tenant surrendering the original tenancy.

Status: Point in time view as at 06/04/2018.

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124B Review of decisions about length of introductory tenancies in England

- (1) A person who is offered an introductory tenancy of a dwelling-house in England may request a review under this section.
- (2) The sole purpose of a review under this section is to consider whether the length of the tenancy is in accordance with any policy that the prospective landlord has about the length of introductory tenancies it grants.
- (3) The request must be made before the end of—
 - (a) the period of 21 days beginning with the day on which the person making the request first receives the offer, or
 - (b) such longer period as the prospective landlord may allow in writing.
- (4) On receiving the request the prospective landlord must carry out the review.
- (5) On completing the review the prospective landlord must —
 - (a) notify the tenant in writing of the outcome,
 - (b) revise its offer or confirm its original decision about the length of the tenancy, and
 - (c) if it decides to confirm its original decision, give reasons.
- (6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section.
- (7) The regulations may, in particular—
 - (a) require the review to be carried out by a person of appropriate seniority who was not involved in the original decision;
 - (b) make provision as to the circumstances in which the person who requested the review is entitled to an oral hearing, and whether and by whom that person may be represented.”

22 (1) Section 125A (extension of trial period by 6 months) is amended as follows.

(2) In subsection (1), for “both” substitute “ each ”.

(3) After subsection (3) insert—

“(3A) The third condition must be met only if the introductory tenancy —

- (a) is one to which section 124A(1) or (2) applies, or
- (b) is adopted by a local housing authority or housing action trust on or after the day on which paragraph 4 of Schedule 7 came fully into force.

(3B) The third condition is that the new expiry date would be before the period mentioned in section 86A(3) of the Housing Act 1985 (review to determine what to do at end of fixed term secure tenancy); and for this purpose “the new expiry date” means the last day of the 6 month extension period mentioned in subsection (1).”

23 In section 128 (notice of proceedings for possession), in subsection (4), for the second sentence substitute—

“The date so specified—

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- (a) in a case where the introductory tenancy is a periodic tenancy, must not be earlier than the date on which the tenancy could, apart from this Chapter, be brought to an end by notice to quit given by the landlord on the same date as the proceedings, and
- (b) in a case where the introductory tenancy is a fixed term tenancy, must not be earlier than the end of the period of 6 weeks beginning with the date on which the notice of proceedings is served.”
- 24 In section 137A (introductory tenancies that are to become flexible tenancies), in subsection (2), for “, before entering into or adopting the introductory tenancy” substitute “ the introductory tenancy was entered into or adopted before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force and, before entering into or adopting it, ”.
- 25 In section 143A (demoted tenancies), in subsection (1), omit “periodic”.
- 26 In section 143E (notice of proceedings for possession), for subsection (3) substitute—
- “(3) The date specified under subsection (2)(c)—
- (a) in a case where the demoted tenancy is a periodic tenancy, must not be earlier than the date on which the tenancy could, apart from this Chapter, be brought to an end by notice to quit given by the landlord on the same date as the proceedings, and
- (b) in a case where the demoted tenancy is a fixed term tenancy, must not be earlier than the end of the period of 6 weeks beginning with the date on which the notice of proceedings is served.”
- 27 (1) Section 143MA (demoted tenancies that are to become flexible tenancies) is amended as follows.
- (2) In subsection (1), for “section 107A of the Housing Act 1985” substitute “ section 115B of the Housing Act 1985 (certain tenancies granted etc before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 came fully into force) ”.
- (3) After subsection (3) insert—
- “(3A) If the notice is given on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force, the period specified under subsection (3)(b) must be no longer than the permitted maximum length.
- (3B) The permitted maximum length is 10 years, unless subsection (3C) applies.
- (3C) If the landlord has been notified in writing that a child aged under 9 will live in the dwelling-house, the permitted maximum length is the period—
- (a) beginning with the day on which the tenancy becomes a secure tenancy, and
- (b) ending with the day on which the child will reach the age of 19.
- (3D) In deciding what length to specify in a notice under paragraph (3)(b) the landlord must have regard to any guidance given by the Secretary of State.”
- 28 After section 143MA insert—

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“143MB Default flexible tenancies when no notice given under section 143MA

- (1) This section applies where—
 - (a) a landlord has the power to serve a notice under section 143MA on the tenant under a demoted tenancy but fails to do so, and
 - (b) the tenancy comes to an end on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.
- (2) On ceasing to be a demoted tenancy, the tenancy becomes a secure tenancy for a fixed term of 5 years that is a flexible tenancy.
- (3) The terms of the new tenancy are the same as those of the tenancy that it replaces, so far as those terms are compatible with—
 - (a) a tenancy for a fixed term of 5 years, and
 - (b) the statutory provisions relating to flexible tenancies (within the meaning given by section 143MA(5)).”

Land Registration Act 2002 (c. 9)

29 In section 132 of the Land Registration Act 2002 (interpretation), in subsection (1)

- (a) in the definition of “flexible tenancy”, for “107A” substitute “ 115B ”;
- (b) in the definition of “relevant social housing tenancy”, after paragraph (a) (but before the “or” at the end) insert—

“(aa) a secure tenancy of a dwelling-house in England granted on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force,

(ab) an introductory tenancy of a dwelling-house in England granted on or after the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.”;

- (c) at the appropriate places insert—

““introductory tenancy” has the same meaning as in Chapter 1 of Part 5 of the Housing Act 1996;”;

““secure tenancy” has the meaning given by section 79 of the Housing Act 1985;”.

Localism Act 2011 (c. 20)

30 The Localism Act 2011 (flexible tenancies: other amendments) is amended as follows.

31 In section 155, omit subsections (3) and (4).

32 In section 159 (further provisions about transfer of tenancy under section 158), in subsection (6)(b), for “107A” substitute “ 115B ”.

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Savings for flexible tenancies with only 9 months left to run

- 33 (1) Despite the repeal of sections 107D and 107E of the Housing Act 1985 (flexible tenancies: recovery of possession) by paragraph 14 above, those sections continue to apply in relation to a flexible tenancy the term of which ends within the period of 9 months beginning with the day on which paragraph 4 of this Schedule comes fully into force.
- (2) The amendments made by paragraphs 8 and 9 (which replace references to proceedings for possession under section 107D of the Housing Act 1985) do not apply in relation to such a tenancy.

PROSPECTIVE

SCHEDULE 8

Section 120

SUCCESSION TO SECURE TENANCIES AND RELATED TENANCIES

Housing Act 1985 (c. 68)

- 1 The Housing Act 1985 is amended as follows.
- 2 In section 86 (periodic tenancy arising on termination of fixed term), after subsection (1B) (inserted by Schedule 7) insert—
- “(1C) This section does not apply to a secure tenancy of a dwelling-house in England if—
- (a) the original secure tenant has died,
 - (b) the tenancy has been vested in, or otherwise disposed of to, the current tenant in the course of the administration of the original tenant's estate, and
 - (c) the current tenant qualified to succeed the original tenant under section 86G(2) or (4).”
- 3 (1) Section 86A (persons qualified to succeed: England) as inserted by the Localism Act 2011—
- (a) is renumbered section 86G (so that it follows on from section 86F as inserted by Schedule 7 without making the numbering more complex than it has to be), and
 - (b) is amended as follows.
- (2) After subsection (7) insert—
- “(8) This section applies to a tenancy that was granted before 1 April 2012, or that arose by virtue of section 86 on the coming to the end of a secure tenancy granted before 1 April 2012, as it applies to a secure tenancy granted on or after that day.”
- 4 In section 88 (cases where the tenant is a successor), in subsection (1), after paragraph (b) insert—

Status: Point in time view as at 06/04/2018.

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- “(ba) the tenancy arose by virtue of section 89(2A) (fixed term tenancy arising in certain cases following succession to periodic tenancy), or”.
- 5 (1) Section 89 (succession to periodic tenancy) is amended as follows.
- (2) In subsection (1A), for “section 86A” substitute “ section 86G ”.
- (3) After subsection (2) insert—
- “(2A) Where the tenancy vests in a person qualified to succeed the tenant under section 86G(2) or (4) and continues to be a secure tenancy—
- (a) the periodic tenancy (“the old tenancy”) comes to an end immediately after vesting, and
- (b) a new tenancy of the same dwelling-house arises by virtue of this subsection for a fixed term of 5 years.
- (2B) The parties and terms of a tenancy arising by virtue of subsection (2A) are the same as those of the tenancy that it replaces, except that the terms are confined to those which are compatible with a tenancy for a fixed term of 5 years.
- (2C) Where a possession order was in force in relation to the old tenancy—
- (a) the possession order is to be treated, so far as possible, as if it applied in relation to the new tenancy, and
- (b) any other court orders made in connection with the possession order are also to be treated, so far as possible, as if they applied in relation to the new tenancy.
- (2D) In subsection (2C) “possession order” means an order for possession of the dwelling house.”
- 6 In section 117 (index of defined expressions), in the entry relating to persons qualified to succeed, for “section 87” substitute “ sections 86G and 87 ”.

Housing Act 1996 (c. 52)

- 7 Before section 131 (but after the italic heading) insert—

Persons qualified to succeed to introductory tenancy: England

- “130A) A person is qualified to succeed the tenant under an introductory tenancy of a dwelling-house in England if—
- (a) the person occupies the dwelling-house as his or her only or principal home at the time of the tenant's death, and
- (b) the person is the tenant's spouse or civil partner.
- (2) A person is qualified to succeed the tenant under an introductory tenancy of a dwelling-house in England if—
- (a) at the time of the tenant's death the dwelling-house is not occupied by a spouse or civil partner of the tenant as his or her only or principal home,
- (b) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and

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- (c) the person's succession is in accordance with that term.
- (3) Subsection (1) or (2) does not apply if the tenant was a successor as defined in section 132.
- (4) In such a case, a person is qualified to succeed the tenant if—
- (a) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and
 - (b) the person's succession is in accordance with that term.
- (5) For the purposes of this section a person who was living with the tenant as the tenant's wife or husband is to be treated as the tenant's spouse.
- (6) Subsection (7) applies if, on the death of the tenant, there is by virtue of subsection (5) more than one person who fulfils the condition in subsection (1)(b).
- (7) Such one of those persons as may be agreed between them or as may, where there is no such agreement, be selected by the landlord is for the purpose of this section to be treated as the fulfilling that condition.”
- 8 (1) Section 131 (persons qualified to succeed tenant) is amended as follows.
- (2) At the end of the heading for “tenant” substitute “ to introductory tenancy: Wales ”.
- (3) After “introductory tenancy” insert “ of a dwelling-house in Wales ”.
- 9 (1) Section 133 (succession to introductory tenancy) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where there is a person qualified to succeed the tenant under section 130A, the tenancy vests by virtue of this section—
- (a) in that person, or
 - (b) if there is more than one such person, in such one of them as may be agreed between them or as may, where there is no agreement, be selected by the landlord.”
- (3) In subsection (2), after “ “tenant” insert “ under section 131 ”.
- 10 Before section 143H (but after the italic heading) insert—
- Persons qualified to succeed to demoted tenancy: England**
- “143G(A) A person is qualified to succeed the tenant under a demoted tenancy of a dwelling-house in England if—
- (a) the person occupies the dwelling-house as his or her only or principal home at the time of the tenant's death, and
 - (b) the person is the tenant's spouse or civil partner.
- (2) A person is qualified to succeed the tenant under a demoted tenancy of a dwelling-house in England if—
- (a) at the time of the tenant's death the dwelling-house is not occupied by a spouse or civil partner of the tenant as his or her only or principal home,

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- (b) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and
 - (c) the person's succession is in accordance with that term.
- (3) Subsection (1) or (2) does not apply if the tenant was a successor as defined in section 132.
- (4) In such a case, a person is qualified to succeed the tenant if—
- (a) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and
 - (b) the person's succession is in accordance with that term.
- (5) For the purposes of this section a person who was living with the tenant as the tenant's wife or husband is to be treated as the tenant's spouse.
- (6) Subsection (7) applies if, on the death of the tenant, there is by virtue of subsection (5) more than one person who fulfils the condition in subsection (1)(b).
- (7) Such one of those persons as may be agreed between them or as may, where there is no such agreement, be selected by the landlord is for the purpose of this section to be treated as fulfilling that condition.
- (8) This section applies to a tenancy that became a demoted tenancy before or after Schedule 8 of the Housing Act 2015 comes into force.

Succession to demoted tenancy: England

- 143GB) This section applies if the tenant under a demoted tenancy of a dwelling-house in England dies.
- (2) Where there is a person qualified to succeed the tenant under section 143GA, the tenancy vests by virtue of this section—
- (a) in that person, or
 - (b) if there is more than one such person, in such one of them as may be agreed between them or as may, where there is no agreement, be selected by the landlord.
- (3) Where a periodic demoted tenancy vests in a person qualified to succeed the tenant under section 143GA(2) or (4) and continues to be a demoted tenancy—
- (a) the tenancy comes to an end immediately after vesting, and
 - (b) a new tenancy of the same dwelling-house arises by virtue of this subsection for a fixed term of 5 years.
- (4) The parties and terms of a tenancy arising by virtue of subsection (3) are the same as those of the tenancy that it replaces, except that the terms are confined to those which are compatible with a tenancy for a fixed term of 5 years.
- (5) Where a demoted tenancy comes to an end and a new tenancy arises by virtue of subsection (3), as from that time the demotion order is to be treated for all purposes as it had been made in relation to the new tenancy (and the demotion period remains the same).”

Status: Point in time view as at 06/04/2018.

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- 11 (1) Section 143H (succession to demoted tenancy) is amended as follows.
- (2) At the heading insert “ : Wales ”.
- (3) In subsection (1), after “tenancy” insert “ of a dwelling-house in Wales ”.
- 12 In section 143I (no successor tenant: termination), after “section” insert “ 143GA or ”.
- 13 (1) Section 143J of the Housing Act 1996 (demoted tenancies: successor tenants) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) The tenancy arose by virtue of section 89(2A) of the Housing Act 1985.”
- (3) For subsection (7) substitute—
- “(7) A person is the successor to a demoted tenancy if—
- (a) the tenancy vests in the person by virtue of section 143GB(2) or 143H(4) or (5), or
- (b) the tenancy arose by virtue of section 143GB(3).”
- Localism Act 2011 (c. 20)*
- 14 In section 160 of the Localism Act 2011 (succession to secure tenancies), omit subsection (6).
- Savings*
- 15 The amendments made by this Schedule do not apply in relation to cases where the tenant under a secure tenancy dies before it comes into force.
- 16 The amendments made by paragraphs 7 and 8 do not apply in relation to an introductory tenancy granted before the day on which this Schedule comes into force.
- 17 The amendments made by paragraphs 10 to 13 do not apply in relation to cases where the tenant under a demoted tenancy dies before this Schedule comes into force.

SCHEDULE 9

Section 126

FINANCIAL PENALTY AS ALTERNATIVE TO PROSECUTION UNDER HOUSING ACT 2004

- 1 The Housing Act 2004 is amended as follows.

Commencement Information

I75 Sch. 9 para. 1 in force at 6.4.2017 by S.I. 2017/281, reg. 4(f)

- 2 In section 30 (offence of failing to comply with improvement notice), after subsection (6) insert—

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(7) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(8) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.”

Commencement Information

I76 Sch. 9 para. 2 in force at 6.4.2017 by S.I. 2017/281, reg. 4(f)

3 In section 72 (offences in relation to licensing of HMOs), after subsection (7) insert—

“(7A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(7B) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.”

Commencement Information

I77 Sch. 9 para. 3 in force at 6.4.2017 by S.I. 2017/281, reg. 4(f)

4 In section 95 (offences in relation to licensing of houses under Part 3), after subsection (6) insert—

“(6A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(6B) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.”

Commencement Information

I78 Sch. 9 para. 4 in force at 6.4.2017 by S.I. 2017/281, reg. 4(f)

5 In section 139 (overcrowding notices), after subsection (9) insert—

“(10) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(11) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.”

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I79 Sch. 9 para. 5 in force at 6.4.2017 by S.I. 2017/281, reg. 4(f)

6 In section 234 (management regulations in respect of HMOs), after subsection (5) insert—

“(6) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(7) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.”

Commencement Information

I80 Sch. 9 para. 6 in force at 6.4.2017 by S.I. 2017/281, reg. 4(f)

7 After section 249 insert—

“Financial penalties as alternative to prosecution

249A Financial penalties for certain housing offences in England

(1) The local housing authority may impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a relevant housing offence in respect of premises in England.

(2) In this section “relevant housing offence” means an offence under—

- (a) section 30 (failure to comply with improvement notice),
- (b) section 72 (licensing of HMOs),
- (c) section 95 (licensing of houses under Part 3),
- (d) section 139(7) (failure to comply with overcrowding notice), or
- (e) section 234 (management regulations in respect of HMOs).

(3) Only one financial penalty under this section may be imposed on a person in respect of the same conduct.

(4) The amount of a financial penalty imposed under this section is to be determined by the local housing authority, but must not be more than £30,000.

(5) The local housing authority may not impose a financial penalty in respect of any conduct amounting to a relevant housing offence if—

- (a) the person has been convicted of the offence in respect of that conduct, or
- (b) criminal proceedings for the offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded.

(6) Schedule 13A deals with—

Status: Point in time view as at 06/04/2018.

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- (a) the procedure for imposing financial penalties,
 - (b) appeals against financial penalties,
 - (c) enforcement of financial penalties, and
 - (d) guidance in respect of financial penalties.
- (7) The Secretary of State may by regulations make provision about how local housing authorities are to deal with financial penalties recovered.
- (8) The Secretary of State may by regulations amend the amount specified in subsection (4) to reflect changes in the value of money.
- (9) For the purposes of this section a person's conduct includes a failure to act.”

Commencement Information

I81 Sch. 9 para. 7 in force at 10.3.2017 for specified purposes by [S.I. 2017/281, reg. 3\(b\)](#)

I82 Sch. 9 para. 7 in force at 6.4.2017 in so far as not already in force by [S.I. 2017/281, reg. 4\(f\)](#)

8 After Schedule 13 insert—

“SCHEDULE
13A

Section 249A

FINANCIAL PENALTIES UNDER SECTION 249A

Notice of intent

- 1 Before imposing a financial penalty on a person under section 249A the local housing authority must give the person notice of the authority's proposal to do so (a “notice of intent”).
- 2 (1) The notice of intent must be given before the end of the period of 6 months beginning with the first day on which the authority has sufficient evidence of the conduct to which the financial penalty relates.
- (2) But if the person is continuing to engage in the conduct on that day, and the conduct continues beyond the end of that day, the notice of intent may be given—
- (a) at any time when the conduct is continuing, or
 - (b) within the period of 6 months beginning with the last day on which the conduct occurs.
- (3) For the purposes of this paragraph a person's conduct includes a failure to act.
- 3 The notice of intent must set out—
- (a) the amount of the proposed financial penalty,
 - (b) the reasons for proposing to impose the financial penalty, and
 - (c) information about the right to make representations under paragraph 4.

Right to make representations

- 4 (1) A person who is given a notice of intent may make written representations to the local housing authority about the proposal to impose a financial penalty.

Status: Point in time view as at 06/04/2018.

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- (2) Any representations must be made within the period of 28 days beginning with the day after that on which the notice was given (“the period for representations”).

Final notice

- 5 After the end of the period for representations the local housing authority must—
- (a) decide whether to impose a financial penalty on the person, and
 - (b) if it decides to impose a financial penalty, decide the amount of the penalty.
- 6 If the authority decides to impose a financial penalty on the person, it must give the person a notice (a “final notice”) imposing that penalty.
- 7 The final notice must require the penalty to be paid within the period of 28 days beginning with the day after that on which the notice was given.
- 8 The final notice must set out—
- (a) the amount of the financial penalty,
 - (b) the reasons for imposing the penalty,
 - (c) information about how to pay the penalty,
 - (d) the period for payment of the penalty,
 - (e) information about rights of appeal, and
 - (f) the consequences of failure to comply with the notice.

Withdrawal or amendment of notice

- 9 (1) A local housing authority may at any time—
- (a) withdraw a notice of intent or final notice, or
 - (b) reduce the amount specified in a notice of intent or final notice.
- (2) The power in sub-paragraph (1) is to be exercised by giving notice in writing to the person to whom the notice was given.

Appeals

- 10 (1) A person to whom a final notice is given may appeal to the First-tier Tribunal against—
- (a) the decision to impose the penalty, or
 - (b) the amount of the penalty.
- (2) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.
- (3) An appeal under this paragraph—
- (a) is to be a re-hearing of the local housing authority's decision, but
 - (b) may be determined having regard to matters of which the authority was unaware.
- (4) On an appeal under this paragraph the First-tier Tribunal may confirm, vary or cancel the final notice.

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- (5) The final notice may not be varied under sub-paragraph (4) so as to make it impose a financial penalty of more than the local housing authority could have imposed.

Recovery of financial penalty

- 11 (1) This paragraph applies if a person fails to pay the whole or any part of a financial penalty which, in accordance with this Schedule, the person is liable to pay.
- (2) The local housing authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court.
- (3) In proceedings before the county court for the recovery of a financial penalty or part of a financial penalty, a certificate which is—
- (a) signed by the chief finance officer of the local housing authority which imposed the penalty, and
 - (b) states that the amount due has not been received by a date specified in the certificate,
- is conclusive evidence of that fact.
- (4) A certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
- (5) In this paragraph “chief finance officer” has the same meaning as in section 5 of the Local Government and Housing Act 1989.

Guidance

- 12 A local housing authority must have regard to any guidance given by the Secretary of State about the exercise of its functions under this Schedule or section 249A.”

Commencement Information

183 Sch. 9 para. 8 in force at 6.4.2017 by S.I. 2017/281, reg. 4(f)

SCHEDULE 10

Section 136

ENFRANCHISEMENT AND EXTENSION OF LONG LEASEHOLDS: CALCULATIONS

Leasehold Reform Act 1967

- 1 (1) In Schedule 1 to the Leasehold Reform Act 1967 (enfranchisement and extension by sub-tenants), paragraph 7A is amended as follows.
- (2) For sub-paragraph (1) substitute—

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- “(1) The price payable for a minor superior tenancy is to be calculated in accordance with regulations made by the appropriate national authority instead of in accordance with section 9.”
- (3) Omit sub-paragraphs (5) and (6).
- (4) At the end insert—
- “(7) In sub-paragraph (1) “appropriate national authority” means—
- (a) in relation to a tenancy of land in England, the Secretary of State;
 - (b) in relation to a tenancy of land in Wales, the Welsh Ministers.
- (8) Regulations under sub-paragraph (1) may include transitional provision.
- (9) Regulations under sub-paragraph (1) are to be made by statutory instrument.
- (10) A statutory instrument containing regulations under sub-paragraph (1) is subject to annulment—
- (a) in the case of an instrument made by the Secretary of State, in pursuance of a resolution of either House of Parliament;
 - (b) in the case of an instrument made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales.”
- (5) The amendments made by this paragraph apply to cases where the relevant time is—
- (a) before this Act is passed, but
 - (b) on or after 11 July 2015,
- as well as to cases where the relevant time is after this Act is passed.
- (6) The “relevant time” has the meaning given by section 37(1)(d) of the Leasehold Reform Act 1967.

Leasehold Reform, Housing and Urban Development Act 1993

- 2 The Leasehold Reform, Housing and Urban Development Act 1993 is amended as follows.
- 3 (1) Section 100 (orders and regulations) is amended as follows.
- (2) In subsection (1), after “Secretary of State” insert “ or the Welsh Ministers ”.
- (3) After subsection (2) insert—
- “(3) Any power of the Welsh Ministers to make regulations under this Part shall be exercisable by statutory instrument which (except in the case of regulations making only such provision as is mentioned in section 99(6)) shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- 4 (1) In Schedule 6, paragraph 7 is amended as follows.
- (2) For sub-paragraph (2) substitute—
- “(2) The value of an intermediate leasehold interest which is the interest of the tenant under a minor intermediate lease is to be calculated in accordance with regulations made by the appropriate national authority instead of in accordance with sub-paragraph (1).”

Status: Point in time view as at 06/04/2018.

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- (3) In sub-paragraph (4)—
- (a) for “formula set out in sub-paragraph (7)” substitute “ calculation method mentioned in sub-paragraph (2) ”;
 - (b) for “by so applying the formula” substitute “ in accordance with that method ”.
- (4) Omit sub-paragraphs (7) and (8).
- (5) After sub-paragraph (10) insert—
- “(11) In sub-paragraph (2) “appropriate national authority” means—
- (a) in relation to a leasehold interest of land in England, the Secretary of State;
 - (b) in relation to a leasehold interest of land in Wales, the Welsh Ministers.”
- (6) The amendments made by this paragraph apply to cases where the relevant date is—
- (a) before this Act is passed, but
 - (b) on or after 11 July 2015,
- as well as to cases where the relevant date is after this Act is passed.
- (7) The “relevant date” has the meaning given by section 1(8) of the Leasehold Reform, Housing and Urban Development Act 1993.
- 5 (1) In Schedule 13 (premium and other amounts payable by tenant on grant of new lease), paragraph 8 is amended as follows.
- (2) For sub-paragraph (2) substitute—
- “(2) The value of an intermediate leasehold interest which is the interest of the tenant under a minor intermediate lease is to be calculated in accordance with regulations made by the appropriate national authority instead of in accordance with sub-paragraph (1).”
- (3) Omit sub-paragraphs (6) and (7).
- (4) After sub-paragraph (9) insert—
- “(10) In sub-paragraph (2) “appropriate national authority” means—
- (a) in relation to a leasehold interest of land in England, the Secretary of State;
 - (b) in relation to a leasehold interest of land in Wales, the Welsh Ministers.”
- (5) The amendments made by this paragraph apply to cases where the relevant date is—
- (a) before this Act is passed, but
 - (b) on or after 11 July 2015,
- as well as to cases where the relevant date is after this Act is passed.
- (6) The “relevant date” has the meaning given by section 39(8) of the Leasehold Reform, Housing and Urban Development Act 1993.

Status: Point in time view as at 06/04/2018.

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SCHEDULE 11

Section 147

DEFAULT POWERS EXERCISABLE BY MAYOR OF LONDON OR COMBINED AUTHORITY:
SCHEDULE TO BE INSERTED IN THE PLANNING AND COMPULSORY PURCHASE ACT 2004

Commencement Information

I84 Sch. 11 in force at 1.10.2016 by S.I. 2016/733, reg. 4(1)(e)

“SCHEDULE 1

Section 27A

DEFAULT POWERS EXERCISABLE BY MAYOR OF LONDON OR COMBINED AUTHORITY

Default powers exercisable by Mayor of London

- 1 If the Secretary of State—
 - (a) thinks that a London borough council, in their capacity as local planning authority, are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document, and
 - (b) invites the Mayor of London to prepare or revise the document,

the Mayor of London may prepare or revise (as the case may be) the development plan document.
- 2 (1) This paragraph applies where a development plan document is prepared or revised by the Mayor of London under paragraph 1.
 - (2) The Mayor of London must hold an independent examination.
 - (3) The Mayor of London—
 - (a) must publish the recommendations and reasons of the person appointed to hold the examination, and
 - (b) may also give directions to the council in relation to publication of those recommendations and reasons.
 - (4) The Mayor of London may—
 - (a) approve the document, or approve it subject to specified modifications, as a local development document, or
 - (b) direct the council to consider adopting the document by resolution of the council as a local development document.
- 3 (1) Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 2(2)—
 - (a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Mayor of London, and
 - (b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b).
 - (2) The Mayor of London must give reasons for anything he does in pursuance of paragraph 1 or 2(4).
 - (3) The council must reimburse the Mayor of London—

Status: Point in time view as at 06/04/2018.

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- (a) for any expenditure that the Mayor incurs in connection with anything which is done by him under paragraph 1 and which the council failed or omitted to do as mentioned in that paragraph;
- (b) for any expenditure that the Mayor incurs in connection with anything which is done by him under paragraph 2(2).

Default powers exercisable by combined authority

- 4 In this Schedule—
- “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;
- “constituent planning authority”, in relation to a combined authority, means—
- (a) a county council, metropolitan district council or non-metropolitan district council which is the local planning authority for an area within the area of the combined authority, or
 - (b) a joint committee established under section 29 whose area is within, or the same as, the area of the combined authority.
- 5 If the Secretary of State—
- (a) thinks that a constituent planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document, and
 - (b) invites the combined authority to prepare or revise the document,
- the combined authority may prepare or revise (as the case may be) the development plan document.
- 6 (1) This paragraph applies where a development plan document is prepared or revised by a combined authority under paragraph 5.
- (2) The combined authority must hold an independent examination.
- (3) The combined authority—
- (a) must publish the recommendations and reasons of the person appointed to hold the examination, and
 - (b) may also give directions to the constituent planning authority in relation to publication of those recommendations and reasons.
- (4) The combined authority may—
- (a) approve the document, or approve it subject to specified modifications, as a local development document, or
 - (b) direct the constituent planning authority to consider adopting the document by resolution of the authority as a local development document.
- 7 (1) Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 6(2)—
- (a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the combined authority, and
 - (b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b).
- (2) The combined authority must give reasons for anything they do in pursuance of paragraph 5 or 6(4).

Status: Point in time view as at 06/04/2018.

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- (3) The constituent planning authority must reimburse the combined authority—
- (a) for any expenditure that the combined authority incur in connection with anything which is done by them under paragraph 5 and which the constituent planning authority failed or omitted to do as mentioned in that paragraph;
 - (b) for any expenditure that the combined authority incur in connection with anything which is done by them under paragraph 6(2).

Intervention by Secretary of State

- 8 (1) This paragraph applies to a development plan document that has been prepared or revised—
- (a) under paragraph 1 by the Mayor of London, or
 - (b) under paragraph 5 by a combined authority.
- (2) If the Secretary of State thinks that a development plan document to which this paragraph applies is unsatisfactory—
- (a) he may at any time before the document is adopted under section 23, or approved under paragraph 2(4)(a) or 6(4)(a), direct the Mayor of London or the combined authority to modify the document in accordance with the direction;
 - (b) if he gives such a direction he must state his reasons for doing so.
- (3) Where a direction is given under sub-paragraph (2)—
- (a) the Mayor of London or the combined authority must comply with the direction;
 - (b) the document must not be adopted or approved unless the Secretary of State gives notice that the direction has been complied with.
- (4) Sub-paragraph (3) does not apply if or to the extent that the direction under sub-paragraph (2) is withdrawn by the Secretary of State.
- (5) At any time before a development plan document to which this paragraph applies is adopted under section 23, or approved under paragraph 2(4)(a) or 6(4)(a), the Secretary of State may direct that the document (or any part of it) is submitted to him for his approval.
- (6) In relation to a document or part of a document submitted to him under sub-paragraph (5) the Secretary of State—
- (a) may approve the document or part;
 - (b) may approve it subject to specified modifications;
 - (c) may reject it.

The Secretary of State must give reasons for his decision under this sub-paragraph.

- (7) The Secretary of State may at any time—
- (a) after a development plan document to which this paragraph applies has been submitted for independent examination, but
 - (b) before it is adopted under section 23 or approved under paragraph 2(4)(a) or 6(4)(a),
- direct the Mayor of London or the combined authority to withdraw the document.
- 9 (1) This paragraph applies if the Secretary of State gives a direction under paragraph 8(5).
- (2) No steps are to be taken in connection with the adoption or approval of the document until the Secretary of State gives his decision, or withdraws the direction.

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- (3) If the direction is given, and not withdrawn, before the document has been submitted for independent examination, the Secretary of State must hold an independent examination.
- (4) If the direction—
- (a) is given after the document has been submitted for independent examination but before the person appointed to carry out the examination has made his recommendations, and
 - (b) is not withdrawn before those recommendations are made,
- the person must make his recommendations to the Secretary of State.
- (5) The document has no effect unless the document or (as the case may be) the relevant part of it has been approved by the Secretary of State, or the direction is withdrawn.
- The “relevant part” is the part of the document that—
- (a) is covered by a direction under paragraph 8(5) which refers to only part of the document, or
 - (b) continues to be covered by a direction under paragraph 8(5) following the partial withdrawal of the direction.
- (6) The Secretary of State must publish the recommendations made to him by virtue of subparagraph (3) or (4) and the reasons of the person making the recommendations.
- (7) In considering a document or part of a document submitted under paragraph 8(5) the Secretary of State may take account of any matter which he thinks is relevant.
- (8) It is immaterial whether any such matter was taken account of by the Mayor of London or the combined authority.
- 10 Subsections (4) to (7C) of section 20 apply to an examination held under paragraph 9(3)—
- (a) with the reference to the local planning authority in subsection (7C) of that section being read as a reference to the Secretary of State, and
 - (b) with the omission of subsections (5)(c), (7)(b)(ii) and (7B)(b).
- 11 In the exercise of any function under paragraph 8 or 9 the Secretary of State must have regard to the local development scheme.
- 12 The Mayor of London or the combined authority must reimburse the Secretary of State for any expenditure incurred by the Secretary of State under paragraph 8 or 9 that is specified in a notice given by him to the Mayor or the authority.

Temporary direction pending possible use of intervention powers

- 13 (1) If the Secretary of State is considering whether to give a direction to the Mayor of London or a combined authority under paragraph 8 in relation to a development plan document, he may direct the Mayor or the authority not to take any step in connection with the adoption or approval of the document—
- (a) until the time (if any) specified in the direction, or
 - (b) until the direction is withdrawn.
- (2) A document to which a direction under this paragraph relates has no effect while the direction is in force.
- (3) A direction given under this paragraph in relation to a document ceases to have effect if a direction is given under paragraph 8 in relation to that document.”

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SCHEDULE 12

Section 150

PERMISSION IN PRINCIPLE FOR DEVELOPMENT OF
LAND: MINOR AND CONSEQUENTIAL AMENDMENTS

Town and Country Planning Act 1990 (c. 8)

1 The Town and Country Planning Act 1990 is amended as follows.

Commencement Information

I85 Sch. 12 para. 1 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

2 In section 2A (the Mayor of London: applications of potential strategic importance), in subsections (1)(a) and (1B), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I86 Sch. 12 para. 2 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

3 In the heading before section 61W, after “planning permission” insert “ or permission in principle ”.

Commencement Information

I87 Sch. 12 para. 3 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

4 In section 61W (requirement to carry out pre-application consultation), in subsection (1)(a), after “planning permission” insert “, or permission in principle,”.

Commencement Information

I88 Sch. 12 para. 4 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

5 In section 61X (duty to take account of responses to consultation), in subsection (1) (a) and (b), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I89 Sch. 12 para. 5 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

6 In section 61Y (power to make supplementary provision), in subsection (1), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I90 Sch. 12 para. 6 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

7 In the heading before section 62, after “planning permission” insert “ or permission in principle ”.

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Commencement Information

I91 Sch. 12 para. 7 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 8 (1) Section 62 (applications for planning permission) is amended as follows.
- (2) In the heading and in subsection (1), after “planning permission” insert “ or permission in principle ”.
- (3) In subsection (7)—
- (a) after “the application for planning permission” insert “ or permission in principle ”;
 - (b) in paragraphs (a) and (b), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I92 Sch. 12 para. 8 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 9 In section 65 (notice etc of applications for planning permission), in the heading and in subsections (1)(a), (3), (5) and (8), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I93 Sch. 12 para. 9 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 10 In section 69 (register of applications etc), after paragraph (a) of subsection (1) insert—
- “(aza) applications for permission in principle;”.

Commencement Information

I94 Sch. 12 para. 10 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 11 (1) Section 70 (determination of applications: general considerations) is amended as follows.
- (2) In subsection (2), for “such an application” substitute “ an application for planning permission or permission in principle ”.
- (3) In subsection (2A), for “Subsection (2)(b) does not” substitute “ Subsections (1A), (2)(b) and (2ZZA) to (2ZZC) do not ”.

Commencement Information

I95 Sch. 12 para. 11 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 12 (1) Section 70A (power to decline to determine subsequent application) is amended as follows.
- (2) In subsection (5), after paragraph (a) insert—

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“(aa) an application for permission in principle for the development of any land;”.

(3) In subsection (8), for “An application for planning permission is similar” substitute “Subject to subsection (9), an application is similar”.

(4) After that subsection insert—

“(9) An application within subsection (5)(a) or (b) is not similar to an earlier application within subsection (5)(aa).”

Commencement Information

I96 Sch. 12 para. 12 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

13 (1) Section 70B (power to decline to determine overlapping application) is amended as follows.

(2) In subsections (1) and (4A), after “planning permission” insert “, or permission in principle,”.

(3) In subsection (5) omit “for planning permission”.

Commencement Information

I97 Sch. 12 para. 13 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

14 In section 70C (power to decline to determine retrospective application), in subsections (1) and (2), after “for planning permission” insert “ or permission in principle”.

Commencement Information

I98 Sch. 12 para. 14 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

15 In section 71 (consultation in connection with determinations under section 70), in subsection (1), after “planning permission” insert “ or permission in principle”.

Commencement Information

I99 Sch. 12 para. 15 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

16 In section 71A (assessment of environmental effects), in subsection (1), after “planning permission” insert “, or permission in principle,”.

Commencement Information

I100 Sch. 12 para. 16 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

17 (1) Section 74 (directions etc as to method of dealing with applications) is amended as follows.

(2) In subsection (1)—

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- (a) after “applications for planning permission” insert “ , or permission in principle, ”;
 - (b) in paragraphs (a), (c), (d) and (f), after “planning permission” insert “ or permission in principle ”;
 - (c) in paragraph (b), after “planning permission” insert “ , or permission in principle, ”.
- (3) In subsection (1B)—
- (a) in paragraph (a), after “planning permission” insert “ , or permission in principle, ”;
 - (b) in paragraph (c), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I101 Sch. 12 para. 17 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 18 In section 76C (provisions applying to applications made under section 62A), after subsection (2) insert—

“(2A) Sections 65(5) and 70 to 70C apply, with any necessary modifications, to an application for permission in principle made to the Secretary of State under section 62A as they apply to an application for permission in principle which is to be determined by the local planning authority.

(2B) Any requirements imposed by a development order by virtue of section 62(1), (2) or (8), 65 or 71 or paragraph 8(6) of Schedule 1 may be applied by a development order, with or without modifications, to an application for permission in principle made to the Secretary of State under section 62A.”

Commencement Information

I102 Sch. 12 para. 18 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 19 In section 76D (deciding applications made under section 62A), in subsection (3), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I103 Sch. 12 para. 19 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 20 (1) Section 77 (references of applications to Secretary of State) is amended as follows.
- (2) In subsection (1), after “planning permission” insert “ or permission in principle ”.
- (3) In subsection (4)—
- (a) for “subsection (5), where” substitute “subsection (5)—
 - (a) where”;
 - (b) for “local planning authority and” substitute “local planning authority;
 - (b) where an application for permission in principle is referred to the Secretary of State under this section, section 70 shall

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apply, with any necessary modifications, as it applies to such an application which falls to be determined by the local planning authority;

and ”.

Commencement Information

I104 Sch. 12 para. 20 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 21 In section 78 (right of appeal against planning decisions and failure to take such decision), in subsection (1), after paragraph (a) insert—
“(aa) refuse an application for permission in principle;”.

Commencement Information

I105 Sch. 12 para. 21 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 22 (1) Section 78A (appeal made: functions of local planning authorities) is amended as follows.
(2) In subsection (1), after “section 78(1)(a)” insert “ or (aa) ”.
(3) In subsection (4), for “to grant the application” substitute “ to grant an application mentioned in section 78(1)(a) ”.

Commencement Information

I106 Sch. 12 para. 22 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 23 (1) Section 79 (determination of appeals) is amended as follows.
(2) In subsection (4)—
(a) for “subsection (2), the provisions of sections” substitute “subsection (2)—
(a) sections”;
(b) after “under section 78” insert “ in respect of an application within section 78(1)(a), (b) or (c) ”;
(c) for “local planning authority and” substitute “local planning authority;
(b) section 70 shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 in respect of an application for permission in principle as it applies in relation to such an application which falls to be determined by the local planning authority;
and ”.
(3) After subsection (6) insert—
“(6ZA) If, before or during the determination of such an appeal in respect of an application for permission in principle to develop land, the Secretary of State forms the opinion that, having regard to the provisions of section 70 and the development order, permission in principle for that development could

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not have been granted by the local planning authority, he may decline to determine the appeal or to proceed with the determination.”

Commencement Information

I107 Sch. 12 para. 23 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 24 In the heading before section 97, after “planning permission” insert “ or permission in principle ”.

Commencement Information

I108 Sch. 12 para. 24 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 25 (1) Section 97 (power to revoke or modify planning permission) is amended as follows.
- (2) In the heading, at the end insert “ or permission in principle ”.
- (3) In subsection (1), for the words from “modify” to “the authority” substitute “modify —
- (a) any permission (including permission in principle) to develop land granted on an application made under this Part, or
- (b) any permission in principle granted by a development order,
- the authority ”.
- (4) In subsection (3)(a) and (b), for “where the permission” substitute “ in the case of planning permission that ”.
- (5) In subsection (4), for “permission” substitute “ planning permission ”.

Commencement Information

I109 Sch. 12 para. 25 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 26 In section 99 (procedure for section 97 orders: unopposed cases), in subsection (8) (a), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I110 Sch. 12 para. 26 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 27 (1) In section 106BB (duty to notify the Mayor of London of certain applications under section 106BA), in paragraphs (a), (b) and (c) of subsection (1), for “planning permission” substitute “ permission ”.

- (2) At the end of that subsection insert—

“In this subsection, “permission” means planning permission or permission in principle.”

PROSPECTIVE

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- 28 (1) Section 107 (compensation where planning permission revoked or modified) is amended as follows.
- (2) In the heading, after “planning permission” insert “ or permission in principle ”.
- (3) In subsection (1)—
- (a) after “planning permission” insert “ or permission in principle ”;
 - (b) or “section 97” substitute “section 97(1)(a)”.
- (4) In subsections (2) and (3), for “this section” substitute “ subsection (1) ”.
- (5) In subsection (4)—
- (a) for “this section” substitute “ subsection (1) ”;
 - (b) for “consisting” substitute “ that is attributable to the revocation or modification of planning permission and consists ”.
- (6) After that subsection insert—
- “(4A) A development order may make provision for the payment of compensation, in such circumstances and subject to such conditions as may be prescribed in the order, where permission in principle is revoked or modified by an order under section 97(1)(b).”

Commencement Information

II11 Sch. 12 para. 28 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 29 (1) Section 108 (compensation for refusal or conditional grant of planning permission formerly granted by development order etc) is amended as follows.
- (2) In the heading, after “planning permission” insert “ etc ”.
- (3) After subsection (2A) insert—
- “(2B) Where—
- (a) permission in principle granted by a development order is withdrawn by the revocation or amendment of the order, and
 - (b) on an application made under Part 3 or section 293A before the end of the period of 12 months beginning with the date on which the revocation or amendment came into operation, permission in principle is refused for development of a description that is the same as, or falls within, that to which the withdrawn permission in principle related,
- section 107 shall apply as if the permission in principle granted by the development order had been granted by the local planning authority under Part 3 or section 293A, and had been revoked or modified by an order under section 97.”
- (4) In subsection (3), after “planning permission” insert “ , or permission in principle, ”.
- (5) In subsections (3B)(a) and (3C)(a), after “planning permission” insert “ or permission in principle ”.
- (6) In subsection (3C)(b), for “planning permission” substitute “ permission ”.

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(7) In subsection (3C)(d), before “either” insert “ where the development order granted planning permission,”.

Commencement Information

I112 Sch. 12 para. 29 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

30 In section 109 (apportionment of compensation for depreciation), in the definition of “relevant planning decision” in subsection (6), for “by which planning permission is refused, or is granted” substitute “ by which planning permission or permission in principle is refused, or by which planning permission is granted ”.

Commencement Information

I113 Sch. 12 para. 30 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

31 In section 284 (validity of development plans and certain orders, decisions and directions), in subsection (3)(i), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I114 Sch. 12 para. 31 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

32 In section 286 (challenges to validity on ground of authority's powers), in subsections (1)(a) and (2), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I115 Sch. 12 para. 32 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

33 In section 293 (application to Crown: definitions), in subsection (2A), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I116 Sch. 12 para. 33 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

34 (1) Section 293A (urgent Crown development: application) is amended as follows.

(2) In subsection (2), after “planning permission” (in both places) insert “ or permission in principle ”.

(3) In subsection (4)(a), after “planning permission” insert “ , or (as the case may be) permission in principle,”.

Commencement Information

I117 Sch. 12 para. 34 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

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- 35 (1) Section 298A (application for planning permission by Crown) is amended as follows.
- (2) In the heading, after “planning permission” insert “ etc ”.
- (3) In subsection (1), after “for planning permission” insert “ , for permission in principle ”.

Commencement Information

I118 Sch. 12 para. 35 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 36 In section 303 (fees for planning applications etc), in subsection (4), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I119 Sch. 12 para. 36 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 37 In section 316 (land of interested planning authorities and development by them), for subsection (7) substitute—

“(7) This section applies—

(a) to permission in principle to develop any land, and

(b) to any consent required in respect of any land,

as it applies to planning permission to develop land.”

Commencement Information

I120 Sch. 12 para. 37 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 38 In section 322B (local inquiries in London: special provision as to costs in certain cases)—
- (a) in subsection (1)(a),
- (b) in paragraph (a) of the subsection set out in subsection (5), and
- (c) in paragraph (a) of the subsection set out in subsection (6),
- after “planning permission” insert “ or permission in principle ”.

Commencement Information

I121 Sch. 12 para. 38 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 39 In section 332 (combined applications), in subsection (1)(a), after “planning permission” insert “ , or permission in principle, ”.

Commencement Information

I122 Sch. 12 para. 39 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 40 (1) In section 336 (interpretation), subsection (1) is amended as follows.
- (2) At the appropriate place insert—

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““permission in principle” means permission of the kind referred to in section 58A;”.

- (3) At the end of the definition of “planning permission” insert “ but does not include permission in principle ”.

Commencement Information

I123 Sch. 12 para. 40 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 41 (1) Schedule 1 (local planning authorities: distribution of functions) is amended as follows.
- (2) In paragraph 3(1)(a), after “planning permission” insert “ or permission in principle ”.
- (3) In paragraph 4(2), after “application for planning permission” insert “ or permission in principle ”.
- (4) In paragraphs 7(1), 8(1) and 8(2)(b)(i), 11(1)(a), 16(2)(a) and 18, after “planning permission” insert “ or permission in principle ”.

Commencement Information

I124 Sch. 12 para. 41 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

- 42 (1) In section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (general duty as respects listed buildings in exercise of planning functions) in subsection (1), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I125 Sch. 12 para. 42 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

- 43 In section 91(2) of that Act (expressions that have the same meaning as in the principal Act), at the appropriate place insert—
- “permission in principle”.

Commencement Information

I126 Sch. 12 para. 43 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

Commons Act 2006 (c. 26)

- 44 (1) Schedule 1A to the Commons Act 2006 (exclusion of right under section 15) is amended as follows.
- (2) In the first column of the Table, in paragraphs 1 and 2, after “An application for planning permission” insert “ , or permission in principle, ”.

Status: Point in time view as at 06/04/2018.

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- (3) In the second column of the Table, in paragraphs 1(c) and 2(c), after “planning permission” insert “ or permission in principle ”.

Commencement Information

I127 Sch. 12 para. 44 in force at 13.7.2016 by S.I. 2016/733, reg. 3(d)

PROSPECTIVE

SCHEDULE 13

Section 158

RESOLUTION OF DISPUTES ABOUT PLANNING OBLIGATIONS: SCHEDULE TO BE INSERTED IN THE TOWN AND COUNTRY PLANNING ACT 1990

“SCHEDULE 9A

Section 106ZA

RESOLUTION OF DISPUTES ABOUT PLANNING OBLIGATIONS

Appointment of person to help resolve disputes

- 1 (1) This paragraph applies where—
 - (a) a person (“the applicant”) has made an application for planning permission or an application of a prescribed description (“the application”) to a local planning authority in England,
 - (b) there are unresolved issues regarding what should be the terms of any section 106 instrument, and
 - (c) any prescribed conditions are met.
- (2) The Secretary of State must (subject to sub-paragraphs (6) to (8)) appoint a person to help with the resolution of the unresolved issues if—
 - (a) the Secretary of State thinks that the local planning authority would be likely to grant the application if satisfactory planning obligations were entered into, but not otherwise, and
 - (b) sub-paragraph (3), (4) or (5) applies.
- (3) This sub-paragraph applies where the applicant or the authority requests the Secretary of State to make an appointment.
- (4) This sub-paragraph applies where—
 - (a) a person of a prescribed description requests the Secretary of State to make an appointment, and
 - (b) any prescribed requirements as to the consent of the applicant or the authority are satisfied.
- (5) This sub-paragraph applies where—
 - (a) regulations require an appointment to be made, in prescribed circumstances, if the unresolved issues have not been resolved by the end of a prescribed period,
 - (b) the circumstances are as prescribed, and

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- (c) the unresolved issues have not been resolved by the end of that period.
- (6) The Secretary of State may decline to make an appointment in prescribed circumstances.
- (7) Regulations must provide that—
 - (a) no appointment is to be made under this paragraph before the end of a prescribed period;
 - (b) no appointment is to be made in response to a request under sub-paragraph (3) or (4) if the request is withdrawn before the end of that period.
- (8) No request may be made under sub-paragraph (3) or (4), and sub-paragraph (5) does not apply—
 - (a) if the application has been referred to the Secretary of State under section 77;
 - (b) if the applicant has appealed to the Secretary of State under section 78(2) in respect of the application;
 - (c) if the applicant has made an application to the court, which has not been disposed of, in respect of it;
 - (d) in such other circumstances as may be prescribed.

Co-operation etc with person appointed under paragraph 1

- 2 Where a person is appointed under paragraph 1 the parties must—
 - (a) co-operate with the person;
 - (b) comply with any reasonable requests by the person to provide information or documents or to take part in meetings.

Report by appointed person

- 3 (1) A person appointed under paragraph 1 must prepare a report and send it to the parties.
- (2) The report must—
 - (a) identify the unresolved issues;
 - (b) indicate the steps taken since the person's appointment to try to resolve those issues.
- (3) If—
 - (a) agreement is reached between the local planning authority and those who are proposing to enter into planning obligations, before the report is sent to the parties, on what are to be the terms of the section 106 instrument, and
 - (b) the appointed person is aware of the agreement,
 the report must set out the terms agreed.
- (4) Where sub-paragraph (3) does not apply, the report must set out the appointed person's recommendations as to what terms would be appropriate.
- (5) In deciding what recommendations to make under sub-paragraph (4), the appointed person must have regard to any template or model for section 106 instruments that is published by the Secretary of State.
- (6) The local planning authority must publish the report in accordance with any provision made by regulations about the manner and time of publication.

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Temporary prohibition on refusal or appeal

- 4 (1) Where paragraph 1(3), (4) or (5) applies, the applicant may not appeal to the Secretary of State under section 78(2) in relation to the application before—
- (a) the resolution process has come to an end, and
 - (b) the applicant has paid any fees or costs that the applicant is required to pay by virtue of paragraph 10(3) or (4)(c).
- (2) Where paragraph 1(3), (4) or (5) applies and the local planning authority are minded to refuse the application, they may not do so before—
- (a) the resolution process has come to an end, and
 - (b) the authority have paid any fees or costs that they are required to pay by virtue of paragraph 10(3) or (4)(c).
- (3) For the purposes of this paragraph, the resolution process comes to an end—
- (a) on the expiry of the period prescribed under paragraph 1(7), if paragraph 1(5) does not apply and the request under paragraph 1(3) or (4) is withdrawn (or, where more than one such request has been made, they are all withdrawn) before the end of that period;
 - (b) when the Secretary of State declines to appoint a person under paragraph 1, if the Secretary of State declines to make an appointment;
 - (c) when the parties agree that the process has come to an end, if they agree that it has;
 - (d) when the local planning authority publish the appointed person's report, if paragraph (a), (b) or (c) does not apply.

Effect of appointed person's report: planning obligations entered into

- 5 (1) This paragraph applies where—
- (a) a local planning authority are determining an application in connection with which—
 - (i) a report has been prepared under paragraph 3, and
 - (ii) planning obligations have been entered into, and
 - (b) the section 106 instrument satisfies the requirements of sub-paragraph (2).
- (2) A section 106 instrument satisfies the requirements of this sub-paragraph if—
- (a) the instrument is in accordance with the terms or recommendations reported under paragraph 3(3) or (4), or
 - (b) the instrument is executed before the end of a prescribed period and the local planning authority—
 - (i) are a party to it, or
 - (ii) notify the applicant, before the end of that period, that they are content with the terms of it.
- (3) The local planning authority must not refuse the application on a ground that relates to the appropriateness of the terms of the section 106 instrument.
- (4) If the local authority grant the application, the authority's power to make the grant conditional on a person undertaking—
- (a) a planning obligation other than one entered into by the section 106 instrument, or
 - (b) an obligation of some other kind,

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is subject to any limitations specified in regulations.

Effect of appointed person's report: no planning obligations entered into

6 Where—

- (a) a local planning authority are determining an application in connection with which a report has been prepared under paragraph 3,
- (b) the report records (under paragraph 3(3)) an agreement that planning obligations are to be entered into, or recommends (under paragraph 3(4)) that planning obligations are entered into, and
- (c) no section 106 instrument is executed before the end of a prescribed period, the local planning authority must refuse the application.

Effect of appointed person's report: further provision

- 7 (1) Where a report is prepared under paragraph 3 in connection with an application—
- (a) the local planning authority determining the application must have regard to the report, to the extent that this requirement is consistent with the restrictions in paragraphs 5 and 6;
 - (b) a person determining an appeal against the authority's decision on the application, or an appeal under section 78(2) in respect of the application, must have regard to the report but is not subject to those restrictions.
- (2) Regulations may prescribe cases or circumstances in which a restriction in paragraph 5 or 6 does not apply.

Appointment in connection with two or more applications

- 8 (1) A person may be appointed under paragraph 1 in connection with two or more applications if the same or similar issues arise on both or all of them.
- (2) In such cases—
- (a) the provisions of this Schedule apply separately in relation to each application, but
 - (b) a single report may be made under paragraph 3 in relation to both or all of the applications.

Exercise of functions on behalf of the Secretary of State

- 9 (1) The Secretary of State may arrange for a function of the Secretary of State under paragraph 1 (other than a function of making regulations) to be exercised by any body or person on behalf of the Secretary of State.
- (2) A reference in this Schedule to the Secretary of State is to be read, where appropriate, as including a reference to a body or person exercising functions under any such arrangements.
- (3) Arrangements under this paragraph—
- (a) do not affect the responsibility of the Secretary of State for the exercise of the function;
 - (b) may include provision for payments to be made to the body or person exercising the function under the arrangements.

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Regulations

- 10 (1) Regulations may make provision about requests under paragraph 1(3) or (4), including in particular—
- (a) provision about when requests may be made;
 - (b) provision about the form of requests;
 - (c) provision requiring requests to be served on prescribed persons;
 - (d) provision requiring prescribed information or documents to be provided;
 - (e) provision about withdrawal of requests.
- (2) Regulations may make provision requiring the applicant or the local planning authority to notify the Secretary of State where paragraph 1(5) applies.
- (3) Regulations may make provision for the payment by the parties of fees in cases where a person is appointed under paragraph 1, including in particular provision about—
- (a) calculating the amount of the fees;
 - (b) the proportion of the fees that each party is to bear;
 - (c) when fees are to be payable.
- (4) Regulations may make further provision supplementing that made by paragraphs 1 to 9, and may in particular—
- (a) make provision about the qualifications or experience that an appointed person must have;
 - (b) require an appointed person—
 - (i) to consider or take into account prescribed matters;
 - (ii) not to consider or take into account prescribed matters;
 - (iii) to make prescribed assumptions;
 - (c) provide for a party that is in breach of paragraph 2, or otherwise behaves unreasonably, to be required by an appointed person to pay some or all of the costs incurred by another party in connection with that breach or behaviour;
 - (d) make provision for corrections or other revisions to be made to a report under paragraph 3;
 - (e) require particular steps to be taken by an appointed person or the parties for the purposes of, or otherwise in connection with, a report under paragraph 3;
 - (f) require the application to be determined no earlier than a specified period following the time when a report under paragraph 3 is sent to the parties, or no later than a specified period following that time.

Interpretation

- 11 In this Schedule—
- “the applicant” and “the application” have the meaning given by paragraph 1(1);
- “appointed person” means a person appointed under paragraph 1;
- “parties” means the applicant and the local planning authority;
- “prescribed period” means a period prescribed by, or determined in accordance with, regulations;
- “section 106 instrument” means an instrument by which planning obligations are entered into.”

Status: Point in time view as at 06/04/2018.

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SCHEDULE 14

Section 179

RIGHT TO ENTER AND SURVEY LAND: CONSEQUENTIAL AMENDMENTS

Defence Act 1842 (5 & 6 Vict c. 94)

1 In section 16 of the Defence Act 1842, at the end insert—

“(3) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Commencement Information

I128 Sch. 14 para. 1 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Coast Protection Act 1949 (12 & 13 Geo 6 c. 74)

2 In section 25 of the Coast Protection Act 1949, after subsection (1) insert—

“(1A) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Commencement Information

I129 Sch. 14 para. 2 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

National Parks and Access to the Countryside Act 1949 (12, 13 & 14 Geo 6 c. 97)

3 (1) Section 108 of the National Parks and Access to the Countryside Act 1949 is amended as follows.

(2) In subsection (1)(a), after “therein” insert “ in relation to land in Scotland ”.

(3) After subsection (1) insert—

“(1A) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Commencement Information

I130 Sch. 14 para. 3 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Land Powers (Defence) Act 1958 (6 & 7 Eliz 2 c. 30)

4 In section 21 of the Land Powers (Defence) Act 1958, after subsection (1) insert—

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“(1A) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Commencement Information

I131 Sch. 14 para. 4 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Caravan Sites and Control of Development Act 1960 (8 & 9 Eliz 2 c. 62)

5 In section 26 of the Caravan Sites and Control of Development Act 1960, after subsection (1) insert—

“(1A) A person may not be authorised under subsection (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Commencement Information

I132 Sch. 14 para. 5 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Compulsory Purchase Act 1965 (c. 56)

6 In section 11(3) of the Compulsory Purchase Act 1965 for “surveying and taking levels” substitute “surveying, valuing or taking levels”.

Commencement Information

I133 Sch. 14 para. 6 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Criminal Justice Act 1972 (c. 71)

7 In the Criminal Justice Act 1972 omit section 60.

Commencement Information

I134 Sch. 14 para. 7 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Welsh Development Agency Act 1975 (c. 70)

8 In Schedule 4 to the Welsh Development Agency Act 1975 omit paragraph 14(1).

Commencement Information

I135 Sch. 14 para. 8 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

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Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

9 In the Local Government (Miscellaneous Provisions) Act 1976 omit section 15.

Commencement Information

I136 Sch. 14 para. 9 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Ancient Monuments and Archaeological Areas Act 1979 (c. 46)

10 In section 43 of the Ancient Monuments and Archaeological Areas Act 1979, for subsection (1) substitute—

“(1) Any person authorised under this section may at any reasonable time enter any land in Scotland for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that or any other land under this Act or in connection with any claim for compensation under this Act in respect of any such acquisition.

(1A) Any person authorised under this section may at any reasonable time enter any land in England and Wales or Scotland for the purpose of surveying it, or estimating its value, in connection with any claim for compensation under this Act for any damage to that or any other land.

(1B) See section 172 of the Housing and Planning Act 2016 for a power to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land.”

Commencement Information

I137 Sch. 14 para. 10 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Local Government, Planning and Land Act 1980 (c. 65)

11 (1) Section 167 of the Local Government, Planning and Land Act 1980 is amended as follows.

(2) In the heading, after “land” insert “ in Scotland ”.

(3) In subsection (1)—

- (a) in paragraph (a) after “any land” insert “ in Scotland ”;
- (b) in paragraph (b) after “other land” insert “ in Scotland ”.

(4) In subsection (7)—

- (a) for the words before paragraph (a) substitute “ Where it is proposed to search or bore in pursuance of this section in a road within the meaning of Part 4 of the New Roads and Street Works Act 1991— ”;
- (b) in paragraph (a) omit “55 or”;
- (c) in paragraph (b) omit “69 or”;
- (d) in paragraph (c) omit “82 or”;

Status: Point in time view as at 06/04/2018.

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- (e) for the words after paragraph (c) substitute “ have effect in relation to the searching or boring as if they were road works within the meaning of Part 4 of that Act. ”
- (5) In subsection (9)—
 - (a) for “Upper Tribunal” substitute “ Lands Tribunal for Scotland ”;
 - (b) for the words from “section 4” to “costs” substitute “ sections 9(2) to (5) and 11 of the Land Compensation (Scotland) Act 1963 (procedure and expenses) ”.
- (6) Omit subsection (13).

Commencement Information

I138 Sch. 14 para. 11 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Highways Act 1980 (c. 66)

- 12 In section 289 of the Highways Act 1980, after subsection (1) insert—
- “(1A) A person may not be authorised under subsection (1) to enter and survey or value land in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Commencement Information

I139 Sch. 14 para. 12 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

New Towns Act 1981 (c. 64)

- 13 In section 73(1) of the New Towns Act 1981 omit paragraph (b) (and the “or” before it).

Commencement Information

I140 Sch. 14 para. 13 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Civil Aviation Act 1982 (c. 16)

- 14 (1) Section 50 of the Civil Aviation Act 1982 is amended as follows.
- (2) In subsection (1), for paragraph (e) substitute—
- “(e) in any case not falling within paragraphs (a) to (d) above where the Secretary of State has made an order under or in pursuance of this Part of this Act—
 - (i) authorising the compulsory purchase of land,
 - (ii) providing for the creation in favour of a particular person of a right in or in relation to land, or
 - (iii) declaring that an area of land shall be subject to control by directions.

Status: Point in time view as at 06/04/2018.

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- (f) in any case not falling within paragraphs (a) to (d) above where the Secretary of State is considering making an order under or in pursuance of this Part of this Act—
- (i) authorising the compulsory purchase of land in Scotland or Northern Ireland,
 - (ii) providing for the creation in favour of a particular person of a right in or in relation to land in Scotland or Northern Ireland, or
 - (iii) declaring that an area of land in England and Wales, Scotland or Northern Ireland shall be subject to control by directions.”

(3) In subsection (3)(e), after “(1)(e)” insert “ or (f) ”.

(4) In subsection (4)(b), after “(1)(e)” insert “ or (f) ”.

(5) In subsection (7)(c), after “(1)(e)” insert “ or (f) ”.

Commencement Information

I141 Sch. 14 para. 14 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Industrial Development Act 1982 (c. 52)

- 15 In section 14 of the Industrial Development Act 1982 omit subsection (6).

Commencement Information

I142 Sch. 14 para. 15 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Housing Act 1985 (c. 68)

- 16 In section 54 of the Housing Act 1985, after subsection (2) insert—

“(3) A person may not be authorised by a local housing authority under subsection (1)(a) to enter and survey or value land in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Commencement Information

I143 Sch. 14 para. 16 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Local Government and Housing Act 1989 (c. 42)

- 17 In section 97 of the Local Government and Housing Act 1989, after subsection (1) insert—

“(1A) A person may not be authorised by a local housing authority under subsection (1)(a) to enter and survey or value land in connection with a

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proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Commencement Information

I144 Sch. 14 para. 17 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Electricity Act 1989 (c. 29)

18 In Schedule 4 to the Electricity Act 1989, in paragraph 10, after sub-paragraph (1) insert—

“(1A) A person may not be authorised under sub-paragraph (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Commencement Information

I145 Sch. 14 para. 18 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Town and Country Planning Act 1990 (c. 8)

19 In section 324 of the Town and Country Planning Act 1990 omit subsection (6).

Commencement Information

I146 Sch. 14 para. 19 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

20 In section 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990 omit subsection (5).

Commencement Information

I147 Sch. 14 para. 20 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Land Drainage Act 1991 (c. 59)

21 In section 64 of the Land Drainage Act 1991, after subsection (1) insert—

“(1A) A person may not be authorised under subsection (1)(a) or (b) to enter and survey or value land in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Status: Point in time view as at 06/04/2018.

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Commencement Information

I148 Sch. 14 para. 21 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Water Industry Act 1991 (c. 56)

- 22 (1) Section 169 of the Water Industry Act 1991 is amended as follows.
- (2) In subsection (2) omit paragraph (a) (and the “or” at the end of it).
- (3) In subsection (4), for the words before paragraph (a) substitute “ The powers conferred by this section or section 172 of the Housing and Planning Act 2016 shall not be exercised on behalf of a water undertaker in any case for purposes connected with the determination of— ”.

Commencement Information

I149 Sch. 14 para. 22 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Water Resources Act 1991 (c. 57)

- 23 (1) Section 171 of the Water Resources Act 1991 is amended as follows.
- (2) In subsection (2) omit paragraph (a) (and the “or” at the end of it).
- (3) In subsection (4), for the words before paragraph (a) substitute “ The powers conferred by this section or section 172 of the Housing and Planning Act 2016 shall not be exercised on behalf of the Agency or the NRBW in any case for purposes connected with the determination of— ”.

Commencement Information

I150 Sch. 14 para. 23 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Environment Act 1995 (c. 25)

- 24 (1) Schedule 8 to the Environment Act 1995 is amended as follows.
- (2) In paragraph 1(2) omit paragraph (b).
- (3) In paragraph 2(3)—
- (a) at the end of paragraph (a) insert “ and ”;
- (b) omit paragraph (c) (and the “and” before it).

Commencement Information

I151 Sch. 14 para. 24 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Greater London Authority Act 1999 (c. 29)

- 25 In the Greater London Authority Act 1999 omit section 333ZD.

Status: Point in time view as at 06/04/2018.

Changes to legislation: *Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I152 Sch. 14 para. 25 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Postal Services Act 2000 (c. 26)

26 In Schedule 6 to the Postal Services Act 2000, in paragraph 2, after sub-paragraph (2) insert—

“(2A) A person may not be authorised under sub-paragraph (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).”

Commencement Information

I153 Sch. 14 para. 26 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Housing and Regeneration Act 2008 (c. 17)

27 In the Housing and Regeneration Act 2008 omit sections 17 and 18.

Commencement Information

I154 Sch. 14 para. 27 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

Localism Act 2011 (c. 20)

28 In the Localism Act 2011 omit section 210.

Commencement Information

I155 Sch. 14 para. 28 in force at 13.7.2016 by S.I. 2016/733, reg. 3(h) (with reg. 6)

SCHEDULE 15

Section 183

NOTICE OF GENERAL VESTING DECLARATION PROCEDURE

New notice requirements

1 The Acquisition of Land Act 1981 is amended as follows.

Commencement Information

I156 Sch. 15 para. 1 in force at 1.10.2016 for specified purposes by S.I. 2016/956, reg. 2(b)(i)(ii)

I157 Sch. 15 para. 1 in force at 3.2.2017 for specified purposes by S.I. 2017/75, reg. 3(i) (with reg. 5)

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

I158 Sch. 15 para. 1 in force at 6.4.2017 in so far as not already in force by S.I. 2017/281, reg. 4(j) (with reg. 8(1))

- 2 (1) Section 15 (compulsory purchase order: confirmation notice) is amended as follows.
- (2) In subsection (4), after paragraph (d) insert—
- “(e) containing a prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981;
- (f) inviting any person who would be entitled to claim compensation if a declaration were executed under section 4 of that Act to give the acquiring authority information about the person's name, address and interest in land, using a prescribed form.”
- (3) After subsection (5) insert—
- “(6) The acquiring authority must send the confirmation notice to the Chief Land Registrar and it shall be a local land charge.”

Commencement Information

- I159** Sch. 15 para. 2(1)(2) in force at 1.10.2016 for specified purposes by S.I. 2016/956, reg. 2(b)(i)
- I160** Sch. 15 para. 2 in force at 3.2.2017 for specified purposes by S.I. 2017/75, reg. 3(i) (with reg. 5)
- I161** Sch. 15 para. 2 in force at 6.4.2017 in so far as not already in force by S.I. 2017/281, reg. 4(j) (with reg. 8(1))

- 3 (1) Paragraph 6 of Schedule 1 (purchase by Minister: notices after making of order) is amended as follows.
- (2) In sub-paragraph (4), after paragraph (d) insert—
- “(e) containing a prescribed statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981;
- (f) inviting any person who would be entitled to claim compensation if a declaration were executed under section 4 of that Act to give the acquiring authority information about the person's name, address and interest in land, using a prescribed form.”
- (3) After sub-paragraph (5) insert—
- “(6) The Minister must send the making notice to the Chief Land Registrar and it shall be a local land charge.”

Commencement Information

- I162** Sch. 15 para. 3(1)(2) in force at 1.10.2016 for specified purposes by S.I. 2016/956, reg. 2(b)(ii)
- I163** Sch. 15 para. 3 in force at 3.2.2017 for specified purposes by S.I. 2017/75, reg. 3(i) (with reg. 5)
- I164** Sch. 15 para. 3 in force at 6.4.2017 in so far as not already in force by S.I. 2017/281, reg. 4(j) (with reg. 8(1))

Consequential amendments

- 4 The Compulsory Purchase (Vesting Declarations) Act 1981 is amended as follows.

Status: Point in time view as at 06/04/2018.

Changes to legislation: *Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

- I165** Sch. 15 para. 4 in force at 3.2.2017 for specified purposes by S.I. 2017/75, **reg. 3(j)** (with reg. 5)
I166 Sch. 15 para. 4 in force at 6.4.2017 in so far as not already in force by S.I. 2017/281, **reg. 4(j)** (with reg. 8(2))

- 5 Omit section 3 (preliminary notices).

Commencement Information

- I167** Sch. 15 para. 5 in force at 3.2.2017 for specified purposes by S.I. 2017/75, **reg. 3(j)** (with reg. 5)
I168 Sch. 15 para. 5 in force at 6.4.2017 in so far as not already in force by S.I. 2017/281, **reg. 4(j)** (with reg. 8(2))

- 6 In section 5, omit subsection (1) (earliest date for execution of declaration following preliminary notice etc).

Commencement Information

- I169** Sch. 15 para. 6 in force at 3.2.2017 for specified purposes by S.I. 2017/75, **reg. 3(j)** (with reg. 5)
I170 Sch. 15 para. 6 in force at 6.4.2017 in so far as not already in force by S.I. 2017/281, **reg. 4(j)** (with reg. 8(2))

- 7 In section 6 (notices after execution of declaration), in subsection (1)(b), for “section 3(1) above” substitute “ section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981 ”.

Commencement Information

- I171** Sch. 15 para. 7 in force at 3.2.2017 for specified purposes by S.I. 2017/75, **reg. 3(j)** (with reg. 5)
I172 Sch. 15 para. 7 in force at 6.4.2017 in so far as not already in force by S.I. 2017/281, **reg. 4(j)** (with reg. 8(2))

Power to make corresponding amendments elsewhere

- 8 (1) The Secretary of State may by regulations amend any legislation in connection with the compulsory acquisition of land for the purpose of making amendments which correspond to the amendments made by this Schedule.
(2) “Legislation” means any provision made by or under an Act passed or made before this Act or in the same Session.

Commencement Information

- I173** Sch. 15 para. 8 in force at 1.10.2016 by S.I. 2016/956, **reg. 2(b)(iii)**

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 16

Section 190

ABOLITION OF ALTERNATIVE POSSESSION PROCEDURE FOLLOWING NOTICE TO TREAT

Land Compensation Act 1961 (c. 33)

- 1 In section 5A of the Land Compensation Act 1961—
 - (a) in subsection (6) omit paragraph (b);
 - (b) in subsection (9)(b) omit “under Schedule 3 to that Act or”.

Commencement Information

I174 Sch. 16 para. 1 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

Compulsory Purchase Act 1965 (c. 56)

- 2 The Compulsory Purchase Act 1965 is amended as follows.

Commencement Information

I175 Sch. 16 para. 2 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

- 3 In section 11 omit subsection (2).

Commencement Information

I176 Sch. 16 para. 3 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

- 4 In section 12(6) omit “, or have paid it into court under Schedule 3 to this Act by way of security”.

Commencement Information

I177 Sch. 16 para. 4 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

- 5 In section 37 for “Subsections (1) and (2)” substitute “ Subsection (1) ”.

Commencement Information

I178 Sch. 16 para. 5 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

- 6 Omit Schedule 3.

Commencement Information

I179 Sch. 16 para. 6 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Forestry Act 1967 (c. 10)

- 7 In Schedule 5 to the Forestry Act 1967, in paragraph 11(3), omit paragraph (b).

Commencement Information

I180 Sch. 16 para. 7 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

Agriculture (Miscellaneous Provisions) Act 1968 (c. 34)

- 8 In Schedule 3 to the Agriculture (Miscellaneous Provisions) Act 1968, in paragraph 5(b), omit “and Schedule 3”.

Commencement Information

I181 Sch. 16 para. 8 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

Land Compensation Act 1973 (c. 26)

- 9 The Land Compensation Act 1973 is amended as follows.

Commencement Information

I182 Sch. 16 para. 9 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

- 10 In section 33A(4) omit paragraph (b).

Commencement Information

I183 Sch. 16 para. 10 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

- 11 In section 52ZC(7)(c) for “, any bond under Schedule 3 to that Act or” substitute “ or any bond under ”.

Commencement Information

I184 Sch. 16 para. 11 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

- 12 In section 52A—
(a) in subsection (1), omit “Schedule 3 to that Act or”;
(b) in subsection (9), omit “under Schedule 3 to that Act or”.

Commencement Information

I185 Sch. 16 para. 12 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

- 13 In section 57(1) omit “, under Schedule 3 to the Compulsory Purchase Act 1965”.

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I186 Sch. 16 para. 13 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

- 14 In section 29(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 omit “or 3”.

Commencement Information

I187 Sch. 16 para. 14 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

Ancient Monuments and Archaeological Areas Act 1979 (c. 46)

- 15 In section 36(1)(b) of the Ancient Monuments and Archaeological Areas Act 1979 omit “or (2)”.

Commencement Information

I188 Sch. 16 para. 15 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

Planning and Compensation Act 1991 (c. 34)

- 16 In section 80(2) of the Planning and Compensation Act 1991 omit “or Schedule 3 to the Compulsory Purchase Act 1965”.

Commencement Information

I189 Sch. 16 para. 16 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

Planning Act 2008 (c. 29)

- 17 In section 125 of the Planning Act 2008, in subsection (3), omit paragraph (c).

Commencement Information

I190 Sch. 16 para. 17 in force at 13.7.2016 by S.I. 2016/733, reg. 3(j)

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 17

Section 199

OBJECTION TO DIVISION OF LAND FOLLOWING NOTICE TO TREAT

PART 1

AMENDMENTS TO COMPULSORY PURCHASE ACT 1965

1 The Compulsory Purchase Act 1965 is amended as follows.

Commencement Information

I191 Sch. 17 para. 1 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g) (with reg. 5)

2 In section 8 (material detriment arising from severance of land etc.), for subsection (1) substitute—

“(1) Schedule 2A makes provision in respect of a proposal by an acquiring authority to acquire part only of a—
(a) house, building or factory, or
(b) park or garden belonging to a house.”

Commencement Information

I192 Sch. 17 para. 2 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g) (with reg. 5)

3 After Schedule 2 insert—

“SCHEDULE
2A

Section 8

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

PART 1

COUNTER-NOTICE WHERE ACQUIRING AUTHORITY HAS NOT TAKEN POSSESSION

Introduction

- 1 (1) This Part applies where an acquiring authority—
- (a) serve a notice to treat in respect of part only of a house, building or factory,
 - (b) have not entered on and taken possession of the land to which the notice to treat relates, and
 - (c) have not executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in respect of the land to which the notice to treat relates.

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 2 This Part does not apply by virtue of a notice to treat that is deemed to have been served in respect of part only of a house, building or factory under section 154(5) of the Town and Country Planning Act 1990 (deemed notice to treat in relation to blighted land).
- 3 In this Part—
- “additional land” means the part of the house, building, or factory not specified in the notice to treat;
 - “house” includes any park or garden belonging to a house;
 - “land proposed to be acquired” means the part of the house, building or factory specified in the notice to treat;
 - “whole of the land” means the land proposed to be acquired and the additional land.

Counter-notice requiring authority to purchase whole of land

- 4 A person who is able to sell the whole of the land (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the whole of the land.
- 5 A counter-notice under this Part must be served within—
- (a) the period of 28 days beginning with the day on which the notice to treat was served, or
 - (b) if it would end earlier, the period specified in a repeat notice of entry served in accordance with section 11A.

Effect of counter-notice on notice of entry

- 6 If the owner serves a counter-notice—
- (a) any notice of entry under section 11(1) that has already been served on the owner in respect of the land proposed to be acquired ceases to have effect, and
 - (b) the acquiring authority may not serve a notice of entry (or a further notice of entry) on the owner under section 11(1) in respect of that land unless they are permitted to do so by paragraph 11 or 12.

Acquiring authority must respond to counter-notice within three months

- 7 On receiving a counter-notice the acquiring authority must decide whether to—
- (a) withdraw the notice to treat,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.
- 8 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 9 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 10 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

Effects of accepting counter-notice or referring it to the Upper Tribunal

- 11 If the acquiring authority serve notice of a decision to accept the counter-notice—
 - (a) the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the whole of the land, and
 - (b) the authority may serve a notice of entry under section 11(1) in relation to the whole of the land.
- 12 If the acquiring authority serve notice of a decision to refer the counter-notice to the Upper Tribunal, the acquiring authority may serve a notice of entry under section 11(1) on the owner in relation to the land proposed to be acquired.
- 13 If the authority have already served one or more notices of entry under section 11(1) in respect of the land proposed to be acquired the period specified in any new notice of entry in relation to that land must be a period that ends no earlier than the end of the period in the most recent notice of entry.

PART 2

COUNTER-NOTICE WHERE AUTHORITY HAS TAKEN POSSESSION

Introduction

- 14 (1) This Part applies where an acquiring authority—
 - (a) have entered on and taken possession of part only of a house, building or factory,
 - (b) did not enter on and take possession of the land in accordance with section 11(1), whether because they had not served a notice to treat or otherwise, and
 - (c) have not executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in respect of the land which they have entered on and taken possession of.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 15 This Part does not apply if the acquiring authority are deemed to have served a notice to treat in respect of the land proposed to be acquired under section 154(5) of the Town and Country Planning Act 1990 (deemed notice to treat in relation to blighted land).

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 16 In this Part—
- “additional land” means the part of the house, building, or factory that the authority have not entered on and taken possession of;
 - “house” includes any park or garden belonging to a house;
 - “land proposed to be acquired” means the part of the house, building or factory that the authority entered on and took possession of otherwise than in accordance with section 11(1);
 - “whole of the land” means the land proposed to be acquired and the additional land.

Counter-notice requiring authority to purchase additional land

- 17 A person who is able to sell the whole of the land (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the whole of the land.
- 18 A counter-notice under this Part must be served within the period of 28 days beginning with the day on which—
- (a) the owner first had knowledge that the acquiring authority had entered on and taken possession of the land, or
 - (b) if later, the owner receives any notice to treat.

Acquiring authority must respond to counter-notice within 3 months

- 19 On receiving a counter-notice the acquiring authority must decide whether to—
- (a) accept the counter-notice, or
 - (b) refer the counter-notice to the Upper Tribunal.
- 20 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 21 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 22 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to accept the counter-notice at the end of that period.

Effects of accepting counter-notice

- 23 (1) This paragraph applies where the acquiring authority serve notice of a decision to accept the counter-notice.
- (2) The compulsory purchase order has effect as if it included the owner’s interest in the additional land.
 - (3) If the acquiring authority have already served a notice to treat in relation to the land proposed to be acquired, the notice has effect as if it also included the owner’s interest in the additional land.
 - (4) If the acquiring authority have not served a notice to treat, they must serve a notice to treat in relation to the owner’s interest in the whole of the land.

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART 3

DETERMINATION BY THE UPPER TRIBUNAL

Introduction

- 24 This Part applies where, in accordance with paragraph 9 or 21, the acquiring authority refer a counter-notice to the Upper Tribunal.
- 25 In this Part “land proposed to be acquired” and “additional land” have the meanings given by paragraph 3 or 16 as the case may be.

Role of the Upper Tribunal

- 26 (1) The Upper Tribunal must determine whether the severance of the land proposed to be acquired would—
- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
 - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- (2) In making its determination, the Upper Tribunal must take into account—
- (a) the effect of the severance,
 - (b) the proposed use of the land proposed to be acquired, and
 - (c) if that land is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 27 If the Upper Tribunal determines that the severance of the land proposed to be acquired would have either of the consequences described in paragraph 26(1) it must determine how much of the additional land the acquiring authority ought to be required to take in addition to the land proposed to be acquired.

Effect of determination that more land should be acquired

- 28 (1) This paragraph applies where the Upper Tribunal determines that the acquiring authority ought to be required to take the whole or part of the additional land.
- (2) The compulsory purchase order has effect as if it included the owner's interest in the additional land.
- (3) If the acquiring authority have already served a notice to treat in relation to the land proposed to be acquired, the notice has effect as if it also included the owner's interest in the additional land.
- (4) If the acquiring authority have not served a notice to treat, they must serve a notice to treat in relation to the owner's interest in the land proposed to be acquired and the additional land.
- (5) If the acquiring authority have already entered on and taken possession of the land proposed to be acquired, the power to award compensation under

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section 7 includes power to award compensation for any loss suffered by the owner by reason of the temporary severance of the land from the additional land.

- (6) Where the Upper Tribunal determines that the acquiring authority ought to be required to take part only of the additional land, a reference in subparagraph (2) to (5) to “the additional land” is to that part.

Withdrawal of notice to treat following determination

- 29 (1) This paragraph applies where—
- (a) the acquiring authority have served a notice to treat in respect of the land proposed to be acquired,
 - (b) the Upper Tribunal has determined that the authority ought to be required to take the whole or part of the additional land, and
 - (c) the authority have not yet entered on and taken possession of any of the land proposed to be acquired or the additional land.
- (2) The acquiring authority may withdraw the notice to treat in respect of the whole of the land at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal made its determination.
- (3) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
- (4) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

Commencement Information

I193 Sch. 17 para. 3 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g) (with reg. 5)

PART 2

CONSEQUENTIAL AMENDMENTS

Land Compensation Act 1961 (c. 33)

- 4 (1) Section 5A of the Land Compensation Act 1961 (relevant valuation date) is amended as follows.
- (2) After subsection (5) insert—
- “(5A) If—
- (a) the acquiring authority enters on and takes possession of land in pursuance of a notice of entry given as mentioned in paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (“the original land”),
 - (b) the acquiring authority are subsequently required by a determination under paragraph 27 of Schedule 2A to the Compulsory Purchase Act 1965 to take additional land, and

Status: Point in time view as at 06/04/2018.

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- (c) the acquiring authority enters on and takes possession of that additional land,
the authority is deemed for the purposes of subsection (3)(a) to have entered on and taken possession of the additional land when it entered on and took possession of the original land.”
- (3) In subsection (6), for “Subsection (5) also applies” substitute “ Subsections (5), (5A) and (5B) also apply ”.

Commencement Information

I194 Sch. 17 para. 4 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g)

Land Compensation Act 1973 (c. 26)

- 5 In section 58 of the Land Compensation Act 1973 (determination of material detriment where part of house etc. subject to compulsory acquisition)—
- (a) in subsection (1) omit “section 8(1) or 34(2) of the Compulsory Purchase Act 1965, or”;
- (b) omit subsection (2).

Commencement Information

I195 Sch. 17 para. 5 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g) (with reg. 5)

Provisions which refer to section 8(1)

- 6 For each of the following provisions substitute, with the same paragraph or subparagraph number as the provision being replaced, the provision in paragraph 7—
- (a) paragraph 7 of Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1976;
- (b) paragraph 23(2) of Schedule 28 to the Local Government, Planning and Land Act 1980;
- (c) paragraph 7 of Schedule 19 to the Highways Act 1980;
- (d) paragraph 8 of Schedule 3 to the Gas Act 1986;
- (e) paragraph 22 of Schedule 10 to the Housing Act 1988;
- (f) paragraph 9 of Schedule 3 to the Electricity Act 1989;
- (g) paragraph 4 of Schedule 9 to the Water Industry Act 1991;
- (h) paragraph 4 of Schedule 18 to the Water Resources Act 1991;
- (i) paragraph 4 of Schedule 1B to the Coal Industry Act 1994;
- (j) paragraph 8 of Schedule 5 to the Postal Services Act 2000;
- (k) paragraph 11 of Schedule 2 to the Housing and Regeneration Act 2008.

Commencement Information

I196 Sch. 17 para. 6 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g) (with reg. 5)

- 7 This is the provision to be substituted for the provisions listed in paragraph 6—

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[“X] Section 8(1) of the Compulsory Purchase Act 1965 has effect as if references to acquiring land were to acquiring a right in the land, and Schedule 2A to that Act is to be read as if, for that Schedule, there were substituted—

“SCHEDULE
2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

- 1 (1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 2 In this Schedule “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

- 3 A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.
- 4 A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

- 5 On receiving a counter-notice the acquiring authority must decide whether to—
 - (a) withdraw the notice to treat,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.
- 6 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 7 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 8 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.
- 9 If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Determination by Upper Tribunal

- 10 On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—
- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
 - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- 11 In making its determination, the Upper Tribunal must take into account—
- (a) the effect of the acquisition of the right,
 - (b) the proposed use of the right, and
 - (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 12 If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the house, building or factory the authority ought to be required to take.
- 13 If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.
- 14 (1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.
- (2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
- (3) Any dispute as to the compensation is to be determined by the Upper Tribunal.””

Commencement Information

I197 Sch. 17 para. 7 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g) (with reg. 5)

New Towns Act 1981 (c. 64)

- 8 In Part 1 of Schedule 6 to the New Towns Act 1981 (modifications of the Compulsory Purchase Act 1965 for the purposes of the New Towns Act 1981), in paragraph 1(2)—
- (a) at the end of paragraph (e) omit “and”, and

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- (b) at the end of paragraph (f) insert “;
- (g) in Schedule 2A to that Act references to section 11 or 11A of that Act are to be read respectively as references to paragraph 4 or 4A of this Schedule.”

Commencement Information

I198 Sch. 17 para. 8 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g) (with reg. 5)

Acquisition of Land Act 1981 (c. 67)

9 In the Acquisition of Land Act 1981, after section 2 insert—

“**2A Tunnels etc**

- (1) A compulsory purchase order may provide that in the following provisions, a reference to land (however expressed) does not include specified land that is at least 9 metres or more below the surface.
- (2) The provisions mentioned in subsection (1) are—
 - (a) Schedule 2A of the Compulsory Purchase Act 1965 (objection to division of land),
 - (b) any substituted version of that Schedule that applies by virtue of provision made by or under any Act, and
 - (c) Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (objection to division of land).”

Commencement Information

I199 Sch. 17 para. 9 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g)

Water Industry Act 1991 (c. 56)

10 In Schedule 11 to the Water Industry Act 1991 (orders conferring compulsory works powers), in paragraph 6(1)(b), for “section” substitute “ sections 2A and ”.

Commencement Information

I200 Sch. 17 para. 10 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g)

Water Resources Act 1991 (c. 57)

11 In Schedule 19 to the Water Resources Act 1991 (orders conferring compulsory works powers), in paragraph 6(1)(b), for “section” substitute “ sections 2A and ”.

Commencement Information

I201 Sch. 17 para. 11 in force at 3.2.2017 by S.I. 2017/75, reg. 3(g)

Status: Point in time view as at 06/04/2018.

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SCHEDULE 18

Section 199

OBJECTION TO DIVISION OF LAND FOLLOWING VESTING DECLARATION

PART 1

AMENDMENTS TO COMPULSORY PURCHASE (VESTING DECLARATIONS) ACT 1981

1 The Compulsory Purchase (Vesting Declarations) Act 1981 is amended as follows.

Commencement Information

I202 Sch. 18 para. 1 in force at 3.2.2017 by S.I. 2017/75, reg. 3(k) (with reg. 5)

2 In section 4 (execution of declaration), for subsection (3), substitute—

“(3) For the purposes of this Act the “vesting date” in relation to any land that is actually specified in a general vesting declaration is—

- (a) the first day after the end of the period specified in the declaration in accordance with subsection (1) above, or
- (b) if a counter-notice is served under paragraph 2 of Schedule A1 within that period in relation to land, the day determined as the vesting date for the land in accordance with that Schedule.

(4) For the purposes of this Act, the “vesting date” for any land that is deemed to have been specified in a general vesting declaration by Schedule A1 is the day determined as the vesting date for the land in accordance with that Schedule.”

Commencement Information

I203 Sch. 18 para. 2 in force at 3.2.2017 by S.I. 2017/75, reg. 3(k) (with reg. 5)

3 In section 7 (constructive notice to treat), for subsection (1) substitute—

“(1) On the vesting date the provisions of—

- (a) the Land Compensation Act 1961 (as modified by section 4 of the Acquisition of Land Act 1981),
- (b) the Compulsory Purchase Act 1965, and
- (c) Schedule A1 to this Act,

shall apply as if, on the date on which the general vesting declaration was executed, a notice to treat had been served on every person on whom, under section 5 of the Compulsory Purchase Act 1965, the acquiring authority could have served such a notice, other than any person entitled to a minor tenancy or a long tenancy which is about to expire.”

Commencement Information

I204 Sch. 18 para. 3 in force at 3.2.2017 by S.I. 2017/75, reg. 3(k) (with reg. 5)

Status: Point in time view as at 06/04/2018.

Changes to legislation: Housing and Planning Act 2016 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 4 In section 8 (vesting and the right to enter on and take possession), in subsection (1), for the words before paragraph (a) substitute “ Any land specified in the general vesting declaration, together with the right to enter upon and take possession of it, shall, subject to section 9 below, vest in the acquiring authority on the vesting date in relation to that land as if— ”.

Commencement Information

I205 Sch. 18 para. 4 in force at 3.2.2017 by S.I. 2017/75, reg. 3(k) (with reg. 5)

- 5 In section 12 (divided land), for “Schedule 1” substitute “ Schedules A1 and 1 ”.

Commencement Information

I206 Sch. 18 para. 5 in force at 3.2.2017 by S.I. 2017/75, reg. 3(k) (with reg. 5)

- 6 Before Schedule 1 insert—

“SCHEDULE
A1

Section 12

COUNTER-NOTICE REQUIRING PURCHASE OF
LAND NOT IN GENERAL VESTING DECLARATION

PART 1

COUNTER-NOTICE REQUIRING PURCHASE OF ADDITIONAL LAND

- 1 (1) This Schedule applies where an acquiring authority have executed a general vesting declaration in respect of part only of a house, building or factory.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 2 A person able to sell the whole of the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the whole.
- 3 A counter-notice under paragraph 2 must be served before the end of the period of 28 days beginning with the day the owner first had knowledge of the general vesting declaration.
- 4 In a case where this Schedule applies by virtue of a general vesting declaration executed after a counter-notice has been served under paragraph 4 or 17 of Schedule 2A to the Compulsory Purchase Act 1965, that counter-notice is to have effect as a counter-notice served under this Schedule.
- 5 In this Schedule—
- “additional land” means the part of the house, building or factory not specified in the general vesting declaration;
- “house” includes any park or garden belonging to a house;

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“land proposed to be acquired” means the part of the house, building or factory specified in the general vesting declaration;

“notice to treat” means a notice to treat deemed to have been served under section 7(1);

“original vesting date” is the first day after the end of the period specified in the general vesting declaration in accordance with section 4(1).

PART 2

CONSEQUENCES OF COUNTER-NOTICE

Acquiring authority must respond to counter-notice within three months

- 6 (1) On receiving a counter-notice the acquiring authority must decide whether to—
- (a) withdraw the notice to treat in relation to the land proposed to be acquired,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.
- (2) But the acquiring authority may not decide to withdraw the notice to treat if the counter-notice was served on or after the original vesting date.
- 7 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 8 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 9 (1) This paragraph applies if the acquiring authority do not serve notice of a decision within the decision period.
- (2) If the counter-notice was served before the original vesting date, the authority are to be treated as if they had served notice of a decision to withdraw the notice to treat in relation to the land proposed to be acquired.
- (3) If the counter-notice was served on or after the original vesting date, they are to be treated as if they had served notice of a decision to accept it.

No vesting if notice to treat withdrawn

- 10 If the acquiring authority serve notice of a decision to withdraw the notice to treat in relation to the land proposed to be acquired the general vesting declaration is to have effect as if it did not include that land.

Effects of accepting counter-notice

- 11 (1) This paragraph applies where the acquiring authority serve notice of a decision to accept the counter-notice.
- (2) The general vesting declaration and the notice to treat (and, where applicable, the compulsory purchase order) are to have effect as if they

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included the owner's interest in the additional land as well as in the land proposed to be acquired.

- (3) The authority must serve on the owner a notice specifying the vesting date or dates for—
 - (a) the land proposed to be acquired (if the counter-notice was served before the original vesting date), and
 - (b) the additional land.
- (4) The new vesting date for the land proposed to be acquired must not be before the original vesting date.
- (5) The vesting date for the additional land must be after the period of 3 months beginning with the day on which the notice under sub-paragraph (3) is served.

Effects of referring counter-notice to the Upper Tribunal

- 12 (1) This paragraph applies where—
 - (a) the acquiring authority refer the counter-notice to the Upper Tribunal, and
 - (b) the counter-notice was served before the original vesting date.
- (2) At any time before the Upper Tribunal make a determination under paragraph 14, the acquiring authority may serve notice on the owner specifying a new vesting date for the land proposed to be acquired.
- (3) The new vesting date for the land proposed to be acquired must not be before the original vesting date.

PART 3

DETERMINATION BY THE UPPER TRIBUNAL

Introduction

- 13 This Part applies where, in accordance with paragraph 8, the acquiring authority refer a counter-notice to the Upper Tribunal.

Role of the Upper Tribunal

- 14 (1) The Upper Tribunal must determine whether the severance of the land proposed to be acquired would—
 - (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
 - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- (2) In making its determination, the Upper Tribunal must take into account—
 - (a) the effect of the severance,
 - (b) the proposed use of the land proposed to be acquired, and

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- (c) if that land is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

- 15 If the Upper Tribunal determines that the severance of the land proposed to be acquired would have either of the consequences described in paragraph 14(1) it must determine how much of the additional land the acquiring authority ought to be required to take in addition to the land proposed to be acquired.

Effect of determination that more land should be acquired

- 16 (1) This paragraph applies where the Upper Tribunal specifies in its determination that the acquiring authority ought to be required to take the whole or part of the additional land (“the specified land”).
- (2) The general vesting declaration and any notice to treat (and, where applicable, the compulsory purchase order) are to have effect as if they included the owner's interest in the specified land.
- (3) The Upper Tribunal must order a vesting date for—
- (a) the specified land, and
 - (b) any land proposed to be acquired which has not vested in the authority and for which no vesting date has been specified under paragraph 12.

Withdrawal of notice to treat following determination

- 17 (1) This paragraph applies where—
- (a) the Upper Tribunal has specified in its determination that the acquiring authority ought to be required to take the whole or part of the additional land (“the specified land”), and
 - (b) the vesting date in relation to the land proposed to be acquired has not passed, and
 - (c) the vesting date in relation to the specified land has not passed.
- (2) The acquiring authority may, within the period of 6 weeks beginning with the day on which the Upper Tribunal made its determination, withdraw the notice to treat in relation to the land proposed to be acquired together with the specified land.
- (3) If the acquiring authority withdraws the notice to treat, the general vesting declaration is to have effect as if it did not include that land.
- (4) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
- (5) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

Status: Point in time view as at 06/04/2018.

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Commencement Information

I207 Sch. 18 para. 6 in force at 3.2.2017 by S.I. 2017/75, reg. 3(k) (with reg. 5)

7 In Schedule 1 (divided land) omit Part 1 (buildings and gardens etc).

Commencement Information

I208 Sch. 18 para. 7 in force at 3.2.2017 by S.I. 2017/75, reg. 3(k) (with reg. 5)

8 In Schedule 2 (vesting of land in urban development corporation), for paragraph 4 substitute—

“4 In Schedule A1, for paragraph 3 there is to be substituted—

“3 A counter-notice under paragraph 2 must be served within the period of 28 days beginning with the day on which the order comes into force.””

Commencement Information

I209 Sch. 18 para. 8 in force at 3.2.2017 by S.I. 2017/75, reg. 3(k) (with reg. 5)

PART 2

CONSEQUENTIAL AMENDMENTS

9 In section 5A of the Land Compensation Act 1961 (relevant valuation date), after subsection (5A) (inserted by Schedule 17 to this Act) insert—

“(5B) If—

- (a) the land is the subject of a general vesting declaration, and
- (b) the vesting date is different for different parts of the land,

the first of the vesting dates is deemed for the purposes of subsection (4)(a) to be the vesting date for the whole of the land.”

Commencement Information

I210 Sch. 18 para. 9 in force at 3.2.2017 by S.I. 2017/75, reg. 3(k)

PROSPECTIVE

10 In Schedule 6 to the Crossrail Act 2008 (acquisition of land shown within limits on deposited plans), in paragraph 11(3)(b), for “Schedule 1” substitute “ Schedule A1 ”.

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SCHEDULE 19

Section 206

AMENDMENTS TO DO WITH SECTIONS 203 AND 204

Welsh Development Agency Act 1975 (c. 70)

- 1 (1) Schedule 4 to the Welsh Development Agency Act 1975 is amended as follows.
- (2) Omit paragraph 6 and the italic heading before it.
- (3) In paragraph 9 omit sub-paragraph (a).

Commencement Information

I211 Sch. 19 para. 1 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

Local Government, Planning and Land Act 1980 (c. 65)

- 2 (1) Schedule 28 to the Local Government, Planning and Land Act 1980 is amended as follows.
- (2) In paragraph 6—
 - (a) in sub-paragraph (1), after “work on land” insert “ in Scotland ”;
 - (b) omit sub-paragraph (1A);
 - (c) in sub-paragraph (2), omit “or (1A)”;
 - (d) in sub-paragraph (4)—
 - (i) omit “or (1A)”;
 - (ii) omit “section 7 or 10 of the Compulsory Purchase Act 1965 (or”
 - (iii) omit “, or use of,”;
 - (e) in sub-paragraph (7)—
 - (i) for “at the suit (or in Scotland at the instance)” substitute “ at the instance ”;
 - (ii) omit “or 1A”.
- (3) In paragraph 7, for sub-paragraph (11) substitute—

“(11) Nothing in this paragraph shall be construed as authorising any act or omission on the part of an urban development corporation or local highway authority, or of any body corporate, in contravention of any limitation imposed by law on its capacity by virtue of the constitution of the corporation, authority or body.”
- (4) In paragraph 9, for sub-paragraph (3) substitute—

“(3) Nothing in this paragraph shall be construed as authorising any act or omission on the part of an urban development corporation or local highway authority, or of any body corporate, in contravention of any limitation imposed by law on its capacity by virtue of the constitution of the corporation, authority or body.”

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Commencement Information

I212 Sch. 19 para. 2 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

New Towns Act 1981 (c. 64)

3 The New Towns Act 1981 is amended as follows.

Commencement Information

I213 Sch. 19 para. 3 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

4 Omit section 19.

Commencement Information

I214 Sch. 19 para. 4 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

5 In section 20, for subsection (10) substitute—

“(10) Nothing in this section shall be construed as authorising any act or omission on the part of a development corporation or local highway authority, or of any body corporate, in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the corporation, authority or body.”

Commencement Information

I215 Sch. 19 para. 5 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

6 In section 21, for subsection (3) substitute—

“(3) Nothing in this section shall be construed as authorising any act or omission on the part of a development corporation or local highway authority, or of any body corporate, in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the corporation, authority or body.”

Commencement Information

I216 Sch. 19 para. 6 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

Housing Act 1988 (c. 50)

7 (1) Schedule 10 to the Housing Act 1988 is amended as follows.

(2) Omit paragraph 5 and the italic heading before it.

(3) In paragraph 6, for sub-paragraph (11) substitute—

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“(11) Nothing in this paragraph shall be construed as authorising any act or omission on the part of a housing action trust, or of any body corporate, in contravention of any limitation imposed by law on its capacity by virtue of the constitution of the trust or body.”

(4) In paragraph 7, for sub-paragraph (3) substitute—

“(3) Nothing in this paragraph shall be construed as authorising any act or omission on the part of a housing action trust, or of any body corporate, in contravention of any limitation imposed by law on its capacity by virtue of the constitution of the trust or body.”

Commencement Information

I217 Sch. 19 para. 7 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

Town and Country Planning Act 1990 (c. 8)

8 The Town and Country Planning Act 1990 is amended as follows.

Commencement Information

I218 Sch. 19 para. 8 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

9 Omit section 237.

Commencement Information

I219 Sch. 19 para. 9 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

10 In section 245(4), omit paragraph (a).

Commencement Information

I220 Sch. 19 para. 10 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

11 In section 246(2), for “237” substitute “ 238 ”.

Commencement Information

I221 Sch. 19 para. 11 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

Greater London Authority Act 1999 (c. 29)

12 (1) Section 333ZB of the Greater London Authority Act 1999 is amended as follows.

(2) 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) applies in relation to

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the Authority and land held by it for the purposes of housing or regeneration as it applies in relation to the Homes and Communities Agency and its land.”

(3) In subsection (2)—

- (a) insert “, and ” at the end of paragraph (a);
- (b) omit paragraph (aa) and the “and” at the end of it.

(4) In the heading, omit “acquired or”.

Commencement Information

I222 Sch. 19 para. 12 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m) (with reg. 10)

Planning Act 2008 (c. 29)

13 The Planning Act 2008 is amended as follows.

Commencement Information

I223 Sch. 19 para. 13 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

14 In section 194, omit subsection (1).

Commencement Information

I224 Sch. 19 para. 14 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

15 Omit Schedule 9.

Commencement Information

I225 Sch. 19 para. 15 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

Housing and Regeneration Act 2008 (c. 17)

16 In Schedule 3 to the Housing and Regeneration Act 2008, omit Part 1.

Commencement Information

I226 Sch. 19 para. 16 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m) (with reg. 10)

Localism Act 2011 (c. 20)

17 In section 208 of the Localism Act 2011, for subsection (1) substitute—

“(1) Schedule 3 to the Housing and Regeneration Act 2008 (powers, in relation to land of the Homes and Communities Agency, to extinguish public rights of way, and in relation to burial grounds and consecrated land) applies in relation to an MDC and its land as it applies in relation to the Homes and Communities Agency and its land.”

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Commencement Information

I227 Sch. 19 para. 17 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

Infrastructure Act 2015 (c. 7)

18 In section 32 of the Infrastructure Act 2015, omit subsections (6), (7), (8) and (10).

Commencement Information

I228 Sch. 19 para. 18 in force at 13.7.2016 by S.I. 2016/733, reg. 3(m)

PROSPECTIVE

SCHEDULE 20

Section 210

AUTHORITIES SPECIFIED FOR PURPOSES OF SECTION 210

- 1 A county council in England.
- 2 A district council.
- 3 A London borough council.
- 4 The Greater London Authority.
- 5 An economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009.
- 6 A combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.
- [^{F17} The London Fire Commissioner.]

Textual Amendments

F1 Sch. 20 para. 7 substituted (1.4.2018) by The Policing and Crime Act 2017 (Consequential Amendments) Regulations 2018 (S.I. 2018/226), regs. 1, 11(2)

- 8 Transport for London.
- 9 A sub-national transport body established under section 102E of the Local Transport Act 2008.
- 10 A fire and rescue authority in England constituted by—
 - (a) a scheme under section 2 of the Fire and Rescue Services Act 2004, or
 - (b) a scheme to which section 4 of that Act applies.
- 11 An authority established under section 10 of the Local Government Act 1985 (joint authority for waste disposal functions).

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- | | |
|----|---|
| 12 | A joint authority established under Part 4 of the Local Government Act 1985 for an area in England. |
| 13 | The Common Council of the City of London (in its capacity as a local authority). |
| 14 | A National Park authority for a National Park in England. |
| 15 | The Broads Authority. |
| 16 | The Council of the Isles of Scilly. |

Status:

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